

Neutral Citation No: [2026] NIKB 7	Ref: SIM12955
<i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i>	ICOS No: 23/93009
	Delivered: 28/01/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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KING’S BENCH DIVISION
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**[1] DAVID NIGEL JACKSON
[2] MARION LOUISE JACKSON**

Plaintiffs

and

**[1] DAVID HUGHES
[2] DAPHNE HUGHES**

Defendants

—————
**Lisa Moran (instructed by Donaldson McConnell, Solicitors) for the Plaintiffs
The Defendants were unrepresented**
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SIMPSON J

Introduction & background

[1] The facts of this case are relatively simple. The plaintiffs are the registered owners of a residential property situate at and known as 50 Seagahan Road, Markethill, Co. Armagh. That house, a commercial unit, described as a factory, and some 17 acres of land are comprised in three folios, AR 19848, AR 11380 and AR 87720. At one time they were owned by Mr Samuel Hughes, the father of the first defendant and estranged husband of the second defendant. In 2014 Samuel Hughes was adjudicated bankrupt and his property vested in his Trustee in Bankruptcy.

[2] The Trustee in Bankruptcy wished to sell the property to realise the assets. The second defendant made an application to the Master asserting that she had an equitable interest in the property. A Matrimonial Charge was registered. On 31 May 2017 Master Kelly made an order permitting the Trustee to sell the property but ordered that the net proceeds of the sale of all three folios “shall be divided between the [Trustee] and the [second defendant] on the basis of 62.5% to 37.5% in favour of the [Trustee].” The second defendant was required to join in the sale of the property to the plaintiffs, and her signature appears on the Deed. Following the sale, her

share of the moneys was paid to the second defendant. By letter dated 18 December 2018 John F. Gibbons & Co., Solicitors, acting on behalf of the second defendant, wrote to the Trustee's solicitors acknowledging "receipt of the payment of our client's share of the sale proceeds", and agreeing to the removal of the Matrimonial Charge.

[3] The plaintiffs were the purchasers from the Trustee in Bankruptcy of the property in the three folios. The purchase price was £680,000, and they were registered as owners in February 2019. In order to assist with the funding of the purchase the plaintiffs borrowed some £520,000 from Northern (now Danske) Bank.

[4] On 17 April 2019 the plaintiffs, as owners, and Samuel Hughes entered into a lease for the residential property, the monthly rental being £1,600. On the same date the plaintiffs, as owners, and a company known as DH Europe Ltd entered into a lease for the commercial unit, the monthly rental being £5,400. DH Europe Ltd is a company associated with the first defendant. Initially, rent was paid by Samuel Hughes/DH Europe Ltd under the leases promptly from the date of execution of the leases.

[5] Samuel Hughes died in or about May 2021. Prior to his death, according to the evidence of the first plaintiff, Samuel Hughes had offered to buy back all the properties, and the plaintiffs agreed with him to sell at a price of £1.2 million, as long as the sale could be completed within 6 months of their discussions. In the event no sale took place as, apparently, Samuel Hughes was unable to raise the necessary finance.

[6] After the death of Samuel Hughes, the two defendants remained in occupation. They paid the rent for about a year, but they ceased paying rent under either lease in or about April or May 2022 and no rent has been paid since that date. The arrears to date are some £68,800.

[7] After 2022, and since the rental was no longer being paid, the plaintiffs – who were still required to make monthly payments to the Bank of £5,400 – put the property on the market for sale. The commercial property and lands were sold to a company named Coote Engineering. The residential property remained in the ownership of the plaintiffs.

[8] In October 2022, at the time of the proposed sale by the plaintiffs of the commercial unit to Coote Engineering, the second defendant wrote to the proposed purchasers suggesting that she retained an interest in the lands. This prompted the proposed purchasers' solicitors to write to the plaintiffs' solicitors raising this issue. Messrs Donaldson McConnell replied attaching the letter of 18 December 2018 and Master Kelly's Order and noting that the second defendant was ordered to join in the sale of the premises and that she subsequently executed a Transfer Deed. This permitted the plaintiffs' solicitors to say that they were "entirely satisfied that [her]

matrimonial claims were dealt with in their entirety at the point of completion.” The sale to Coote Engineering then completed.

[9] On 19 June 2023 the plaintiffs, through their solicitors, served a Notice to Quit individually on each of the defendants requiring them to deliver up possession on or before 14 September 2023. However, the defendants remain in occupation. Accordingly, on 1 November 2023 the plaintiffs issued a Writ claiming possession of the premises, mesne profits and damages for breach of covenant.

[10] Following the issue of the Writ in this case, the second defendant registered an inhibition in the Land Registry. An objection was lodged by the plaintiffs and after receiving and reviewing affidavits from the defendants (two affidavits each) and two affidavits from the first plaintiff, the Deputy Registrar deemed the registration withdrawn on 21 March 2024.

[11] As noted above the Writ in this case was issued on 1 November 2023 and the Statement of Claim was served on 8 February 2024. It required the bringing of an application before the Master to produce a defence and counterclaim, served on 10 May 2024. The plaintiffs issued a Notice for Particulars on 17 June 2024 and, again following a summons, this time to compel replies, replies were finally received on 14 May 2025.

