

Neutral Citation No: [2026] NICA 19

Ref: TRE13014

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

ICOS No: 25/036969

Delivered: 26/03/2026

IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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

BETWEEN:

JOHN McKEEVER

Appellant

and

KER PROPERTY MANAGEMENT LIMITED

Respondent

Mr John McKeever (appearing as a Litigant in Person)
Ms Lisa Moran (instructed by The Elliott Trainor Partnership, Solicitors)
for the Respondent

Before: Treacy LJ and McLaughlin J

TREACY LJ and McLAUGHLIN J (*both delivering the judgment of the court*)

Introduction

[1] This is the judgment of the court to which we have both contributed and on which we are both agreed.

[2] This is an appeal against the decision of Huddleston J dated 25 June 2025, whereby he dismissed the appellant's appeal pursuant to section 6 of the Land Registration Act (Northern Ireland) 1970 ("the 1970 Act") against a decision of the Registrar of Titles to register the respondent as owner of the land and premises situate at 48-49 The Square, Crossmaglen, Co Armagh, comprised in Folio 16777, County Armagh ("the premises"). Following an objection from the appellant, the order of the Registrar was made on 7 April 2025, with effect from 16 August 2024.

[3] The appellant now appeals to the Court of Appeal. Pursuant to section 7 of the 1970 Act, the decision of the High Court on an appeal from a decision of the Registrar of Titles under section 6 of the 1970 Act “shall be final and conclusive on all parties.” The right of further appeal to the Court of Appeal under section 7 is limited and is considered in more detail below. An appeal to the Court of Appeal lies only where (a) the decision involves a question of law or (b) the High Court or Court of Appeal grants leave to appeal. In this case, neither this court nor the High Court has granted leave to appeal the decision of Huddleston J dated 25 June 2025. While we have extreme misgivings about whether the grounds of appeal put forward in this case raise an identifiable question of law, we have decided the appeal on the merits of each of the grounds.

Background

[4] These proceedings have an unusually protracted procedural history both in this court and in the High Court. They also overlap considerably with two previous sets of proceedings involving the appellant and his wife Michelle McKeever, which both related to the premises, and which have generated lengthy written judgments both in this court and in the High Court. Set out below is a summary of the relevant history of events and the findings in the previous proceedings. For the avoidance of any doubt, this represents a summary only and is not an exhaustive recitation of every aspect of the prior proceedings, nor of every twist and turn of the considerable procedural history. The summary is based primarily upon the findings of fact and law contained in the written decisions of the High Court and of this court.

[5] In a facility letter dated 6 March 2007, the Governor and Company of the Bank of Ireland (“BOI”) offered to lend £450,000 to John McKeever and Michelle McKeever. At that time, they were the registered owners of the premises which are located in the centre of Crossmaglen, County Armagh. The purpose of the loan was to facilitate the demolition of derelict buildings on the premises and to redevelop them with residential and commercial units. The offer was for repayment of the loan over 17 years, at an interest rate of 1.75% above BOI’s base lending rate, with payments of interest only for the first 24 months. The facility letter was signed by both Michelle and John McKeever on 12 March 2007. The loan was to be secured by way of a first charge on the premises in favour of BOI. Drawdown of the loan began on 15 June 2007 and continued on foot of certificates from a quantity surveyor as the demolition and construction project got underway. By 10 December 2007, the loan account stood at £450,168.54. No further funds were advanced, and no monies have ever been repaid on foot of the loan, save for those recovered through the subsequent sale of the premises to Ker Property Management Ltd (“KPM”). The charge in favour of BOI was registered in the Land Registry on 17 December 2007. In the first set of proceedings, there was some dispute about the date on which the charge was executed by both McKeever and whether it had been validly executed. These issues have all now been resolved and the charge has been found to have been validly executed and registered.

[6] Michelle and John McKeever defaulted on the loan. BOI demanded repayment on 10 January 2013 and appointed fixed charge receivers in February 2013, on foot of the deed of charge. In May 2013, BOI commenced proceedings against both Michelle and John McKeever for a range of relief, including judgment on the debt, a declaration as to the validity of the appointment of the receivers and possession of the premises. These are referred to below as the first set of proceedings along with more detailed summary of issues and findings. For present purposes, it is also relevant that the appellant John McKeever was adjudicated bankrupt on 12 October 2009. In June 2010, his interest in the premises was transferred to Michelle McKeever for £1, subject to the charge in favour of BOI.

The first proceedings: Bank of Ireland (UK) plc v Michelle McKeever & John McKeever [2023] NICH 3

[7] BOI commenced proceedings against both Michelle and John McKeever in May 2013 on foot of the loan agreement and registered charge. The proceedings were contested in full and the McKeeveres raised numerous defences and counterclaimed. The proceedings followed an extremely long and unusual procedural history. BOI's claim and the McKeeveres counterclaims were ultimately determined by Simpson J in March 2023 following a five day hearing in the Chancery Division (*Bank of Ireland (UK) plc v Michelle McKeever & John McKeever* [2023] NICH 3). At para [6] of that judgment, Simpson J summarised the prolonged procedural history in the following terms:

“[6] To date there has been a hearing before Deeny J in January 2014 when the plaintiff sought an injunction to prevent the defendants from entering onto the property, a substantive hearing before Horner J in 2016, following which the judge recused himself, a substantive hearing before Huddleston J, resulting in a final order dated 8 September 2021, and an appeal to the Court of Appeal. As a result of the judgment of the Court of Appeal on 22 December 2021 ([2021] NICA 64) the matter was remitted to the High Court for a further substantive hearing.”

[8] Between the decision of the Court of Appeal to remit the proceedings to the High Court and the re-hearing before Simpson J, there was a further interlocutory appeal to the Court of Appeal concerning a recusal application, discovery and adjournment (*Bank of Ireland (UK) plc v McKeever & McKeever* [2022] NICA 70).

[9] At para [8] of the judgment of Simpson J, the various elements of BOI's claim were summarised as follows:

- “(a) payment of approximately £570,000 liquidated damages plus interest;
- (b) a declaration that identified receivers had been well appointed and were empowered to let or sell the property;
- (c) an injunction restraining the appellants from trespassing on the property;
- (d) alternatively to (c), an order requiring the appellants to provide possession of the property.”

[10] At para [10], Simpson J recorded that Michelle McKeever (who appeared in person) presented the defence to the claim and that she also appeared for John McKeever (who did not physically attend court). Simpson J quoted extensively from the pleadings and summarised all of the issues raised in the defence and counterclaim. It is entirely clear from the judgment that the claim proceeded against both Michelle and John McKeever and that both individuals were parties to the proceedings. The list of issues raised in defence of the claim were set out by Simpson J at para [29]. They included (summarising):

- The title of Bank of Ireland (UK) plc, to whom the charge had been transferred by the Governor and company of Bank of Ireland [point (i)];
- A challenge to the validity of the loan, in light of the timescale of its drawdown [point (ii)];
- Various challenges to the validity of the deed of charge [points (iii)-(v)];
- A challenge to the validity of the appointment of the receivers [points (vi) and (vii)];
- A challenge under the Consumer Credit Act 1974 to the enforcement of the loan [point (viii)];
- Challenges to the validity of the transfer of the bank’s interest in the charge and to the registration of the charge [points (x) and (xi)];
- A series of challenges to the manner in which the bank operated the loan account [points (xii)-(xiv)].

