



Neutral Citation Number: [2024] EWHC 2456 (KB)

Case No: KB-2024-002760

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/09/2024

Before :

MR JUSTICE SHELDON

Between :

FRANNY INVESTMENTS LTD

Claimant

- and -

(1) MR FEMI ALABA OLAJIDE

Defendants

(2) MR PRINCE EDEKI

(3) MS DIONNE HARRIS

(4) MR MORRIS AKPATA

(5) MRS OLUWATOYIN AKPATA

(6) PERSONS UNKNOWN

Mr Alexander Bunzl (instructed by Public Access) for the Claimant

Mr Femi Alaba Olajide for the First Defendant

Mr Prince Edeki for the Second Defendant

The Third, Fourth, Fifth and Sixth Defendants did not appear and were not represented.

Hearing dates: 6 September 2024

**Judgment Approved by the court
for handing down
(subject to editorial corrections)**

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Mr Justice Sheldon :

1. This is an application for an interim injunction brought by Franny Investments Limited, the applicant, with respect to a property owned by the company at 29 Bredgar House, Lewisham Park, London: I will refer to it as “the Property”.
2. Relief is sought against five named defendants: Femi Alaba Olajide, Prince Edeki, Dionne Harris, Morris Akpata, and Oluwatoyin Akpata. Relief is also sought against persons unknown, being persons who have unlawfully entered and/or unlawfully remain in occupation of the Property.
3. On 28 August 2024, Murray J considered an ex parte application from the applicant for urgent relief. Murray J ordered an interim inter partes hearing to take place today. Murray J also ordered the applicant to issue a claim against the various respondents and to take all reasonable steps to effect personal service of this order and, with respect to persons unknown, to post a copy of the order on the door at the Property.
4. The applicant complied with the order. A claim form was issued for an injunction against the various respondents and was served. At the hearing before me, Mr Bunzl of counsel appears on behalf of the applicant. Two of the named defendants/respondents, Mr Olajide and Mr Edeki, have attended and made submissions. They have also provided witness statements and appended various exhibits. Miss Harris did not attend but she has provided a witness statement. The Akpatas have not attended and have provided no representations or submissions.
5. The basis of the application before the Court is that the applicant should be able to obtain vacant possession of the Property so it can be sold. I am told that the Property has been on the market since 2022 and that there is a buyer who is prepared to complete a purchase within five days. Mr Bunzl submits, and I accept, that when a proprietor seeks possession proceedings against a trespasser it must establish title and intention to regain possession, citing *Portland Management Limited v Harte* [1977] QB 306.
6. On an application for an injunction, section 37 of the Senior Courts Act 1981 confers power on the High Court to grant an injunction in all cases where it is just and convenient to do so. The test for the grant of an interim injunction was set out in *American Cyanamid Limited v Ethicon Limited* [1975] AC 396. That is, is there a serious issues to be tried? Are damages an alternative remedy? Where does the balance of convenience lie?
7. In the instant case, there was no basis for the grant of an injunction as against Mr Edeki or Miss Harris. They are not and have never been trespassers on the Property in the sense that they have occupied, or sought to occupy the Property. There is an allegation that Mr Edeki has been fabricating tenancy agreements with third parties, including the Akpatas. This is not corroborated by any documentary evidence before me. The documentary evidence that I have seen: screenshots of text messages between Mr Edeki and Miss Franciscan Disi, the sole director of the applicant, and as I understand it, the partner for many years of Mr Edeki’s father, John, who has recently deceased, actually shows Mr Edeki seeking to assist Miss Disi with matters relating to the Property. I therefore refuse to grant injunctive relief against Mr Edeki and Miss Harris.