[12] In November 2025, following an application, I made an order, pursuant to Order 67, that the then solicitors for the defendants have ceased to be the solicitors for the defendants.

Discussion

[13] For the plaintiff, Miss Moran says that the matters outlined above in para [11] simply show the defendants seeking to put off the evil day and attempting to thwart the plaintiffs in the exercise of their property rights. She says that there is no evidence that either defendant has any interest in the lands.

[14] The first defendant gave evidence and made submissions on his own behalf and on behalf of the second defendant. He gave the court some historical information and made some allegations, none of which was particularly germane to the issue for decision. His evidence, and submissions, touched on the content of the counterclaim.

[15] Sub-para (c) of the counterclaim pleads:

“The deceased [Samuel Hughes] was adjudicated bankrupt in or around 2015 and Mr Thomas Martin Keenan of Keenan Corporate Finance, now deceased, was appointed as the trustee in bankruptcy, and lands within

[the three folios] automatically vested in him. Mr Keenan dealt only with the plaintiffs, on the basis that they were friends [of Samuel Hughes], and it was understood by all involved that [Samuel Hughes] or [the first defendant] would be in a position to re-acquire the legal interest in the premises.”

[16] The first defendant told me that there was a verbal agreement between the plaintiffs and Samuel Hughes that the sum of £7,000 per month – made up of the £1,600 for the residential property and £5,400 for the commercial premises – would be paid by Samuel Hughes to the plaintiffs for a period of 10 years (effectively to allow the plaintiffs to repay the Bank), not by way of rent for the occupation of the premises but by way of payment for the properties. At the end of the 10 year period, following a further (unspecified) payment to the plaintiffs, the property would revert to the ownership of Samuel Hughes. The alleged agreement, he says, was made between the plaintiffs and his father – he was not present – but his father told him and his mother that the agreement had been made. He always understood that it was to allow the properties to come back into the family.

[17] The counterclaim asserts that it was to satisfy the Bank that leases were signed, the inference being that the leases were, in effect, a sham. At para (e)(v) of the Particulars of the Counterclaim it is stated that it “was expressly agreed that beneficial ownership of the premises would not transfer to the plaintiffs, and that they would hold it in name only and as collateral.” At sub-para (g) it is stated that the parties agreed that “the defendants would have and be entitled to the entire beneficial interest” in the property.

[18] This alleged agreement was, according to the counterclaim at sub-para (d), entered into in 2015 and involved “the plaintiffs, the Trustee, the deceased [Samuel Hughes] and the defendants.”

[19] In cross examination the first plaintiff denied that any such agreement existed.

[20] Other than the pleaded assertions and the evidence of the first defendant of an oral agreement, about which he was told by his father, there is nothing to evidence any agreement. The defendants have had the benefit of legal representation for a time in this case, and the counterclaim was drafted by counsel. It was open to the legal representatives to seek third party discovery of Mr Keenan’s papers to ascertain if there was any documentation in his files to corroborate the assertion in the counterclaim as to Mr Keenan’s involvement in the alleged agreement. This appears not to have been done, or at least there is nothing to suggest that it has been done. Whatever be the position, the first defendant in his evidence admitted that there was no document in existence which contained the alleged agreement or referred to the alleged agreement. As noted above, in his evidence he also said that he only learned about this alleged agreement by being told

about it by his late father – which is inconsistent with the assertion that the agreement was entered into by, inter alia, both defendants noted in para [17] above.

[21] Not only is there no document corroborating any agreement, but the contemporaneous email exchanges at the time of the leases – when Samuel Hughes was being advised by his accountants – makes no reference to any such agreement.

[22] In cross examination of the first defendant, Miss Moran took him through the email exchanges between a Michelle Hawkins, of the accountancy firm of PKF-FPM in Newry, Samuel Hughes, Davidson McConnell and the plaintiffs in March 2019 ie the month before the leases were entered into. The first defendant was forced to admit that nowhere in those emails was there any mention of anything which might point to the agreement being alleged. Had there been a proposal for some sort of buy-back of the premises I would have expected some reference to it to be made in those exchanges or some document to have been brought into existence contemporaneously to evidence it. I consider that the fact that there is no such reference or document is telling.

[23] In all the circumstances I find that there was no such agreement as alleged by the first defendant in his evidence, or as asserted in the counterclaim.

Conclusion

[24] The plaintiffs are the registered owners of the residential premises. No rent has been paid under the lease for, now, in excess of three years. A valid Notice to Quit was served on each defendant. Possession was not delivered up. Possession proceedings are now before the court. Neither defendant has produced any evidence to support any claim to a beneficial interest in the property, other than the alleged agreement, and I have found that no such agreement was ever made. I find that the interests of the second defendant, arising from her marriage to Samuel Hughes, were adjudicated on by Master Kelly and payment of her share has been made. I find that neither defendant has any current beneficial interest in the property. I find that there is no defence to the orders sought by the plaintiffs.

[25] Accordingly, the plaintiffs are entitled to an order for possession of the premises. They are also entitled to the arrears of rent, and the final figure should be inserted in the draft order made available to me.