[11] Included within the defences raised by the McKeeveres were issues arising out of John McKeever’s bankruptcy in 2009. These had been pleaded at paras [12] and [16] of the defence and counterclaim. They were referred to by Simpson J at para

[29](ix) as “the bankruptcy issues.” His consideration of these points is contained at paras [96]–[100]. One of the points made by Michelle McKeever was the contention that, following the bankruptcy of John McKeever, his trustee in bankruptcy had not transferred John McKeever’s interest in the premises to Michelle McKeever. Simpson J rejected the contention. At para [29], he described the relevant transfer documentation, which had been included in the trial bundle. He also described contemporaneous correspondence sent by Michelle McKeever’s then solicitor to the solicitor for the BOI enclosing the relevant transfer deed for execution by the bank. Subsequent correspondence from the same solicitors included an acknowledgment from the Land Registry of its receipt of the transfer documentation. In the face of this overwhelming evidence about the existence of the transaction, Simpson J concluded at para [98] “there is no merit in the first defendant’s denial.” He therefore found as a fact that the transfer had taken place. As set out below, it now appears that the transfer does not appear to have been registered.

[12] Simpson J dismissed all of the defences and counterclaims raised by the McKeeveres and found in favour of the bank on all issues. At the conclusion of the hearing, the bank informed the court that, in light of John McKeever’s bankruptcy, it did not seek a monetary judgment against him, but did seek a monetary judgment against Michelle McKeever. Simpson J summarised his findings at para [193] in the following comprehensive terms:

“(i) I give judgment for the plaintiff against the defendants for £477,622.91;

(ii) I declare that Garry Best and Gerard Kelly were validly appointed as receivers over the property 48/49 The Square, Crossmaglen;

(iii) I order that the defendants yield up possession of the property 48/49 The Square, Crossmaglen forthwith to the plaintiff. In view of the likelihood of an appeal, I will stay the execution of the order for possession for six weeks from today’s date, 30 March 2023;

(iv) Consequential to the order for possession, I discharge the agreement made on 9 February 2015 between the defendants and the receivers;

(v) I do not consider it appropriate, having made an order for possession, to grant any injunction. There is no present behaviour of which I am aware requiring to be enjoined and I have no evidence, and cannot predict, what might happen in the future if the Bank takes possession;

(vi) Although I am satisfied that by changing the locks on the property the defendants committed a trespass, I consider that in the particular circumstances of this case there is no need for an award of damages. In any event, there has been no evidence of any consequential loss or damage, and I note that in its closing submissions of June 2015, the plaintiff does not seek an award of damages for trespass;

(vii) I dismiss the Counterclaim;

(viii) The defendants have lost comprehensively. In the circumstances I order that the defendants pay the plaintiff's costs of the plaintiff's claim and the plaintiff's costs defending the Counterclaim - those costs to be taxed in default of agreement;

(ix) I note that the issue of costs of the interim injunction proceedings was reserved to the trial judge. In view of the way in which those proceedings were compromised by the agreement to which I have referred above, I make no order as to costs of the injunction proceedings."

[13] The final order of Simpson J dated 30 March 2023 is important for the purposes of this appeal and is set out in full:

"UPON this case being heard from 20 to 25th February 2023,

AND UPON the court delivering judgment on 30th March 2023.

AND UPON the Plaintiff stating that due to the Second Defendant's bankruptcy the Plaintiff does not seek judgment against him.

THE COURT HEREBY:

GIVES JUDGMENT in favour of the Plaintiff against the First Defendant in the sum of £477,622.91.

DECLARES that Mr Gary Best and Mr Gerard Kelly ('the Receivers') have been validly appointed by the Plaintiff

as receivers over the property at 48/49 The Square, Crossmaglen, being the property in folio 16777 County Armagh ('the Property').

ORDERS that the Defendants do provide possession of the Property to the Plaintiff, the enforcement of this order to be stayed for 6 weeks from the date hereof.

DISMISSES the Defendants' Counterclaim.

DISCHARGES the agreement dated 9 February 2015 between the Plaintiff, the Defendants and the Receivers.

MAKES no order for costs on the interim injunction proceedings.

ORDERS that the Defendants do pay the Plaintiff's costs in the Plaintiff's claim and the Plaintiff's cost in the Defendants' Counterclaim, such costs to be taxed in default of agreement."

[14] A monetary judgment was therefore entered against Michelle McKeever alone. The validity of the receivers' appointment was affirmed and both Michelle and John McKeever were ordered to deliver up possession of the premises.

[15] The order of Simpson J was not appealed by either Michelle or John McKeever.

The second proceedings: Ker Property Management Ltd v McKeever & McKeever
[2025] NICA 43

[16] In the absence of any appeal from the order of 30 March 2023 by Simpson J, its terms represented a legally binding statement of the respective rights of BOI and the McKeeveres on foot of both the loan agreement and the registered charge. On 10 July 2024, BOI exercised its power of sale under the charge by entering into a contract for the sale of the premises to Ker Property Management ("KPM") in the sum of £205,000. The sale completed on 19 July 2024 and KPM became the owner of the premises.

[17] Notwithstanding the order of Simpson J requiring Michelle and John McKeever to deliver up possession of the premises to BOI, KPM experienced difficulties recovering possession. As owners of the premises, KPM commenced summary proceedings in its own name pursuant to Order 113, Rules of the Supreme Court of Judicature (NI) 1980, seeking an order for possession against both Michelle and John McKeever. The difficulties which KPM encountered recovering possession

and which it attributed to the McKeevers were set out in an affidavit grounding the proceedings. Those difficulties included notices being placed on the doors, locks being changed, challenges to locksmiths and representatives of KPM, surveillance cameras being installed around the property and the front door being boarded up.

[18] The Order 113 application came before Huddleston J. On 2 December 2024, he made an order for possession against both John McKeever and Michelle McKeever. The order was in the following terms:

“IT IS ORDERED that the plaintiff, Ker Property Management Ltd, do recover possession of the lands as described in the originating summons as the land situate at 48-49 The Square, Crossmaglen, Co Armagh, and as contained in folio 16777, Co Armagh, and that the defendants, John McKeever and Michelle McKeever, and all persons in occupation of the said lands, do give possession of the said lands on or before the 10th day of December 2024, and that the defendants do pay the plaintiff’s costs, such costs to be taxed in default of agreement.”

[19] Both Michelle and John McKeever appealed this order to the Court of Appeal, which dismissed the appeal. In a lengthy written judgment Colton LJ set out the detailed history of the proceedings and the claims made by both Michelle and John McKeever to resist the claim for possession.

[20] Three particular issues featured in the Order 113 appeal which are relevant for present purposes.

[21] First, the McKeevers claimed that they remained the owners of the premises and challenged the entitlement title of KPM to possession (see Colton LJ at [14], [21] and [22]). The basis for the McKeevers’ ownership claim appears to have been that the name of John McKeever remained on the Land Register as an owner of the premises. The Register had clearly not been updated to reflect either (i) the 2010 transfer of John McKeever’s interest by his trustee in bankruptcy to Michelle McKeever, or (ii) the sale of the entire premises by the bank to KPM in July 2024. The appeal on this ground was firmly rejected. The Court of Appeal’s conclusions on this issue are encapsulated in the following passages of the judgment:

“[26] Put simply, the plaintiff/respondent enjoys possession by reason of the right of sale arising from sections 19, 20 and 24 of the Conveyancing Act 1881 along with the charge deed which provides the power of sale. The bank was entitled to proceed with the sale on foot of the charge.

