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IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

ON APPEAL FROM THE MASTER (ENFORCEMENT OF JUDGMENTS)

Between:

BRENDA BREWSTER

Appellant

-and-

THE NORTHERN IRELAND COURTS AND TRIBUNALS SERVICE

First Respondent

and

CIARAN McKAVANAGH

Second Respondent

The appellant appeared as a litigant in person
Aidan Sands (instructed by the Departmental Solicitor's Office) for the first respondent
The second respondent did not appear and was not represented

Before: McCloskey LJ and Scoffield J

SCOFFIELD J (*delivering the judgment of the court*)

Introduction

[1] This is an appeal under Article 140(3) of the Judgments Enforcement (Northern Ireland) Order 1981 ("the 1981 Order"). The appellant, Ms Brewster, seeks to set aside the order of the Master (Enforcement of Judgments) made on 23 May 2023 in case C/14/04964 in the Enforcement of Judgments Office (EJO). On that date, the Master (Master McGivern) made an order discharging an order charging land which had been made against a property belonging to the second respondent to this appeal (Mr McKavanagh) at 114A Belvedere Manor, Lurgan.

[2] Ms Brewster appeared in person. Mr McKavanagh did not appear and played no part in the proceedings. In those circumstances – and given a number of complaints advanced in the course of the appeal proceedings by Ms Brewster in relation to the Master's approach and the conduct of court staff – Mr Sands appeared for the Northern Ireland Courts and Tribunal Service (NICTS) ("the Court Service"), which was named by Ms Brewster as the first respondent in her notice of appeal and which acted as legitimus contradictor in the appeal, defending the legality of the Master's order. We are grateful to both Ms Brewster and Mr Sands for their written and oral submissions.

The parameters of the appeal

[3] The starting point, in order to understand the nature and purpose of this appeal, is the order charging land (OCL) which was made by Master Wells on 10 June 2014 ("the original OCL"). It is this order which the appellant wished, and wishes, to preserve by her representations before the Master and by this appeal.

[4] Master McGivern discharged the original OCL by her order of 23 May 2023 which is the subject of this appeal. She did so, as we discuss further in due course, on the basis that the underlying money judgment which the original OCL was designed to enforce had itself been set aside. In those circumstances, the Master reached the view that the original OCL was now redundant, since the substructure upon which it rested as a matter of law had evaporated.

[5] In her notice of appeal, Ms Brewster seeks orders (i) reinstating the original OCL; (ii) substituting a different money judgment for that which originally underpinned the original OCL, so that it continues in force but for the purposes of enforcement of a different judgment; (iii) varying an (unspecified) order in order to "allow the addition" of further sums which the appellant contends are owed to her by Mr McKavanagh on foot of further (unspecified) court orders; and (iv) compensating her for any loss should the sale of the Belvedere Manor property be concluded pending the outcome of this appeal. As we understand it, the fourth of these claimed reliefs does not arise in the circumstances.

[6] The appellant has identified four grounds of appeal, each of which is discussed further below, in support of her appeal. These are as follows:

(1) That the proceedings before the Master were procedurally unfair;

(2) That the Master's decision was made "in ignorance of and/or with disregard to fact";

(3) That the decision causes an injustice; and

(4) That the decision constitutes victimisation against the appellant.

[7] We have taken care to set out the headlines of each ground of appeal – which are commendably briefly pleaded in the appellant's notice of appeal – because of Mr Sands' submission, which we unreservedly accept, that this court's proper role is confined both by the nature of its appellate jurisdiction (see *JK v LM* [2021] NICA 41, at para [18]) and by the pleaded grounds upon which the appeal has been advanced. This applies with even greater rigour than usual where, as here, the appellant was given the opportunity to amend and add to her pleaded grounds, should she so wish, but has declined the opportunity to do so. As we observe below, a range of Ms Brewster's submissions and complaints related to matters which are simply not raised for determination in this appeal. Under Article 140(3) of the 1981 Order, she has an appeal to this court "on a question of law". We consider that, properly analysed, the question of law raised by this appeal is a narrow one.