8. As for the Akpatas, there is evidence that they reside at the Property. This was confirmed by a police officer who attended the Property on, I believe, 23 August 2024. In a witness statement from PC Carver exhibited to Miss Disi's witness statement for this application, it is stated that another officer had attended at the Property and gone through documents to ascertain who may be living there. He found documents relating to Mr Morris Akpata, Mrs Oluwatoyin Akpata, and Miss Ador Akpata who I am told is their seven year old daughter.
9. I have seen a document from the London Borough of Lewisham which shows that the adult Akpatas have been issued with a council tax bill at the Property. There is no evidence that the applicant has entered into any agreement with the Akpatas to reside at the Property. I do not know the basis upon which they are living there other than that Mr Olajide has stated that Mr Akpata is his cousin and is letting him stay at the Property. He is also assisting him with paying the council tax. I do not know if the Akpatas have any form of contract or lease with anyone. The Akpatas, as I have said, have not appeared before me and have not produced any representations. In the circumstances, there is a strong case that the Akpatas are trespassers at the Property and they have no legal right to remain there. It does not seem to me that damages would be an adequate remedy as against the Akpatas as I have no information about their financial status.
10. The applicant through these proceedings has demonstrated an intention to regain possession and so the requirements of the *Portland Management v Harte* case are satisfied. It seems to me clear that the balance of convenience favours granting an injunction against the Akpatas. Although they may have treated the Property as their home, I do not know how long that was for. I do not know whether they have made any connections to the locality or whether their daughter attends school in the locality. On the other hand, the applicant wishes to obtain vacant possession of the Property so it can sell it and if the Akpatas continue to reside there that will not be possible. Accordingly, I grant the interim injunction sought against the Akpatas.
11. The situation with Mr Olajide is less clear. There are competing versions of events as to (1) the legal basis upon which he has been living at the Property, and (2) whether he is living there now. With respect to (1) the applicant asserts that Mr Olajide initially resided at the Property by way a holiday let. I have seen a copy of three holiday let agreements, two of which name Mr Olajide and bear a signature which purports to be his. On the other hand, Mr Olajide has told me today that the signature is not his. He has also produced for the Court an Assured Shorthold Tenancy Agreement dated 22 November 2021 between him and the applicant. This is signed by Mr Olajide and purports to be signed by John Edeki on behalf of the applicant. Mr Prince Edeki is a witness to the signatures.
12. Mr Bunzl tells me on instructions that the signature of John Edeki is a forgery. I do not need to make any findings with respect to this matter or even express a view. It is clear that for a considerable period of time Mr Olajide was residing at the Property and whether he was originally there under a holiday let or not, that situation clearly changed and his legal relationship with the applicant must have been as an Assured Shorthold tenant. Indeed, whether or not John Edeki was authorised to enter into the Assured Shorthold Tenancy Agreement or not on behalf of the applicant, Mr Olajide did pay rent to the applicant for some time and at least up until the end of 2023.

13. This takes me to the second question: Is Mr Olajide living at the Property now? If he is then he does so as an Assured Shorthold tenant and whether or not he has been paying rent this year he can only be removed from the Property if the proper processes for eviction and seeking possession have been taken. It would be inappropriate for this Court to grant injunctive relief when the proper forum is the County Court where Mr Olajide would have available to him all the relevant defences.
14. The applicant has asserted that Mr Olajide does not reside at the Property now. It has produced no evidence to that effect but Mr Bunzl asks me to infer that he does not live there. Mr Bunzl relies, for instance, on the fact that council tax for the Property is paid by the Akpatas. There would, he says, be no need for them to be on the register if they were merely helping Mr Olajide financially. Mr Bunzl says it is clear that the Akpatas are living there and on instructions he tells me there is only one bed at the Property, and so Mr Olajide cannot be living there. I have, however, not seen any corroborating evidence for that. Mr Bunzl also relies on what the police have said in the statements exhibited to Mrs Disi's witness statement.
15. On the other hand, Mr Olajide has stated in his witness statement that he lives at the Property. He also produced to the Court a letter from the applicant dated 23 July 2024 which states as follows under the heading, 'Re Formal Demand - immediate payment required for overdue charges of £9,000':

“Dear Femi. This is a formal notice regarding the overdue charges for your stay at 29 Redcar Bredgar, Lewisham Park, London, SE13 6QN. The total amount due is £9,000 covering the period from January 2024 to the present. Your failure to settle this account has necessitated immediate action. The full amount of £9,000 is due within the next seven days. Failure to comply will initiate legal proceedings to recover the overdue charges along with any associated costs.

Yours sincerely, Franciscan Disi, For and on behalf of Franny Investments Limited.”

16. This letter strongly suggests that at least as at 23 July 2024 the applicant believed that Mr Olajide remained in occupation at the Property. I also refer to the witness statement of PC Carver dated 31 August 2024, which I have already referred to, which sets out the following, referring it seems to me to incidents that took place at the Property on 23 August 2024, and I quote:

“When I arrived back at the station shortly after 2200 hours, I checked my emails and had received a communication request from someone named as Femi Olajide from 29 Bredgar, SE13. As I pulled the work phone out to call him, I received a call from Edeki, that is the daughter of Miss Disi, stating that she had been called by a neighbour that someone had drilled the lock. I informed her that I had been notified to call Femi and that I would call her back after. She had obtained my work number from the phone call earlier when I notified her Rapid Secure were on scene ...

I had then telephoned Femi who advised me that he is apparently a legal tenant of the property and has been since 2021. He stated that he has not received paperwork to evict him and has been harassed by Disi and illegally evicted twice in the last six months. Apparently he had a tenancy agreement with Disi's partner who had passed away.

Whilst I was on the phone I heard an immediate call circulated on the radio that there was a suspect at 29 Bredgar, SE13, which means that there was someone committing burglary offences at the address. Whilst on the phone to Femi, he stated he was being harassed by Disi and has not been given the correct notice to leave. Apparently he had all the necessary documents to show. I advised him that officers would be on scene shortly to speak to him.