[27] The judgment of Mr Justice Simpson confirms that both the mortgage and charge are valid. It confirms that the appointment of the receivers is valid and that the defendants/appellants are not entitled to possession of the property. That being so, the bank was entitled to proceed with the sale. It is noted that Mr Justice Simpson refers specifically within the judgment to the relevant provisions of the Conveyancing Act 1881, see paras [78] and [84] of his judgment.

...

[31] The main substantive issue raised by the defendants/appellants is to the effect that John McKeever was the lawful owner and that no valid charge has been made against him. This is simply not borne out by the history and the court order of Mr Justice Simpson.

[32] The bank's original proceedings were based on a charge deed between the bank and both Michelle and John McKeever."

[22] For present purposes, the important point about the above passages is that the Court of Appeal has already affirmed the title of KPM as owner of the premises, on the basis that the bank had lawful authority to sell the entire interest of both McKeever's in the premises on foot of the power of sale contained in the 2007 deed of charge. In affirming this conclusion, the Court of Appeal also expressly rejected a submission that the bank's title (and hence the sale to KPM) was invalid by reason of the fact that John McKeever's name still appeared as a registered owner on the Land Register. The Court of Appeal's conclusion was not surprising in light of the clear findings by Simpson J (which were not appealed) that the deed of charge was valid; that there had been default on the loan; that both Michelle and John McKeever were required to deliver up possession of the premises and that John McKeever's trustee in bankruptcy had transferred his interest in the premises to Michelle McKeever in 2010 for £1, subject to the charge.

[23] The second relevant aspect of the proceedings was a challenge to the title of KPM based upon the fact that its solicitor had exhibited a redacted copy of Simpson J's final order of 30 March 2023 to an affidavit supporting the Order 113 application. This issue is addressed at [44]-[48] of Colton LJ's judgment. It also contains a complete reproduction of the order of 30 March 2023 in both redacted form (at [45]) and unredacted form (at [11]). A comparison of the two documents reveals that the redactions included the third recital (recording the bank's request not to have a monetary judgment against John McKeever) and paras (i), (iv), (v), (vi) and (vii) which provide for the monetary judgment against Michelle McKeever; costs; the dismissal of the counterclaim and the discharge of an agreement with the receivers.

The unredacted parts of the order included the declaration that the receivers had been validly appointed and the order requiring both McKeever's to deliver up possession.

[24] The Court of Appeal rejected the contention that the use of a redacted version of the order of 30 March 2023 had in any way invalidated the order of Simpson J or relieved the McKeever's from their obligation to deliver up possession (at [48]). Colton LJ also explained how the use of the redacted order came about. It was received by KPM's solicitor in redacted form from the solicitor who had acted for the bank in the original proceedings and in the sale. It was the bank's solicitor who had redacted those portions of the order which did not relate to possession. The court made clear that the redactions made no difference to the outcome of the proceedings or KPM's title and it rejected as "totally unfounded" (at [47]) any suggestion that KPM's solicitor had acted improperly.

[25] The third relevant issue raised in the second proceedings was a contention that John McKeever had played no part in the proceedings before Simpson J and that he had not been represented. This issue was addressed at paras [49]-[54] of Colton LJ's judgment where he made reference to the relevant findings by Simpson J. Both Simpson J and this court have therefore already found that the first case was a claim by the bank against both John and Michelle McKeever and that the order of Simpson J had been made against both of them. As Colton LJ observed:

"[54] ... Mr Justice Simpson made an order against both defendants/appellants in respect of the relevant property. The judgment stands and is clear."

Grounds of appeal

[26] The appellant, John McKeever, now appeals against the decision of the High Court to uphold a decision of the Registrar of Titles to register KPM as the owner of the premises.

[27] Following completion of its purchase of the premises from the bank in July 2024, KPM applied to the Registrar of Titles to be registered as owner. It appears that at the time of the application, the name of John McKeever still appeared on the Land Register as a registered owner. The reasons for this are unclear, particularly in light of the findings by Simpson J (at [97]) that John McKeever's trustee in bankruptcy had sold his interest to Michelle McKeever and that in October 2010 the Land Registry had acknowledged receipt of the relevant transfer form from Michelle McKeever's solicitor.

[28] The evidence relied upon by John McKeever for the purposes of this appeal is set out in an affidavit which was sworn by him on 29 May 2025 for the purposes of the appeal to the High Court. He avers that he was the registered owner of the

premises and that on 10 April 2025, he was informed by the Registrar of Titles that his objection to the registration of KPM as owner had been dismissed. The notification refers to the order of Simpson J on 30 March 2023 and of Huddleston J dated 2 December 2024 and states:

“As it appears that the objector has not established a prima facie case of any interest in the land they have therefore not shown cause for objection. The objection shall therefore be dismissed and the registration of the matter 2024/673045 will be dealt with accordingly.”

[29] The appellant then made a request for copies of the materials which had been relied upon by KPM in support of its registration application. This revealed that four documents had been submitted. Mr McKeever averred that upon receipt of the Registrar’s decision he “became aware” that the Registrar had relied upon two further documents “that had not been disclosed to me at any stage.” The two documents were the order of Simpson J dated 30 March 2023, and the order of Huddleston J dated 2 December 2024. Even if these two documents were not attached to the email from the Land Registry responding to the request for disclosure, the above litigation history shows that Mr Keever’s averment that the documents had not been disclosed to him at any stage was, at best, entirely misleading, if not a statement of brazen dishonesty. He was a party to the Order 113 proceedings before Huddleston J and in the Court of Appeal in which the content of Simpson J’s order was centre stage and the order of Huddleston J was itself the subject of the appeal. These were also public documents which were referred to expressly by the Registrar of Titles in the notification of 10 April 2025, dismissing the objection to registration of KPM’s title.

[30] Mr McKeever requested the Registrar to review his decision in light of the fact that the order of 2 December 2024 had been under appeal at the time of the application for registration and that the redacted order of 30 March 2023 omitted to reveal that the bank had not sought a monetary judgment against Mr McKeever. The Registrar did review the decision but arrived at the same conclusion. Mr McKeever explained his objection in forceful terms in his affidavit in these proceedings by averring (at para 9) that, in his view, the effect of the redacted order was to “conceal the fact that I was not subject to any judgment in those proceedings” and that it “deliberately obscured material information that was exculpatory and relevant to my legal standing.” At para 14 of the affidavit, he expressed the view that the decision of the Registrar to register KPM as owner of the premises was “contrary to the assurance given and has caused serious and potentially irreversible prejudice to my legal position while the appeal remains undetermined.”

[31] The appellant’s grounds of appeal were set out in his skeleton argument. These expanded somewhat upon the core complaints which had been set out in the affidavit. As set out in detail below, at the hearing of the appeal, Mr McKeever

ultimately confirmed that he wished to rely upon the written arguments which had been set out in his skeleton argument and he did not make further oral submissions. We have therefore addressed each ground of appeal identified in the skeleton argument and on which submissions were made.

Ground 1: Scope of the judgment of Simpson J and Order of 30 March 2023

[32] The appellant contends that the order of Simpson J did not bind him as the monetary judgment was only entered against Michelle McKeever and because the recital stated that “due to [John McKeever’s] bankruptcy the [bank] does not seek judgment against him.” Accordingly, he claims that there was never any possession order against him. He also contends that KPM was aware of this because he give it notice to that effect and that the subsequent submission of the redacted version of Simpson J’s order of 30 March 2023 to the Registrar of Titles was a knowing effort to misled the Registrar and a “fraud.”

[33] This ground of appeal is entirely without merit and must be dismissed for the following overlapping reasons.