The factual background to the appeal

[8] There is a long and unhappy history between the appellant and second respondent consequent upon the breakdown of their marriage; and, moreover, a long and unhappy history of litigation which has flowed from that. It is unnecessary for present purposes to rehearse much of that. A helpful summary can be obtained by considering the judgment of this court in *McKavanagh v Brewster* [2022] NICA 50 ("the last Court of Appeal judgment"), in particular at paras [2]-[11], [16]-[18] and [24]-[29]. A number of developments which are important in the context of the present appeal are mentioned below.

[9] In 2012 and 2013 Master Redpath made several orders as part of the ancillary relief proceedings between Ms Brewster and Mr McKavanagh. These included an order that Mr McKavanagh pay £450 per month towards the First Trust mortgage on the former matrimonial home at 31 Brett Avenue, Lurgan, which was the subject of a *Mesher* order dated 12 March 2012.

[10] There was then a judgment on 20 March 2014 given by Maguire J, sitting in the Family Division, in relation to a failure on the part of Mr McKavanagh to pay the mortgage payments. By that judgment, it was ordered that the second respondent pay the sum of £4,356 to the appellant in respect of mortgage arrears for the matrimonial property, as well as modest costs. A penal notice was attached to the relevant order.

[11] Ms Brewster, as creditor, then made an application to the EJO to enforce that judgment. She did so by way of an application for an OCL over property held by Mr McKavanagh in this jurisdiction, namely the Belvedere Manor apartment, since by that time he was residing in Switzerland. The application was accepted on 24 April 2014. The EJO issued a notice of intention to make an OCL over the interest of Mr Kavanagh, as debtor, in the apartment. Although Mr Kavanagh objected to this, the original OCL was in due course made by Master Wells on 10 June 2014. The land was charged in the sum of £5,007.38, together with costs of £110 (a total of £5,117.38) and interest at 8% per annum. The order provided that the power of sale conferred

by Article 52(1) of the 1981 Order would not be exercised provided that Mr McKavanagh continued to make certain payments.

[12] Mr McKavanagh made some five payments of £300 each (totalling £1,500) in the period from July to October 2014; though in due course the payments from Mr McKavanagh ceased. In February 2015, therefore, Ms Brewster wrote to the EJO seeking to have the restriction on exercising the power of sale removed. The Master directed that the issue of leave to exercise the power of sale be listed before him. Notice was given to the parties and the hearing in respect of this was listed for 10 March 2015.

[13] There was, however, an intervening event. In the meantime, Mr McKavanagh had brought an application in the Family Division of the High Court to set aside the judgment which had been given by Maguire J on 20 March 2014. Judgment on that application was given by Maguire J on 5 March 2015: see *McKavanagh v Brewster* [2015] NIFam 18. Albeit with some reluctance, Maguire J set aside his own previous order as he considered that the wrong procedure had been used in obtaining it. Maguire J held that the order he had previously made was "erroneous in a substantive and not just a procedural sense"; and set it aside.

[14] At the EJO hearing before Master Wells on 10 March 2015, therefore, Mr McKavanagh's solicitor presented evidence to confirm that the judgment of 20 March 2014 had been set aside by the further order of Maguire J. As a result, Master Wells dismissed the application on the part of Ms Brewster for leave to exercise the power of sale. Rather than discharging the original OCL at that time, however, it seems that that further step was not taken, notwithstanding that the underlying money judgement which it was designed to enforce no longer had any legal existence and that payments had been made by the creditor which would have discharged the earlier costs of enforcement and any interest which had by then become due.

[15] It can thus be seen that when the original OCL was made on 10 June 2014 Maguire J's money judgment was extant; but that when the matter was considered by Master Wells in March 2015, and a fortiori when considered by Master McGivern in May 2023, that money judgment had been set aside. This is an essential feature of the factual background to this appeal and the related legal issues.

