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(subject to editorial corrections)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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CHANCERY DIVISION

_____

2014 No. 51080

BETWEEN:

HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

Plaintiff;

-and-

PRAXIS CARE And PERSONS UNKNOWN

Defendants.

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DEENY J

[1] By these proceedings the plaintiff seeks to recover possession of the lands known as the Walled Garden with associated offices and buildings situate at Hillsborough Castle, Moira Road, Hillsborough in the County of Down on the grounds that he is entitled to possession and that the persons there are in occupation without licence or consent. A summons was issued on 15 May 2014 pursuant to Order 113 r. 1 of the Rules of the Court of Judicature to that effect.

[2] Pursuant to case management by the court there was an exchange of affidavits on behalf of both parties and, later, an exchange of skeleton arguments of considerable assistance to the court. The matter was listed for hearing on 20 November 2014. On that occasion Mr David McMillan QC, who appeared with Mr Keith Gibson for Praxis, sought leave to file and serve a further affidavit on behalf of the Chief Executive of Praxis, Mr Nevin Ringland, in effect to answer a criticism of his case made in the skeleton argument of Mr Craig Dunford, who appeared for the Secretary of State. I gave leave for the filing of that affidavit, although I ordered the defendant to be responsible for the costs thrown away. There was then a further

exchange of affidavits between Mr Ringland and Mr Bernard McGuigan a retired civil servant who had been involved in this matter on behalf of the plaintiff.

[3] On both sides of this case there have been changes of legal identity and nomenclature over the years but the parties are agreed in not taking any point about those changes on either side. The plaintiff, in part, stands in the shoes of the Secretary of State for Northern Ireland with regard to some actions. The defendant, to an extent, stands in the shoes of Secret Gardens (Hillsborough) Limited.

[4] The adjourned matter was heard by me on 13 January 2015. It arises in this way. Hillsborough Castle and its grounds have been an official Government residence in Northern Ireland since its conveyance by the seventh Marquis of Downshire on 15 January 1925. There have been several subsequent conveyances between state entities since then which I need not go into. It remains in the ownership of the Government of the United Kingdom. In or about 1998 the then Secretary of State for Northern Ireland (The Rt Hon Mo Mowlam MP) asked for plans to be prepared for the restoration of those parts of the grounds and out-buildings which had fallen into a neglected state over the years. A group then called Action Mental Health, in effect the predecessor of Praxis, expressed the greatest interest as they saw that the project might afford rehabilitation possibilities for persons suffering from mental illness.

[5] On 30 May 2001 a licence was granted, by the Secretary of State for the Environment, Transport and the Regions to Hillsborough New Horizons Limited, the precursor of the defendant. The licence was for a period of ten years from that date at a nominal licence fee of £1 per annum. Hillsborough New Horizons Limited changed its name to the Secret Garden (Hillsborough) Limited on 3 September 2003. There has never been a formal assignment of this licence to the first defendant but the Secretary of State has been content to treat it as the de facto occupier. When the licence expired on 1 March 2011 Mr Nevin Ringland, Chief Executive of the first defendant, signed a document confirming that he was content with the extension of the current licence until 31 March 2012 and a further document of like effect extended the licence until 30 September 2012.

[6] On 28 August 2012 a senior officer on behalf of the present Secretary of State for Communities and Local Government, successor to the previous owners by effect of statute, served a Notice to Terminate pursuant to Clause 7.2 of the licence of 2001 at one month's notice.

[7] It is common case that neither the first defendant nor any corporate manifestation of it is entitled to remain any longer on the property on foot of that licence. However, the case which has evolved on behalf of Praxis (which is still currently in occupation of the Walled Garden and associated offices and buildings) is that it has established a right to remain on the lands in equity on foot of the doctrine of proprietary estoppel. I propose therefore to consider the relevant test applicable under Order 113, the law relating to proprietary estoppel and the

application of the relevant law to the facts, either as agreed or taking the defendant's affidavit evidence before the court at its height, as is appropriate at this stage.

Order 113

[8] Order 113 enables a person who claims possession of land which he alleges is occupied solely by a person or persons (not being a tenant or tenants holding over the termination of the tenancy) who entered into or remained in occupation without his licence or consent to bring summary proceedings for an order for possession of the said land. It was introduced in England and Wales in 1970 and subsequently in this jurisdiction.

[9] Mr McMillan drew a number of cases to the attention of the court in support of his simple and central argument that he needed only to show an arguable case here. He relied on Woolf LJ in Filemart Ltd v Avery [1989] 46 E.G. 92 at 95 where he said:

> "Having regard to the nature of the procedure, it is only in a limited number of cases that it is appropriate, in my view, to dispose of the matter as occurred in this case where a defendant puts forward a defence which on its face, raises a factual issue."

