Neutral Citation No: [2024] NICA 32 *Judgment: approved by the court for handing down (subject to editorial corrections)**	*Ref:* **McC12511** *ICOS No:* *Delivered ex tempore:* **24/04/2024**

IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

ON APPEAL FROM THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND CHANCERY DIVISION

BETWEEN:

THOMAS ANTHONY CARLIN AND MAXINE KARON HUGHES
Appellants/Defendants:

-and-

A&L GOODBODY NORTHERN IRELAND LLP, TANYA SURGEON, KEITH GIBSON AND SANTANDER UK PLC
Respondents/Plaintiffs:

The Appellants were Self-representing
Mr Patrick Good KC, Mr David Dunlop KC and Mr Keith Gibson (instructed by A&L Goodbody (NI) LLP) for the Respondents

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Before: McCloskey LJ and Humphreys J

McCLOSKEY LJ (*delivering the judgment of the court ex tempore*)

Recusal

[1] While, technically, there are two appellants, we shall for convenience describe Thomas Anthony Carlin as "the appellant." At the outset of the hearing, the appellant made reference to a complaint to OLCJ about the two members of the judicial panel. The panel understood that there was an application for their recusal. No particulars were provided and there was no engagement with the governing legal principles. Furthermore, the panel members, independently, are unaware of anything which would support this course. The application is refused accordingly.

The Protagonists

[2] The two appellants are Thomas Anthony Carlin and Maxine Karon Hughes. There are four respondents to this appeal. Each of them was a defendant in the assorted underlying applications and proceedings. They are, following the order of the title hereof:

(a) The solicitors representing Santander UK Plc ("Santander").

(b) A solicitor in the employment of the first respondent.

(c) Junior counsel representing Santander in one of the cases, instructed by the first respondent.

(d) Santander.

The Appeal

[3] On 16 June 2023 Deputy Judge Simpson gave judgment in a series of inter-related applications and proceedings, making the following orders:

(i) Dismissing the appellants' application to set aside the judgement/order of Huddleston J dated 20 June 2019 and 8 June 2020 whereby (a) he dismissed the appellants' application to strike out the plaintiffs' claim for failure to comply with the discovery requirements of Order 54 Rule 19(1) RCJ and (b) he granted the respondents an order for possession of their dwelling house (the "dwelling house").

(ii) Granting the application of the respondents to strike out the appellants' writ action pursuant to Order 18, Rule 19(1)(b) and (c) and the inherent jurisdiction of the court and entering judgment for the respondents.

(iii) Refusing the appellants' application for a stay of enforcement of the aforementioned order for possession.

(iv) Dismissing the appellants' appeal against the order of the Chancery Master refusing to abridge time for the issue and service of subpoenae and refusing to issue subpoenae against the second and third respondents.

(v) Dismissing the series of applications of the appellant detailed in para [92] of the judgment.

The appellants appeal against each of these orders.

The Mortgage

[4] In 2008 the appellants executed an interest only mortgage with Abbey National Plc (now Santander) whereby the mortgagee secured a first legal charge over the dwelling house, which was registered in the Land Registry in October 2008. The amount thereby loaned to the appellants was £192,099. According to a recent letter from Santander's solicitors the appellants have failed to make any repayment since September 2011 and as of 4 September 2023 the balance due on the mortgage account was £242,058 and the arrears due were £132,249.

Litigation Narrative

[5] The principal parties have been involved in litigation for some 12 years. Disregarding certain aspects of this which are now of historical interest only there have been two major milestones in the more recent phase:

(i) On 26 November 2019 Huddleston J made two orders (a) dismissing the appellants' application to strike out Santander's Order 88 Application for possession for asserted failure to comply with the discovery requirements of Order 24, Rule 19(1) RCJ and (b) dismissing the appellants' application to vary the discovery order of the Chancery Master dated 21 February 2019.

(ii) On 8 June 2020 Huddleston J made an order for possession of the dwelling house in favour of Santander: see [2020] NICH 11.

The appellants did not pursue an appeal against any of the aforementioned orders.

[6] As regards the more recent applications and proceedings we gratefully adopt, without repeating, paras [9]–[16] of the judgment of the Deputy Judge.

[7] Most recently, by its order dated 15 November 2023 this court required the appellants to make security for the respondents' appeal costs in the amount of £10,000. The appellants complied with this order (by crowd funding, the court was informed).

Notice of Appeal

[8] The Notice of Appeal, as amended, is dated 13 October 2023. It consists of 14 pages incorporating some 42 grounds. The main characteristics of this bulky text are the proliferation of bare, unsubstantiated assertion, a manifest lack of particularity, a heavy concentration on the immaterial, a misguided focus on the conduct of Santander's legal representatives and a sustained lack of coherence. The Notice of Appeal is supplemented by the appellant's skeleton argument, which is in similar vein.

Conclusions

[9] The conclusions of this court are made in the context of the immediately preceding paragraph. They are as follows:

(i) There is either no evidence whatsoever or no credible evidence of any of the numerous factual matters raised in the Notice of Appeal. This applies particularly, but not exhaustively, to the multiple bare assertions relating to the fairness of the proceedings at first instance.

(ii) While encompassed in our first conclusion, in view of the seriousness of the allegations, it is appropriate to add that there is no evidence whatsoever of the plaintiffs' allegations of unprofessional conduct, fraud or criminal conduct on the part of any of the respondents.

(iii) There is no evidence whatsoever supporting the appellant's allegations of discriminatory treatment of him.

(iv) There is no evidence whatsoever of abusive or other misconduct on the part of "officers of the court."

(v) There is no evidence whatsoever of any "abuse of processes" on the part of any of the respondents.

(vi) There is no evidence whatsoever of "apparent bias" on the part of either the trial judge or any of the other judges or the Chancery Masters previously involved in the litigation history.

(vii) As regards the judgment under appeal, there is no discernible error of law; the judge's findings, conclusions and orders are adequately reasoned; and there is no identifiable failure to deal with any material issue. Furthermore, the judgment is in no way vitiated by reference to the equitable doctrine of laches.

In a sentence, there is no shred of merit in this appeal.

Sundry Issues

[10] At a case management listing convened by this court on 15 April 2023 the appellant applied to have the hearing of this appeal adjourned for a period of several months and also sought certain other orders. The ruling of this court was one of comprehensive dismissal on the ground that there was no demonstrable merit in any of the courses pursued. In particular, the appellant belatedly raised issues relating to his health. No supporting medical evidence was provided. In this context, we took into account his similar attempts at first instance, outlined in paras [20]-[27] of the judgment under appeal, together with the associated material documentary evidence.

[11] We would add that at the hearing before this court – as at first instance – the first appellant represented himself and the second appellant was unrepresented. By its case management directions this court allocated an equal division of time for oral representations to both sides. The appellant's belated skeleton argument and his oral presentation to this court, both of which were fluent, articulate and comprehensive, confirmed beyond peradventure the hopeless nature of this appeal. The court did not consider it necessary to require the respondents' counsel to elaborate on the skeleton arguments of counsel. While the appellant requested a further period of time to prepare a "5/6 pages" written submission, it is abundantly clear to the court that this would be a futile and misguided exercise characterised by the repetitious, the irrelevant and the incoherent and, fundamentally, was not required in the interests of a fair hearing. This request is refused accordingly.

Disposal

[12] The appeal is dismissed and the judgment and orders at first instance are affirmed in all respects.

[13] We have considered the parties' representations regarding costs. At first instance an order for costs was made against the appellants. Having considered the representations of the parties, we give effect to the governing principle by making the same order as regards this appeal.