[16] Between March 2015 and now there has been a number of further applications which have been considered by the courts. In July 2017 Mr McKavanagh applied, pursuant to Article 33 of the Matrimonial Causes (Northern Ireland) Order 1978, for variation of the orders of the court for both child and spousal maintenance and for variation of the *Mesher* order. In September 2017 Master Sweeney ordered that Mr Kavanagh pay the sum of £19,843 in relation to arrears of maintenance upon an application by Ms Brewster for consequential directions ("the lump sum order"). Mr McKavanagh's variation application, in particular as it related to the 'parent order' in this case from March 2012, ultimately made its way to the Court of Appeal

when Ms Brewster's appeal against the variation order made by McFarland J was dismissed (see the last Court of Appeal judgment, *supra*).

[17] Insofar as the original OCL is concerned, nothing of particular note appears to have happened for a period of some years. In Master McGivern's report (referred to below), she notes that a "complaint was received from Ms Brewster" on 5 August 2022. It seems that Ms Brewster was advancing the case at that time that the original OCL was still enforceable as a "live" order. She also raised an issue relating to an error with the date of Master Wells' order of March 2015 (which had incorrectly been dated March 2014). These issues were brought to Master McGivern's attention in late April 2023. Her report notes that "application was made to [her] on 24 April 2023 in relation to the issues raised by Ms Brewster". This development is not described in any further detail in the Master's report but in the first respondent's position paper of 26 June 2023 it is noted that Ms Brewster attended the EJO in April 2023 to make a further enforcement application in relation to the original OCL. At this point, the Master directed that an in-person hearing be convened under rule 58 of the Judgments Enforcement Rules (Northern Ireland) 1981 ("the 1981 Rules").

[18] On 9 May 2023 a 'Notice to show cause why application should not be dismissed, and order charging land discharged' ("the notice of proposed discharge") was issued by the EJO to the appellant and the second respondent. This document noted that the judgment dated 20 March 2014 which had been lodged for enforcement had been set aside on 5 March 2015 and that the original OCL dated 10 June 2014 was therefore "no longer enforceable." The notice went on to specify that, unless sufficient cause to the contrary was shown before the Master at the forthcoming hearing on 23 May 2023, an order would be made discharging the original OCL.

[19] The hearing occurred on 23 May 2023. Mr McKavanagh did not attend. He had emailed the EJO on 22 May to make the case that any arrears had been paid (which Ms Brewster disputes). Ms Brewster did attend. Further to this appeal having been initiated on 26 May 2023, the Master provided a short report pursuant to rule 70 of the 1981 Rules on 8 June 2023. Some of the above factual summary has been taken from the content of the Master's report, which has not been contradicted upon affidavit. For present purposes, the Master's reasoning is summarised at paras 11 and 14-15 of that report, in the following terms:

> "At the outset of the hearing, I outlined to Ms Brewster that I was dealing only with the enforcement of the Order of 20 March 2014. I explained that the Decree to which the application for enforcement related had been set aside by Mr Justice Maguire on 5 March 2015.
>
> … Ms Brewster said that although the Order had been set aside, the underlying case was never set aside and that the Order Charging Land still existed. She referred again to

> the lump sum Order of Master Sweeney dated 15 September 2017. I pointed out that there had never been an application to enforce that Order...
>
> I summed up the case to Ms Brewster. I said… that as the Decree to which the application for enforcement relates was set aside, I was Ordering that the Application for enforcement be dismissed and the Order Charging Land be discharged."

The legal issue at the heart of this appeal

[20] In Mr Sands' submission, the key to this case is that the original OCL upon which the appellant relies, and which she wishes to maintain, "has no independent existence". An OCL is a means of enforcing an underlying money judgment which falls away if and in the event that the money judgment (which it is a means to enforce) is set aside. We accept that submission, which flows from the following analysis of the material statutory provisions.

[21] Enforcement against land is dealt with within Part V of the 1981 Order. Article 45 provides that, "A money judgment shall be enforceable against land only in accordance with Articles 46 to 52." Article 46 is the governing provision in relation to orders charging land. Article 46(1) provides as follows:

> "The Office may by order (in this Order referred to as an order charging land) impose on any such land or estate in land of the debtor as may be specified in the order a charge for securing the payment of the amount recoverable on foot of the judgment or so much thereof as may be so specified."