[34] First, contrary to the appellant’s belief and his repeated assertions to the contrary, a possession order in relation to the premises was made by Simpson J on 30 March 2023 against both John McKeever and Michelle McKeever. This is evident from the clear wording of the order of 30 March 2023 itself, but also from the clear, unequivocal and repeated findings of Simpson J. His judgment makes clear that John McKeever was a party to those proceedings, that he entered a defence and also made a counterclaim challenging the validity of the entire secured loan arrangement. The possession order of 30 March 2023 was made against John McKeever as a defendant because the court found that he was in possession of the premises along with Michelle McKeever at the time the order was made and that he had no entitlement to possession. Simpson J found that the bank was entitled to possession for the uncomplicated reasons that both John and Michelle McKeever had granted a charge to the bank over their interests in the premises as security for a very substantial loan which was in default; that John McKeever’s interest in the premises which was later transferred to Michelle McKeever by the trustee in bankruptcy had been subject to the charge; that the deed of charge was valid; that the receivers had been validly appointed on foot of the deed of charge and that the power of sale had become exercisable. The findings and order of Simpson J were not appealed, and they were matched by the similar findings and order of this court in the second set of proceedings which also made a possession order against both John and Michelle McKeever.

[35] Second, there was not one, but two, orders for possession against the appellant in relation to the premises. Simpson J make an order for possession against both John and Michelle McKeever on 30 March 2023. In the Order 113 proceedings brought by KPM, this court affirmed the possession order of

Huddleston J dated 2 December 2024 which was also made against both John and Michelle McKeever. Accordingly, there was not one, but two orders for possession against both of them. Both of those orders were binding and effective as against John and Michelle McKeever. In the second set of proceedings, the order was based upon the fact that the premises had been sold lawfully to KPM on foot of the bank's charge. Accordingly, whatever interest the McKeever's previously held in the premises had been lawfully transferred to and was now owned by KPM.

[36] Third, this entire ground of appeal conflates the legal status of a recital to a court order with the order itself. A recital within a court order is an explanatory provision which may be included by a court in order to assist and inform a third party reading the order to understand any background facts which may be relevant to the order or how it came to be made. However, a recital does not itself command any party to do or refrain from doing any act, nor does it alter the legal rights or interests of the parties to the proceedings. Its legal effects are explanatory in nature. In this case, the recital explains to the reader that the bank did not request a monetary judgment against John McKeever, on account of his prior bankruptcy, notwithstanding the fact that he was a party to the proceedings. There is nothing inconsistent between the explanatory provisions of the recital and the legally binding order that both John and Michelle McKeever must deliver up possession. The recital does not in any way detract from or otherwise diminish the possession order, which remains valid and enforceable against both parties. The recital simply provides the reader with an explanation for the disparity in the scope of the possession order and the monetary judgment.

Ground 2: Bankruptcy and trustee's interest

[37] The appellant points out that following his bankruptcy, the transfer of his interest in the premises to Michelle McKeever by his trustee in bankruptcy was never registered. He contends that the trustee was required to do so by section 59 of the Land Registration Act (NI) 1970 and that in the absence of a registered transfer, he "remained the registered absolute owner on the Folio at all material times."

[38] This ground of appeal is also entirely without merit and must be dismissed.

[39] Contrary to the appellant's contention, section 59 of the 1970 Act does not compel a trustee in bankruptcy to register his interest in any land which forms part of the bankrupt's estate. Section 59(1) of the 1970 Act provides that upon the bankruptcy of an individual, the trustee shall, upon the production of the prescribed evidence " ... be entitled to be registered as owner of the land or, as the case may be, as a tenant in common of the land with another or others." A trustee therefore has a discretion as to whether or not an interest in registered land is registered in his/her name. The transfer of assets to a trustee in bankruptcy is governed by Article 279 of the Insolvency (NI) Order 1989. It provides that the entirety of a bankrupt's estate vests in the trustee in bankruptcy upon appointment. It makes no distinction

between an interest in registered land and any other asset which forms part of the estate. The transfer of a bankrupt's interest in any assets (including an interest in registered land) to his/her trustee therefore occurs by operation of law and without the need for further formality or action by the trustee.

[40] It is of note that pursuant to Part IV of the 1970 Act there are a number of circumstances in which dealings in registered land may lawfully occur by a person who is entitled to be registered as owner of the relevant interest, but who had not done so at the time of the relevant transaction (see eg section 33 of the 1970 Act).

[41] However, none of these points are relevant to this appeal. In this case, the relevant transaction was not the registration of the transfer of John McKeever's interest by the trustee to Michelle McKeever, it was the registration of the bank's charge in 2007. As found by Simpson J, that charge was validly executed by both Michelle and John McKeever and was validly registered. The legal effect of a registered charge is set out expressly in a combination of section 41(5) and Schedule 7, Part 1 to the 1970 Act. Paras 6 and 7 of Schedule 7 provide as follows:

"6. If the registered owner of a charge on land sells the land in pursuance of any of his powers, his transferee shall be registered as owner of the land, and thereupon the registration shall have the same effect as registration of a transfer for valuable consideration by a registered owner.

7. When a purchaser from the registered owner of a charge is registered, under paragraph 6, as owner of the land, the charge and all estates inferior thereto shall, subject to paragraph 8, be discharged." [emphasis added]

[42] These provisions are unequivocal in their legal effect. Since the interests of both Michelle and John McKeever were subject to the charge, once the bank exercised its power of sale, the purchaser was entitled to be registered as the owner of the premises, as if it had been sold by the registered legal owner. These provisions are a complete answer to the appellant's continuing claims to ownership. Accordingly, even if the appellant is correct and that his interest never was validly transferred to Michelle McKeever by his trustee in bankruptcy, his interest was subject to the charge from the time of its execution. The bank's charge had been validly registered against both interests since 17 December 2007 and it was entitled to exercise its power of sale under the charge by selling that interest to KPM along with Michelle McKeever's interest. This court has already found that it did so and that KPM was entitled to possession of the premises against both John and Michelle McKeever. Once the title of KPM is registered on foot of its purchase, any remaining registered ownership interests of both Michelle and John McKeever is discharged, since those interests were at all times inferior to the bank's charge.

[43] This ground of challenge is therefore entirely devoid of merit and must be dismissed.

Ground 3: Mortgage and receivers

[44] By this ground, the appellant makes essentially the same argument as in the previous two grounds. He contends that the legal effect of his bankruptcy was a transfer of his interest in the premises to the trustee unencumbered by the charge and that this deprived the bank of its ability to sell his interest. For the reasons given above, this is misconceived. By operation of law under article 279 Insolvency (NI) Order 1989, the appellant's estate passed to the trustee in bankruptcy. In this case, the interest which the appellant held at the time of his bankruptcy, and which therefore passed to the trustee was his registered interest in the premises, subject to the charge. The trustee therefore acquired precisely the same interest in the land as was held by the appellant. The statutory transfer of the appellant's interest did not have the effect of extinguishing the bank's registered charge over the land. The appellant has identified no legal principle or statutory provision to support such a remarkable proposition. The receivers were therefore appointed by the bank over the entirety of the interests which were subject to the charge, which included the interest originally held by the appellant, but transferred to the trustee and later to Michelle McKeever. Neither of those transfers displaced the bank's legal rights under the charge.

[45] This ground of appeal must therefore be dismissed.

Ground 4: Transfer Deed

[46] The appellant contends that the deed of transfer from the bank to KPM is invalid as it was not executed by a director of the bank and that witnessing was defective.