I then emailed Disi and Edeki, that is the daughter of Disi, to notify them that this would need to go back to court and be investigated as a civil dispute due to the fact that there were multiple allegations regarding tenancies, fraud, and other things. I also advised them that it appears to be Femi at the property and not Prince, Edeki's half-brother, as that is who I have spoken to."

17. In other words, it was the police officer's impression that Mr Olajide was at the Property on 23 August 2024. In these circumstances, I do not consider that there is a serious issue to be tried that Mr Olajide is no longer in occupation. In any event, even if a prima facie case could be established on the basis of the matters relied upon by Mr Bunzl, the balance of convenience would in my judgment plainly favour Mr Olajide's continued occupation of the Property and would point therefore against the grant of an injunction. The evidence that he does not live at the Property is not strong. The evidence that he does live there is far more convincing. Furthermore, although I appreciate that the applicant would like to sell the Property and has a buyer waiting and that it could be said that damages would not be an adequate alternative remedy, especially in circumstances where Mr Olajide has told me is not working at the moment, the applicant does have available to it an available remedy seeking possession proceedings against Mr Olajide in the County Court.
18. Accordingly, as the balance of convenience falls heavily in Mr Olajide's favour, I refuse the application for an injunction against him.
19. I should also point out in this regard that I have seen a letter from Mr Olajide which he says that he wrote to Franny Investments on 6 June 2024. That letter, I am told by Mr Bunzl, was not received by them. However, it is worthwhile to read it out in Court because it indicates the appropriate forum in which this matter should be addressed. Mr Olajide wrote as follows:

"To whom it may concern, on 21 November 2021 I rented the property at 29 Bredcar House, Lewisham Park, London, SE13 6QN. Since moving in I have consistently paid my rent on time and complied with all terms of the tenancy agreement."

In November 2023, I was informed that the property was for sale. I requested that the landlord serve me with the appropriate notices and enquired about the security of my deposit as of January 2024. Instead of receiving the correct legal documentation I was threatened multiple times with the removal of my belongings.

In February 2024, I received a text message stating that the property had been sold and that I needed to vacate the premises. The message indicated it was the final reminder. Subsequently my wife encountered two individuals pretending to be council officers who accused us of fraud and insisted we leave the property. On two separate occasions the police were called when the locks of the property were changed illegally by you, Miss Franciscan Disi and your daughter. The police ordered you to return the keys and follow the legal eviction process.

On 14 March 2024, I informed you by text about the correct eviction procedures in England and Wales. Despite this, you and your daughter gained entry to 29 Bredcar House on an occasion, refused to leave from 5pm until midnight, and were again escorted off the premises by the police who advised you not to return without a court warrant.

To date I have not received any notice or evidence regarding the security of my deposit. I am now facing further harassment from an individual claiming to have bought the property yet I have not received any formal documentation to substantiate this claim. This leads me to believe that I am being harassed again by Miss Franciscan Disi.

Given the above circumstances I intend to lodge a civil claim against you for harassment in the County Court. I am told, and I have been shown, a copy of a hearing notice for a claim in the Bromley County Court next week.”

20. What this letter discloses -- whether or not it was sent, and whether or not it was in fact received -- is that there are alternative remedies available to the applicant rather than seeking an injunction in the High Court, and that is what they ought to do if they wish to recover the Property and be able to sell it with vacant possession.
21. As for the issue of ‘persons unknown’, there is no suggestion that anyone other than Mr Olajide has any arguable basis to occupy the Property. However, there is no evidence that anyone else has sought to live there other than the Akpatas. In the circumstances I see no basis to make an order against ‘persons unknown’.
22. I should add, finally, that there is a much larger background to this dispute than I have relayed in this short judgment. There is a context of a painful family dispute involving Mr Prince Edeki and others associated with this case. I do not make any findings about any of the allegations that have been made against Mr Prince Edeki, not because I accept them, but because they are not relevant to the issues that I have

to determine today. I also say nothing about the allegations that criminal damage has been caused to the Property or that steel doors were placed on the Property at the request of the applicant and then removed. These matters are not directly relevant to the questions I have had to consider.

23. Accordingly, I grant an injunction as against the Akpatas but I refuse the grant of injunction against the other respondents. And before concluding, I wish to say that in this case allegations have been made that there are documents presented to the court which are forgeries or fabrications. Those allegations are incredibly serious ones. If this matter continues to be progressed through the courts, whichever court, and a party seeks to rely on a document which turns out to be a forgery, or a fabrication, they need to be aware that there are potentially very serious consequences for them and that the courts have power to commit them to prison for contempt. I do not say this to prevent people from bringing a claim but I do say this so that people are aware of the consequences if they persist in either arguing a case or defending a case relying on forged or fabricated material. That is my judgment.

This transcript has been approved by the Judge