[22] Accordingly, the EJO may charge a debtor's land for the purpose of "securing the payment of the amount recoverable on foot of <u>the judgment</u>." [emphasis added] A materially similar phrase ("amount due on foot of a judgment") is defined in Article 2(2) of the 1981 Order as meaning "the outstanding balance of all monies due and payable under the judgment at the date when application is made under Article 22 <u>to enforce the judgment</u>." [emphasis added] (The phrase "amount recoverable on foot of a judgment" is also defined in Article 2 by reference to Article 126 of the 1981 Order. That provision makes recoverable from the person against whom the judgment has been obtained a number of additional sums including expenses incurred by the EJO in relation to the enforcement of the judgment, the costs of enforcement, and interest payable under Article 127, as well as all sums of money due and payable under the judgment itself.) The word "debtor" is also defined in Article 2(2) as meaning, except for the purposes of Part VII, "a person liable under a money judgment." In this context, "judgment" is also defined as including a decree or order.

[23] Article 22, referred to above, deals with applications for enforcement. It provides that, "Subject to Article 17(1), any person entitled to enforce a judgment may on payment of the appropriate fee apply to the Office for enforcement of that judgment" [emphasis added]. Article 16 of the 1981 Order, entitled 'Methods of enforcement by Office', also provides that, subject to the provisions of the 1981 Order, the EJO "may enforce a judgment by all or any of the following methods" including, at sub-paragraph (c), an OCL under Article 46.

[24] Brief consideration of these provisions decisively supports Mr Sands' central submission that an enforcement order in the form of an OCL is an order inextricably linked to the underlying judgment the compliance with which is designed to secure. Put another way, an OCL to secure payment of an amount recoverable on foot of a money judgment is parasitic upon that judgment.

[25] In the present case, Ms Brewster applied in 2014 to enforce Maguire J's judgment of 20 March 2014. The resulting OCL which she secured was granted for the purpose of enforcing that judgment, upon an application to enforce that judgment. However, when that judgment was set aside it was no longer valid as a matter of law and it could no longer be enforced. The original OCL which had been granted for that purpose was therefore otiose.

[26] On the facts of this case, we do not need to decide what the position would have been in circumstances where the earlier costs or expenses of enforcement remained outstanding, even if no sums remained due and payable under the original judgment. As noted above, Mr McKavanagh had made a range of payments and these are to be applied, pursuant to Article 126, to discharge such expenses and costs in priority to the outstanding debt under the judgment.

[27] Accordingly, when the matter came before Master Wells in March 2015, there was nothing left to enforce. On one view, the original OCL might then be viewed as a nullity. However, in the interests of legal certainty – particularly where interests in land and third-party interests are at play, including in circumstances where the charge may be registered – the proper course would have been for that order to be discharged because there was no longer a basis for the charge to be maintained. In our view, that is the course which Master Wells ought to have adopted in March 2015, rather than merely declining leave to exercise the power of sale.

[28] Although Mr Sands was unable to point to any decided authority which addresses this issue, we consider that it follows from the analysis outlined above that it is not possible for an OCL which has become redundant (because the underlying judgment which it was designed to enforce has been set aside) to be revived by amending its terms to provide for it to enforce a different and later judgment. That is effectively what Ms Brewster invited the Master to do in this case. However, an enforcement order is made upon an application to enforce a particular judgment. Once Ms Brewster was armed with a further judgment which she wished

to enforce (in this instance, the 2017 lump sum order of Master Sweeney), the proper course was for her to make an application to enforce that judgment and for a new OCL to be made for that purpose, if it was otherwise appropriate to do so. This is an indispensable step in order to comply with the statutory regime explained above. It is also important to ensure that charges are only created by the EJO, and maintained, when there is a liability which justifies the creation of such a charge; and to ensure that charges created by the EJO are accorded the appropriate priority as against other charges which may exist over the same land.

[29] These conclusions are also supported by the relevant provisions of the 1981 Rules. Rule 67 is headed, 'Amendment of orders etc.'. However, rule 67(1) only appears to provide a power to correct "clerical errors in orders" or "errors arising therein from any accidental slip or omission". (This is the power which was exercised by Master McGivern in order to correct the incorrect date on Master Wells' earlier order.) It is clear, however, that the Master does have power to vary enforcement orders which have been made, either upon application of the applicant for enforcement or the respondent to enforcement proceedings (see rules 58 and 59) or of the Master's own motion (see rule 68).