[47] The appellant has adduced no evidence to support this ground of challenge, save for exhibiting the documents presented to the Registrar along with KPM's application to register its ownership. His affidavit is entirely silent on the issue, and the court has no evidence about the circumstances in which the transfer deed was executed, the identity of the parties to the transfer deed or the capacity in which they executed the document. The point does not appear to have been argued below, and the evidence relied upon in support of this ground of appeal is entirely defective and insufficient. This ground appears to consist of nothing more than bare assertion and is unsupported by any evidence. It must therefore be dismissed.

Ground 5: Presentation of redacted court order to the registrar

[48] The appellant seeks to undermine the registration on the ground that the redacted version of Simpson J's order for possession was presented as part of KPM's registration application.

[49] This argument must also be rejected, for the same reasons that it was rejected by this court in the Order 113 proceedings. The operative part of Simpson J's order included the order declaring the appointment of receivers to be valid and the order for possession. These were the aspects of the order which were relevant to the bank's ability to exercise its power of sale under the registered charge. The portions of the order which were redacted were not relevant to those issues. The redacted paragraphs included part of the recital (which is not an operative part of the order), the order for costs, the order dismissing the counterclaim and the order discharging an unregistered agreement between the McKeevers, the bank and the receivers.

[50] Having considered the entirety of the unredacted order of 30 March 2023, we are entirely satisfied that the redacted portions were not material to the issue of the bank's title and the redacted order provided a perfectly adequate evidential basis upon which the Registrar could be satisfied as to the sufficiency of KPM's title for the purposes of registration as owner. Accordingly, we are satisfied that it did not amount to an irregularity or misfeasance in the registration process, as alleged by the appellant.

Ground 6: Fraudulent misrepresentation by bank and KPM

[51] The appellant contends that the bank knowingly and fraudulently misrepresented that his interest had transferred to Michelle. It is not clear to whom it is alleged this representation was made, nor is it clear how the issue is relevant to this appeal. Even if a representation in these terms was made by the bank to some unspecified person, it was clearly not a misrepresentation and it was most certainly not fraudulent since Simpson J found as a fact that the appellant's interest was transferred to Michelle McKeever by his trustee in bankruptcy. That finding of fact was not appealed, and it is not now open to the appellant to revisit the issue. This ground of appeal must therefore be dismissed.

[52] As appears clear from the above analysis, all of the grounds of appeal are entirely devoid of any merit. They are premised upon impermissible attempts to re-open and revisit legal issues which have already been authoritatively, repeatedly and finally determined by both the High Court and this court in other proceedings. This latest appeal by the applicant bears all the hallmarks of an attempt to frustrate and delay the ability of the lawful owner of the premises from exercising its legitimate rights of ownership and it must be dismissed.

Appeals to the Court of Appeal under section 7 Land Registration Act (NI) 1970

[53] As we have set out above, appeals from decisions of the Registrar of Titles lie to the High Court under section 6 of the 1970 Act and are assigned to the Chancery Division [per Order 93, rule 1(2)(m), Rules of the Supreme Court of Judicature]. Onward appeals to the Court of Appeal are governed by section 7 of the 1970 Act. It provides as follows:

“7. The decision of the High Court under section 6 shall be final and conclusive on all the parties except that an appeal shall lie, in accordance with rules of court, to the Court of Appeal –

- (a) where the decision involves any question of law;
- (b) in any other case, with the leave of the High Court or the Court of Appeal.” [emphasis added]

[54] This provision is notable both for the status to be attributed to the decision of the High Court and the limited right of onward appeal to the Court of Appeal. The decision of the High Court “shall be final and conclusive on all the parties” other than on a point of law or with leave. Ownership of land is a matter on which there is a strong public interest in certainty. It is for this reason that the 1970 Act provides for decisions of the High Court on appeal from the Registrar to be final, save in cases where an important issue of law or principle arises and which merits consideration by the Court of Appeal. The limitations on appellate rights against decisions of the Registrar of Titles stand in contrast to the unconditional right of appeal to the Court of Appeal which applies to most other decisions of the High Court. We consider that these limitations on appellate rights should be given effect in future cases through the exercise of the court’s case management powers. Applications for leave to appeal should be made in the first instance to the High Court with a view to identifying the precise point(s) of law which arise for determination, or any other reason why an appeal is appropriate. Where they exist, they should be clearly stated by the High Court. If they do not exist, it is equally important that this is expressed by the High Court in the event of an application to the Court of Appeal for leave to appeal. If an application for leave to appeal is not made to the High Court, this court may remit the matter for that purpose.

[55] In the present case, no application for leave to appeal was made to either the High Court or to the Court of Appeal. It is also clear from our consideration of the grounds of appeal that no true question of law or principle was raised by the appellant on any of the grounds. The appeal was, in substance, an attempt by the appellant to re-visit issues of law and fact which had already been determined in previous proceedings and all of the proposed grounds were so devoid of merit that they could not properly be regarded as raising an issue of law. While we have

addressed all of the grounds of appeal on the merits, we wish to make clear that leave to appeal ought to have been refused in this case, if such an application had been made.

Application for representation by a person without rights of audience

[56] The sole appellant in this appeal was John McKeever. Representation on his behalf for the appeal hearing involved a protracted and unusual sequence of events, which gave rise to some important issues of principle concerning representation in the superior courts by persons without rights of audience. We therefore set out the history in some detail.

[57] Rights of audience in the High Court and the Court of Appeal in Northern Ireland is governed by section 106 of the Judicature (NI) Act 1978. It provides for the rights of audience of counsel and, in certain circumstances, for solicitors of the Court of Judicature in Northern Ireland. Section 106(4) provides:

“(4) Nothing in this section shall take away or affect the inherent powers of any court or judge to confer a right of audience.”

[58] In Northern Ireland, Practice Note 3/2012 (revised 7 June 2024) relates to both the provision of assistance to a litigant in person by means of a McKenzie Friend and also to the grant of rights of audience to appear in court and to represent a party to litigation, where the proposed advocate does not otherwise have a right of audience. Part 1 of the Practice Note relates to the role of a McKenzie Friend and Part II relates to rights of audience and representation. In both cases, it is necessary for the person seeking to act as McKenzie Friend or to conduct the litigation as an advocate to complete an application form and to provide the information set out in Appendix A. Part II of the Practice Note provides in relevant part as follows:

“Part II - Rights of audience and rights to conduct litigation

Rights of audience and the right to conduct litigation on behalf of another are not part of the function of a McKenzie Friend but the following paragraphs apply to a McKenzie Friend, or to another individual, who wishes to apply for such a right. Unlike an application for reasonable assistance from a McKenzie Friend, there is no presumption in favour of granting these rights. Application should be made at the earliest possible opportunity and preferably before the hearing.

Courts should be slow to grant any application from a personal litigant for a right of audience or a right to

conduct litigation to any lay person, including a McKenzie Friend. This is because a person exercising such rights must ordinarily be properly trained, be under professional discipline (including an obligation to insure against liability for negligence) and be subject to an overriding duty to the court. These requirements are necessary for the protection of all parties to litigation and are essential to the proper administration of justice.

The court will only be prepared to grant a right of audience to a lay person, including a McKenzie Friend in exceptional circumstances where there is a good reason to do so, taking account of all the circumstances of the case. Relevant factors include physical health problems, where mental well-being or other disability issues including learning difficulties arise, where English is not a first language, where other communication issues arise such as literacy or other social, cultural or domestic circumstances apply which preclude the personal litigant from addressing the court or conducting litigation where qualified legal representation is not available to the personal litigant.