[30] Rule 68 addresses setting aside, discharge or variation of enforcement orders. Rule 68(1) provides as follows:

> "When the amount recoverable on foot of a money judgment is paid or satisfied, every enforcement order made in respect of that judgment shall stand discharged."

This provision indicates a clear statutory intention that, where no moneys remain owing on foot of a money judgment, any related enforcement order (including an OCL) should be discharged. It is arguable that this rule does not address a situation such as arose in the present case where, rather than the sum recoverable being paid, the money judgment itself was set aside. In those circumstances, however, it appears to us entirely consistent with the statutory scheme that any related enforcement order should also be discharged. Rule 68(5) refers to the setting aside, discharge or variation of an order of the EJO's own motion. This puts beyond doubt the Master's ability to discharge an OCL of her own motion, provided that she complies (as she did) with the requirement then set out in the rule to put all parties affected on notice of her intention to do so. We do not consider that the Master had power to vary the original OCL to swap in a new money judgment which it was then designed to enforce. What was required – as the Master explained – was an application to enforce that further judgment and, if appropriate, the making of a new OCL for the purpose of enforcing that later judgment.

[31] Most, if not all, of the appellant's grounds for appeal fall away once the limited nature of Master McGivern's later intervention is understood in the manner explained above. Nonetheless, we turn now to address each of the appellant's grounds.

Procedural unfairness

[32] The kernel of the appellant's complaint of procedural unfairness is that the application giving rise to the Master's order (against which she has appealed) "was pursued by NICTS staff" against her wishes and in the absence of any impetus from the second respondent. Since Mr McKavanagh was legally represented in a number of ongoing legal disputes with Ms Brewster, she considers that it was incumbent upon him to raise any concern about the ongoing validity of the original OCL. The appellant further complains that the relevant court staff had not spoken to her, nor understood the background of the case, of which the Master was therefore also unaware. Finally, she complains that court staff had gathered documents for the Master which were not shared with her. (This appears to relate to the email from Mr McKavanagh contending that no arrears were outstanding.)

[33] We find no substance in the appellant's complaint of procedural unfairness. As to the initiation of the process by which the ongoing validity of the original OCL was examined, it seems to us that this arose from the actions of the appellant herself. When Ms Brewster sought to take further steps on foot of the original OCL in 2022 and early 2023 and contended that it was still live, it was necessary for the Master to address the issue of that order's continuing validity.

[34] Ms Brewster was given the opportunity of appearing before the Master and making any submissions that she wished in opposition to the proposed course the Master was intending to take. The appellant was fairly put on notice of that course by way of service of the notice of proposed discharge (see para [18] above) in compliance with the requirements of rule 68(5) of the 1981 Rules. The Master has recorded that Ms Brewster attended the hearing; that she (the Master) explained at the start of the hearing what she was intending to address; and that Ms Brewster took issue with the Master's proposed course and referred her to both a previous order of Master Redpath of 18 February 2013 and the order of Master Sweeney dated 15 September 2017, as well as to an email which had been sent to her by Master Wells on 11 March 2015 (a copy of which Master McGivern had on file). The Master's report also records Ms Brewster's submissions that the original OCL still existed and that there was a further money judgement (notably the lump sum order of Master Sweeney of September 2017) as a result of which Mr McKavanagh was still indebted to her. It is clear from this that Ms Brewster was aware of the course which the Master was considering and the basis upon which the Master considered that the original OCL was no longer enforceable; that she had an appropriate opportunity to make whatever submissions she wished to about this; and that the Master understood and engaged with those arguments.

[35] The issue is that the Master (rightly) rejected the submission that she could simply amend the original OCL to render it an enforcement order which was designed to enforce the 2017 lump sum order. She explained that there had never been an application to enforce that lump sum order. She might also have added

that, had there been such an application, a new OCL could not be backdated to 2014, several years before the lump sum order had been made. A fresh enforcement application was required, of which the second respondent would be put on notice, allowing him the opportunity to oppose the grant of a further OCL if he had a proper basis for doing so.

Error of fact

[36] The appellant's second ground of appeal essentially amounts to a complaint that the Master erred as to material fact or left relevant considerations out of account. This ground is based upon an assertion that the Master stated in court that she had "no knowledge of whether Mr McKavanagh had paid anything against Master Sweeney's lump sum order". The appellant's central point is that Mr McKavanagh had not done so. Had this issue been adequately enquired into, she submits, it would have been clear that the second respondent had not paid anything against that lump sum order.

[37] Even assuming in the appellant's favour that this assertion was an entirely uncontentious factual matter, we do not consider that it is material. That is because, as discussed above, once the underlying money judgment grounding the original OCL had been set aside, it mattered not whether Mr McKavanagh did or did not owe Ms Brewster moneys on foot of some other order. As the Master explained, any remaining liability under that further order required to be addressed by the making of a new OCL on foot of an application to enforce the more recent judgment. The appellant later pursued that course. On 27 June 2023, she brought a new application for enforcement of Master Sweeney's lump sum order; and a fresh OCL, in her favour, in relation to the Belvedere Manor property was made on 3 August 2023. It was right, however, that a separate application for enforcement was brought in order to protect the second respondent's right to notice of that application.

The interests of justice

[38] The appellant's third ground of appeal, in our view, displays a misunderstanding of both the enforcement of judgments procedure and the nature of this court's jurisdiction. In summary, she contends that it was unjust for the Master to discharge the original OCL because the second respondent still owed her monies in the form of arrears on foot of earlier orders made by the courts. In particular, Ms Brewster is concerned that Mr McKavanagh did not make payments towards the mortgage of the matrimonial home, which he was obliged to do, and this resulted in that home now being repossessed. Although Ms Brewster would like to accept an offer from the mortgage company that she take on the mortgage in her own name, Mr McKavanagh has refused to permit this. A variety of circumstances has resulted in Ms Brewster being declared bankrupt whilst the Belvedere Manor property is apparently "sale agreed" to a cash buyer which, the appellant submits, demonstrates that Mr McKavanagh has surplus funds available to him to meet his obligations. Discharging the OCL "at such a crucial time" was,

she further submits, unjust and discriminatory towards her, placing her in further jeopardy.

[39] We reject this ground of appeal also for two simple reasons. First, it is not the function of this court to engage in a wide-ranging fact-finding or accounting enquiry in order to determine what monies are or are not owed to Ms Brewster on foot of a variety of historic court orders. That much was explained in the last Court of Appeal judgment (referred to at para [8] above), at para [54]:

> "Insofar as there are arrears of payments due and owing to Ms Brewster, she remains at liberty to seek enforcement of those through the available processes; and, indeed, to also make any further first instance applications in relation to maintenance that she may wish to make. It was not the function of this court in the present appeal to conduct an all-encompassing enquiry into every historic issue between the parties as to payment and enforcement under previous court orders."

[40] Second, and perhaps more importantly, the available remedy to meet any such injustice is simply for the appellant to apply for and obtain a further OCL on the basis of whatever outstanding liability she can establish. As noted above, she has now in fact done so. For the reasons given above, we do not consider that the Master had a discretion to maintain the original OCL for the purpose of enforcing the more recent judgment. Its sole purpose was to enforce Maguire J's 2014 judgment, which has been set aside. Where further arrears are outstanding, the appellant has the opportunity of invoking first instance court procedures to establish the default and then enforce any resulting judgment. The course she proposed to the Master would have short-circuited the appropriate procedures designed to establish any outstanding liability and ensure a fair procedure for the second respondent.

Victimisation

[41] We can deal with the (unparticularised) allegation of victimisation in short order. There is no evidential basis whatever to sustain a complaint that the Master has in any way victimised the appellant. For the reasons explained above, the Master acted appropriately in light of the statutory regime governing her functions. She did not enjoy a wide discretion, such as the appellant appears to have contemplated; nor did she act inappropriately in discharging the original OCL in the absence of some application from the second respondent for her to do so.