The grant of a right of audience or a right to conduct litigation to lay persons who hold themselves out as professional advocates or professional McKenzie Friends or who seek to exercise such rights on a regular basis, whether for reward or not, will only be granted in exceptional circumstances. To do otherwise would tend to subvert the will of Parliament.

Rights of audience and the right to conduct litigation are separate rights. The grant of one right to a lay person does not mean that a grant of the other right has been made. If both rights are sought their grant must be applied for individually and justified separately.”

[59] The application form in Appendix A requires the provision of information about the individual together with the arrangements or relationship between that individual and the litigant. Importantly, it also requires the individual to provide a number of undertakings to the court about their interest in the litigation, their personal background and the conduct of the proceedings. For example, they are asked to provide an undertaking of confidentiality in relation to the use of materials which have been disclosed in the proceedings. These are equivalent to the implied undertakings which officers of the court and the parties to litigation are required to

provide in every case. The provision of the information on the form and the offering of undertakings are required in every case and are essential to enable the court to assess whether the individual seeking representations rights is suitable to perform that role and hence to decide whether the application should be granted. It also enables the court to give informed case management directions on any further conditions under which rights of representation should be exercised. Completion of the form is therefore a mandatory and essential minimum requirement in every application for the right of representation.

[60] This appeal was first listed for hearing on 16 September 2025. At that hearing Michelle McKeever attended to present the appeal on behalf of the appellant. The court noted that she had not made an application for permission to act as McKenzie Friend or to appear as an advocate in the case. Nor had she supplied the information and undertakings required by the Practice Note 3/2012.

[61] By order of 16 September 2025, the court ordered that any application for rights of audience/McKenzie Friend was to be made by 17 September 2025. The appeal was re-listed for 19 September 2025. In order to assist the appellant, the court office issued an email dated 17 September 2025 explaining the procedure and requirements. The email stated:

“As the court indicated yesterday the application process is not complex and does not require an affidavit. The court has not directed that an affidavit be served and does not, as things currently stand, require one. The application could and should have been made in advance of the proceedings. We are attaching a link which includes a copy of the application to be completed - Practice Note 03/12 (Revised 7 June 2024) - McKenzie Friends | Judiciary NI.

Please note that the application form, which is very straightforward, appears at Appendix A pages 11-14....”

[62] No application for representation rights was made and on 19 September, the court made a further order allowing until 22 September 2025 for the completion of any application for rights of audience or a McKenzie Friend, with a hearing date to be notified the following week. On 22 September 2025, further submissions about the appeal were filed on behalf of the appellant in which, *inter alia*, the assertion was made that the application form for representations rights was not necessary in this case. On 23 September 2025 an email was sent to the parties by the court office in the following terms:

“Dear all,

Please note that the Court of Appeal panel have received email correspondence from the parties re John McKeever -v- Ker Property Management Limited.

Please be advised that the judicial panel have directed that the respondent shall file a response to the latest submissions on or before the close of business on Wednesday 24 September 2025.

Please note that the following is for the attention of Mr and Mrs McKeever.

‘We refer to the email of the 17 September 2005 *directing* the completion of the application form found in Appendix A of the Practice Note 03/12 (revised 7 June 2024). Time was extended by the court for that application to be completed by 12 noon on Thursday 18 September.

Despite the clear direction of the court that Direction was never complied with.

On Friday 19th September the court reiterated that the Direction of the court must be complied with, and the case was adjourned to enable that to be done.

On Monday 22 September, despite the Directions of the court, it is asserted that “such an application should not be required.” The court reiterates that its Directions stand, and the application form is required to be completed by the person who is applying for rights of audience – in this case Mrs McKeever.

In a submission dated 18 September 2025 it was asserted that Mr McKeever “cannot read or write beyond signing his name.” As paragraph H of the form, to be completed by Mrs McKeever, makes clear, there is a requirement to set out the “exceptional circumstances” with “any supporting

evidence.” You will recall that the absence of any supporting evidence regarding the assertion of Mr McKeever’s inability to read in your Defence and Counterclaim in related civil proceedings was the subject of comment by Simpson J at para [56] and [64] of his judgment in those proceedings. For ease of reference these are set out in Ms Moran’s Position Paper dated 21 August 2025 in the present case.

The application form at para I also requires a series of very important undertakings from the person who is seeking rights of audience – in this case Mrs McKeever – which include confirmation that she:

- Has no personal interest in the case in which she will be providing assistance
- Have read fully, and will comply with, Practice Note (3/2012) as amended AND the Code of Conduct dated 7th June 2024
- She has attached a copy of her CV
- Will not be seeking or receiving payment, and
- have fully and honestly responded to all the questions contained within the form ...’

If the application form is not completed and forwarded to the court and the respondent by noon on Wednesday 24th September, we will proceed on the basis that Mrs McKeever does not intend to comply with the courts Directions.’

Please confirm receipt of this email.”

[63] On 24 September 2025, further submissions were emailed to the court on behalf of the appellant. It was contended that since Michelle McKeever was not a party to the appeal, the court could not direct her to make an application for representation rights. It was contended that the court’s efforts to direct the submission of an application for rights of representation demonstrated not only the appearance of bias but actual bias. The submissions included the following:

“2.2 The appellant respectfully submits that such an application should not be required in the present appeal

as the court had already recognised Michelle McKeever's right to represent the appellant in the lower court and in related proceedings before the Court of Appeal where Michelle was also a party.

2.3 Notwithstanding this, and due to the insistence of the Court, the appellant lodged such an application but now finds himself in an untenable position due to the undertakings required under Practice Note 3/2012.

3.1 Respectfully, the appellant notes that Michelle McKeever cannot be compelled to sign undertakings, as she is not a party to these proceedings, and doing so would prejudice her in her present and future proceedings given the overlap of issues between her case and the appellant's.

...

4.1 In light of the above, and under clear duress from the court's insistence that Michelle McKeever sign undertakings that would prejudice her rights, the appellant has no choice but to withdraw the application for Michelle McKeever to be granted rights of audience and rights to conduct litigation on his behalf."

[64] The final position of the appellant was therefore that Michelle McKeever was not willing to complete the written application for permission to represent the appellant. The reasons for that change in position are unclear but appear to have been based upon an unwillingness on her part to provide the undertakings set out in Annex A of Practice Note 3/2012. By the same submissions, a request was also made to adjourn the appeal.

[65] The appeal was listed for hearing on 1 October 2025. By email dated 29 September 2025, the appellant again applied to adjourn the hearing on the ground that he had work commitments in Dublin. By written order dated 30 September 2025, the court directed that the application be made in person in court. It also requested submission of evidence relating to a prior assertion by the appellant that he could not read or write beyond signing his name. The court subsequently received an affidavit sworn by Fionnuala Hughes who was a former teacher of the appellant. She has known him for many years and testified to the limitations in his reading and writing ability.

[66] On 1 October 2025, there was no appearance on behalf of either party. The court noted that Michelle McKeever had withdrawn her application to be granted rights of audience and directed that the appellant inform the court by 6 October 2025

whether any application was to be made by any other person to represent him at the appeal, which was listed for hearing on 9 October 2025, but then further adjourned until 23 October 2025.

[67] On 20 October 2025, the court received a written application by Mr Arno Gautier Swords to act as both McKenzie Friend for the appellant and also to have rights of audience to conduct the appeal on his behalf. The application was made on the prescribed form set out in Appendix A of Practice Note 3/2012. It contained the necessary undertaking and was accompanied by a curriculum vitae explaining Mr Gautier Swords' background. It also confirmed that he had a fee arrangement with the appellant in the amount of £200 per day for his services.

[68] At the outset of the hearing on 23 October 2025, Mr Gautier Swords moved the application to have rights of audience on behalf of the appellant. He is a French national who has lived in Ireland for many years. He describes himself as a Human Rights Activist and he provided a business address in Belfast for his enterprise. In support of his suitability to act as an advocate, he referred the court to the written judgment of the Supreme Court of Ireland in *Gaultier v AIB* [2019] IESC 89. This was a series of conjoined appeals which Mr Gautier had conducted in person on his own behalf and in which he was ultimately successful. Unfortunately, he did not attach a copy of the judgment. However, it was supplied to the court by the respondent, for which the court is grateful. We have considered the judgment in detail. The judgment of O'Donnell J contains the following relevant paragraphs (with emphasis added):

“3. There is a clear and reasonably simple procedure for seeking to restore a company to the Register, and this most commonly occurs when it is necessary to restore a struck-off company for the purposes of proceedings. Under s. 12B of the Companies (Amendment) Act 1982 (“the 1982 Act”), as amended by s. 46 of the Companies (Amendment) (No. 2) Act 1999, (now s. 738 of the Companies Act 2014), where a court application is necessary, an application is made to the High Court (and now, in certain circumstances, to the Circuit Court). The procedure is set out comprehensively in the leading texts: Hutchinson, Keane on Company Law (5th ed., Bloomsbury Professional, 2016), pp 498 to 501; Courtney, The Law of Companies (4th ed., Bloomsbury Professional, 2016), pp 2019 to 2043; Conroy, The Companies Act 2014: Annotated and Consolidated (Round Hall, 2018), pp 972 to 983.

4. The procedure normally involves notice to interested parties: the Minister for Public Expenditure,

the Revenue Commissioners and the Registrar of Companies, and it may, in an individual case, require advertisement and/or other notification to creditors. Where the reason for striking-off is the non-filing of statutory accounts, the application normally involves the preparation of annual returns and an undertaking to lodge such returns. However, it appears that this course was not taken by Mr Gaultier, and in many ways these three appeals and other proceedings reflect his differing attempts to circumvent the requirement of proceeding in accordance with the relatively simple statutory procedure.

5. Prior to any of the applications giving rise to the three appeals before this court, it appears, from the documentation submitted, that an application had been made by Mr Gaultier to the High Court and heard by Laffoy J on the 18th of June, 2012. It appears that Mr Gaultier sought leave of the court to issue proceedings on behalf of the company Loire Valley Limited which at that point stood dissolved. Since the company had no legal existence at that time, and since in any event there is a general rule, to which it will be necessary to refer in greater detail later in the judgment, that a company cannot represent itself, or be represented by a shareholder or director, or other interested party, it appears that the Central Office refused to accept the proceedings and Laffoy J, correctly, it would appear, refused to grant leave to bring the proceedings. There was a clear statutory procedure which would permit the restoration of the struck-off company, and thereafter it ought to have been possible to prosecute any claim. Instead of taking that step, Mr Gaultier sought to recast his proceedings in a fashion which might avoid the difficulty posed by both the dissolution of the company and the question of the representation of the company.

15. It does not appear there is a significant or material distinction between the two transcripts, but in the hope of avoiding further misunderstanding and confusion, I am prepared, for these purposes, to use the transcript prepared by Mr Gaultier, without suggesting that that is a desirable or appropriate course to follow in most cases. It appears likely that the exchange was recorded without notifying the court or seeking permission. If so, then,

quite apart from the undesirability, and indeed illegality, of such a course, it suggests a high degree of suspicion on Mr Gaultier's part. [our emphasis]

16. When Mr Gaultier introduced the application, the judge intervened and referred to the fact that Mr Gaultier had been before the court on the 5th of July, 2012, and had not disclosed to the court that Laffoy J had previously refused leave to issue a plenary summons. Mr Gaultier responded:- "Yes, exactly." He was asked to explain what had happened between the 18th of June and the application on the 5th of July, and he responded that he had totally redrafted the documents. The first application was in a plenary summons format, with three grounding affidavits which were very hard to read and the applicants were two applicants: himself (Mr Gaultier); and a limited company. The judge intervened to observe that the company was dissolved, and enquired if that was correct. Mr Gaultier agreed. The judge then observed that Mr Gaultier should have disclosed the fact that he had been refused leave to issue a plenary application. There followed a long exchange, and Mr Gaultier then said that he had mentioned on the 5th of July that he had come before Laffoy J but his application was so confusing that he did not bring that order (of the 18th of June).

26. It is now clear that there was confusion here, but a large part of it was due to Mr Gaultier's desire to avoid the obvious route for the restoration of the company to the Register, and his own misunderstanding of the procedures involved. Inasmuch as he was seeking an interim injunction before Murphy J on the 18th of July - and at times it appears from his transcript that he was - then Murphy J was entirely correct to refuse any such application. Inasmuch as Mr Gaultier now suggests that all he was seeking was leave to amend his statement of grounds to seek an interim injunction, then that relief was entirely unnecessary since he had already been granted leave to bring an application for such an injunction in advance of the hearing in October.

40. Returning to the substance of the matter, I consider that the decision of Laffoy J, given on a particularly busy day, was impeccable as a matter of law. It is plain that s. 231(1) of the 1963 Act cannot be invoked

by a person who is not a liquidator, and outside a winding-up. Furthermore, it would have been an abuse of process to permit Mr Gaultier to avoid both the rule in *Battle* and the consequence of dissolution by permitting him to commence proceedings in the name of a dissolved company without complying with the statutory procedure for restoring the company to the Register. As Laffoy J observed, that would have been to allow Mr Gaultier to circumvent the plain requirements of the Companies Act. Accordingly, I would dismiss the appeal.

49. It appears then that Mr Gaultier appeared in the High Court on the 9th of August, before de Valera J, who was sitting as the “vacation duty” judge. It is apparent from both the official transcript and Mr Gaultier’s own transcript that the judge made considerable efforts to try and understand what was, on any view, a rather unusual application, and furthermore had considerable difficulty in understanding Mr Gaultier both in relation the detail of his argument, and because of his strongly accented English. This is an observation, and is in no sense a criticism, of Mr Gaultier, who was seeking to take some complex steps in a legal system in which he was not qualified and with which he was unfamiliar through a language which was not his mother tongue. It seems clear, however, that these difficulties contributed to the confusion in court on that day.

65. It appears to me that this precedent, had it been brought to the attention of the High Court judge, is one which could have been followed. Indeed, I should say that had the matter been set out as clearly and as painstakingly to the High Court judge as it has been on this appeal, and the materials assembled for this appeal put before him, I do not doubt that he would have taken this course. It is clear that the judge wished to assist Mr Gaultier so far as he could to avoid having the claim statute-barred.

70. But Mr Gaultier has clearly engaged in litigation on a number of fronts and has become critical and suspicious of the procedures of the courts. It is apparent that much of his difficulty can be traced to his original unwillingness to follow a simple procedure for restoring

a company to the Register and that his repeated, if ingenious, applications and proceedings have only increased the complexity of the net of entanglement in which he is caught.”

[69] We were referred to various paragraphs of the judgment by Mr Gautier Swords. Frankly, we agree with the respondent that there is nothing within that judgment which could properly be regarded as a compliment from the court on the quality of his submissions in that case. On the contrary, we consider that the judgment provides some clear indicators that Mr Gautier Swords would be unsuited to performing this role. His heavy reliance on para [65] of the judgment and particularly the use of the word “painstakingly” is misplaced when put in context of the entirety of the judgment.