[42] The appellant has raised a large number of complaints, extraneous to the grounds of appeal, in the course of her submissions and correspondence with the court office during the course of these proceedings. The complaints included alleged failure to process court orders for enforcement via the REMO procedure; denying her physical access to court or the court building; assaulting her outside court;

and/or refusing to list her applications. Some of these have already been the subject of complaints procedures. It is not the role of this court in the present appeal to enquire into these complaints, many of which go back many years and relate to court staff, or court security staff, who had no role in relation to the order which is under appeal. In any event, we do not consider that any of these infect the Master's reasoning or order which are under appeal.

[43] Most recently, the appellant has complained about the content of a bundle of materials filed by the first respondent, at the direction of the court, which was to include a comprehensive record of court orders made in proceedings concerning the appellant and Mr McKavanagh. She complains that she ought to have been provided with a copy of this bundle at the time when it was provided to the court; and that its contents were incomplete and arranged in such a way as to misrepresent the true history or significance of some of the previous proceedings. There may be some force in the appellant's suggestion that she ought to have been provided with a copy of this bundle sooner than transpired to be the case (although we do not have full information about the communications between the parties relating to this or the facilities which may have been offered for the appellant to obtain a copy). There may also have been a number of documents missing from the bundle given the many court proceedings there have been between the two principal parties over the years. Nonetheless, we are satisfied that the first respondent went to some lengths to comply with the court's direction in relation to the production of this bundle; and that the key documents for the purposes of this appeal, which were in fact very limited in number, were contained within it. The appellant had the opportunity, albeit belatedly, to provide any additional documents which she contended were missing and she then did so. The bundle ought to have been compiled in chronological order, as the court had directed. Nevertheless, there is no reason to assume or suspect any bad faith merely from the way in which the bundle was structured. It was open to the appellant to refer to any of the documents or orders in the bundle in support of her case and she did so in the course of her submissions.

Academic nature of the appeal

[44] Mr Sands also submitted that this appeal is academic as between the parties since Ms Brewster has, since the initiation of the appeal, sought and obtained a fresh OCL against the Belvedere Manor apartment in respect of outstanding sums owed to her by Mr McKavanagh. We are sympathetic to that submission. Ms Brewster contended that she had lost out on interest which was owed to her and that, for the period when no OCL was in place in her favour, she was at jeopardy of Mr McKavanagh completing the sale and evading her right of recovery. As to interest, if sums are outstanding under previous court orders, Ms Brewster is free to seek a further money judgment, including interest, in relation to any arrears and to then proceed to seek enforcement of that judgment. Although frustrating for her, this is the appropriate procedural mechanism. As it happens, Ms Brewster also now has the benefit of a further OCL relating to the Belvedere Manor property. Any delay in obtaining that order is as a result of the appellant's own failure to apply for

a further such order after obtaining the lump sum judgment in 2017. The appellant's position is accordingly protected. We would not, however, have been minded to dismiss the appeal on the basis of its academic nature only since it raised significant point of law in relation to the Master's powers which we consider it proper to have determined.

Conclusion

[45] For the reasons given above, we have not found any of the appellant's grounds made out and we dismiss the appeal.

[46] We reiterate what this court said in the concluding portion of its last judgment (at paras [45]-[48]) in relation to these matrimonial litigants. It was evident from Ms Brewster's submissions, and her demeanour whilst making them, that she remains bitterly aggrieved by what she perceives to have been injustices perpetrated against her by her ex-husband's failure to meet his obligations. A number of previous judgments and orders suggest that, at root, there is some justification for her sense of grievance against him, although matters have also moved on considerably since the initial breakdown of the marriage. It would be in the interests of all parties if a global resolution could be reached which puts an end to the cycle of litigation which is further depleting Ms Brewster's emotional and financial resources. Nevertheless, if she wishes to proceed with litigation or other enforcement action, this would be most productive if it was narrowly focused on what (if any) payments now allegedly remain outstanding and how they can be discharged, rather than rehearsing historic grievances (real or perceived) against a variety of persons and judicial agencies which are not germane to the legal issues remaining in dispute or which are better addressed through other complaint, investigative or dispute resolution processes.

[47] We will hear the parties on the issue of costs.