[70] At para [49], O’Donnell J noted that Mr Gautier was seeking to take steps in a legal system in which he was not qualified and with which he was unfamiliar and in a language that was not his mother tongue and that those difficulties contributed to confusion about the proceedings. O’Donnell J made the observation that “the judge struggled manfully to understand the nature of the application.”

[71] In the course of the appeal hearing on 23 October 2025, the court sought further information from Mr Gautier Swords about his experience and background, for the purposes of assessing his suitability to act as an advocate and to conduct the appeal. He confirmed that he had “very limited knowledge” of the land registration system in Northern Ireland. The following exchange was particularly illuminating:

“JUSTICE MCLAUGHLIN: Mr Gaultier Swords, can I ask you, what experience do you have of the land registration system in Northern Ireland?

MR GAULTER SWORDS: Of the land registration ...

JUSTICE MCLAUGHLIN: Land registration system and rules in Northern Ireland?

MR GAULTER SWORDS: I have very limited knowledge of it, yes.

JUSTICE MCLAUGHLIN: And where does your knowledge come from?

MR GAULTER SWORDS: My knowledge come from studying the documentation and the Acts.

JUSTICE MCLAUGHLIN: In this case or ...

MR GAULTER SWORDS: In this case, yes.

JUSTICE MCLAUGHLIN: So, your only knowledge of land law registration system in Northern Ireland comes from the assistance you have given to the McKeevers in this case?

MR GAULTER SWORDS: Yes.

JUSTICE MCLAUGHLIN: Okay. How do you propose to assist us with the rules and the application of the rules on the land registration system if you have no prior knowledge or experience of them?

MR GAULTER SWORDS: It's in the word painstakingly that you find ...

JUSTICE MCLAUGHLIN: Which – in the Supreme Court judgment?

MR GAULTER SWORDS: Yes. Well, you will have my CV. I have a science background.

JUSTICE MCLAUGHLIN: Okay. So you ...

MR GAULTER SWORDS: The quality of my submissions is rigorous beyond reason.

JUSTICE MCLAUGHLIN: So your point is that you have studied very hard for this case but you had no prior knowledge of the rules of land registration in Northern Ireland.”

[72] While it is not possible to define or prescribe any fixed set of circumstances in which rights of audience will be granted, Practice Note 3/2012 makes clear that it is only in exceptional cases that a court will allow rights of audience to a representative on behalf of a litigant in person. This approach is consistent with the statutory structure of section 106 of the Judicature (NI) Act 1978 and the important public policy and public protection reasons behind limiting rights of audience in the High Court and Court of Appeal. In *R v Bothwell* [2007] NI 58, the Court of Appeal refused to grant rights of audience to a qualified solicitor to conduct an appeal in the Northern Ireland Court of Appeal. The court made the following observation about section 106 (per Kerr LCJ):

“[6] ... Although s106(4) preserves the right of the court to have recourse to its inherent power to confer a right of audience, it seems to us that this power should be exercised with the earlier subsections in mind. In general, the section appears to have been framed to reflect the traditional position that solicitors will not normally have a right of audience in either the High Court or the Court of Appeal. It is to be noted in particular that there is no reference to criminal proceedings in any of its subsections and this, no doubt, is because, before the enactment of the 1978 Act, solicitors did not appear in criminal matters in the High Court or the Court of Appeal.”

[73] As acknowledged in the Practice Note, the legislature has conferred rights of audience only upon the those who hold legal qualifications and are members of the legal profession. The purposes of that provision are both to protect the public from those who may otherwise put themselves forward as representatives, without the regulatory controls of a professional body and also to facilitate the efficient conduct of business in the superior courts. Any grant of representation rights therefore represents a departure from that legislative choice and risks undermining those statutory objectives. In short, acting as an advocate on behalf of another person in the superior courts is not a pastime and it is not a generally available enterprise, save where there are exceptional circumstances, as recognised in the Practice Note.

[74] In this case, Mr Gautier Swords may have some prior experience of conducting appellate advocacy on his own behalf in the Republic of Ireland. However, the simple reality is that he had no knowledge or experience of the facts of the case other than reading the papers. He also had no knowledge, experience or qualifications relevant to the issues in the appeal. Despite his apparent enthusiasm and willingness to conduct the appeal, his only connection to the appellant appears to be an economic relationship in which he was to be remunerated for his time. This falls far short of the type of exceptional circumstances which may justify affording him rights of audience. His application for representation was therefore refused on this basis.

[75] After the application for representation was refused, the appeal hearing proceeded. The appellant indicated that he did not wish to make any additional oral submissions on his own behalf and he invited the court to proceed on the basis of the written submissions contained in his skeleton argument. Counsel for KPM also confirmed that the respondent was content to proceed on written submissions only.

[76] After the court refused Mr Gautier Swords’ application for representation, he made further unsolicited submissions to the court and he drew our attention to the decision of the Court of Appeal in *Clarkson v Gilbert* [2000] 2 FLR 839, in which

Lord Woolf considered the principles governing the power of a court in England and Wales to allow rights of audience to unqualified individuals to conduct litigation on behalf of unrepresented parties. The application for representation rights in that case was therefore made under a different statutory framework than that which applies in Northern Ireland and it must be considered subject to that qualification. Lord Woolf reiterated the right of individuals to act on their own behalf in all courts and also to have a McKenzie Friend but contrasted those situations with representation by an unqualified person, which required justification. He said:

“10 ... But, if somebody wishing to appear in person, wants somebody who is not an advocate and who has no rights of audience to appear on his or her behalf instead of someone who has the rights of audience, that, in my judgment has to be justified. The courts are always anxious to help and recognise the difficulties that litigants in person have in presenting cases. For that reason it is well-established that they can have the assistance of a friend in court. That person can sit beside them and give help and advice during the course of the proceedings. But in such a situation a litigant in person is not in a position where he has an advocate appearing on his behalf.”

[77] The Court of Appeal in that case made clear that there was a distinction between an unqualified person without connection to the case seeking to “set themselves up” as an advocate and a spouse or family member offering assistance by way of advocacy services. In the latter case, some of the policy concerns about allowing non-qualified individuals to have rights of audience may not arise to the same extent. However, it was also emphasised, that in every case there must be an application. The court must always be provided with the necessary information about the proposed advocate to determine whether and on what terms to grant rights of representation.

[78] Mr Gautier Swords referred us to the *Clarkson* case in support of the proposition that Michelle McKeever should be permitted to represent the appellant and stated that his objective all along had been to “have Michelle up here” conducting the appeal. As we have set out in detail above, Michelle McKeever never made an application to appear either as a McKenzie Friend or as an advocate for her husband, the appellant. Indeed, when requested by the court to make an application, she expressly declined to do so. Like every other applicant for advocacy rights, whether as spouse or representative, the procedural requirements of the Practice Note must be followed and a formal written application must be submitted containing the requisite information and undertakings. Since that was not done in this case, despite repeated opportunities and assistance from the court, the decision in *Clarkson* is ultimately of no assistance in this case. In the circumstances, there was

nothing in the further submissions made by Mr Gautier or in the *Clarkson* case which in any way alters the decision to refuse his application for representation rights or to allow Michelle McKeever to appear without complying with the Practice Note.

Conclusion

[79] For all of the above reasons, the appeal is dismissed. We will hear the parties on costs.