Similarly helpful to him was a dictum of Staughton LJ in Eyles v Wells, 17 April 1991, unreported transcript, to this effect:

> "There is a procedure for summary judgment under Order 113. The procedure under Order 113 might be described as "summary, summary procedure". In the ordinary way there is not expected to be a dispute about anything because the action has been brought against squatters, for example. At all events the listing office would not normally expect a hearing of proceeding under Order 113 to last more than (say) 10 or 15 minutes."

I do not consider that my own experience would lead me to go as far as that.

[10] As counsel acknowledged some more cautious views have been expressed, such as those of Megarry V.C in an Order 14 case: Lady Anne Tennant v Associated Newspapers Ltd [1979] F.S.R. 298:

> "A desire to investigate alleged obscurities and a hope that something will turn up on the investigation, cannot, separately or together, amount to sufficient reason for refusing to enter judgment for the plaintiff. You do not

> get leave to defend by putting forward a case that is all surmise and Micawberism."
> (Page 4 of judgment.)

[11] See also Secretary of State for the Environment v Meier [2009] UKSC 11 at [8] and Ulster Bank Limited v Taggart [2012] NIQB 46. The defendant must show an arguable case, in Mr McMillan's words, that it has a right to remain on the land after the licence has expired justifying refusal of the remedy and a trial of the substantive issues. It must be a genuine defence to the plaintiff's claim for possession and not a mere quibble. See a not dissimilar situation with regard to setting aside a statutory demand: Allen v Burke Construction [2010] NICh 9.

Proprietary Estoppel

[12] The legal position in this jurisdiction, as I believe in every common law jurisdiction and, no doubt, more widely still, is that the transfer of title in real property, houses and land, requires a degree of formality. Under the Statutes of Frauds in both Ireland and England and Wales such a contract must be evidenced by a note or memorandum in writing signed by the party to be charged. For land to pass on death there must be a prior will executed by the owner of the land as testator in the presence of two witnesses. If there is no will the land passes by the law of intestacy. Therefore, a party coming in as the defendant does here seeking to claim a legal title to land in the absence of such a formal document does so against that background.

[13] In the light of a series of decisions including those of the House of Lords in Thorner v Major [2009] UKHL 18, [2009] 3 All ER 945 and Yeoman's Row [2008] 4 All ER 719, [2008] UKHL 55, the law can be stated with confidence and succinctness in this context. It stems from the judgment of Oliver J in Taylor Fashions Ltd v Liverpool Victoria Trustee Company Ltd [1982] QB 133, [1981] 1 All ER 897:

> "If A under an expectation created or encouraged by B that A shall have a certain interest in land thereafter, on the faith of such expectation and with the knowledge of B and without objection from him, acts to his detriment in connection with such land, a court of equity will compel B to give effect to such expectation."

The phrase "a certain interest in land" is taken from the judgment of Lord Kingsdown in Ramsden v Dyson [1866] LR 1 HL 129.

[14] These three elements of the doctrine are clear. Did Praxis (A) under an expectation created or encouraged by the Secretary of State or someone on his behalf (B) that it would have a certain interest in land thereafter act to its detriment? It is not disputed that it expended large sums of money on the buildings and precincts at Hillsborough, potentially to its detriment if it is not entitled to remain. Attention

therefore will focus on whether there was an expectation created or encouraged by those on behalf of the Secretary of State and what that expectation was.

[15] The fourth element of proprietary estoppel must not be overlooked. "Moreover the fundamental principle that equity is concerned to prevent unconscionable conduct permeates all the elements of the doctrine." per Robert Walker LJ: Gillet v Holt [2000] 2 All ER 289, 301. The court is empowered to intervene and set to one side the legal or paper title, in this context, only where it would be unconscionable not to do so.

[16] Practical applications of the doctrine in this jurisdiction are to be found in Kinney v McKittrick [2011] NICh 24; Mulholland v Kane [2009] NICh 9 and McLaughlin v Murphy [2007] NICh 5. However, the factual circumstances in those cases, rural and, at least, quasi-familial, are very different from those to be found in the instant case.

[17] Rather closer to the facts here, it might be thought, is the decision of the House of Lords in Yeoman's Row op. cit. It is helpful to quote from the headnote at page 714 of the All England Reports:

> "It was established that if A under an expectation created or encouraged by B that A should have a certain interest in land, thereafter, on the faith of such expectation and with the knowledge of B and without objection by him, acted to his detriment in connection with such land, a court of equity would compel B to give effect to such expectation; however, in the instant case, the claimant's expectation had been dependant on the conclusion of a successful negotiation and an unformulated estoppel was being asserted in order to protect the claimant's interest under an oral agreement for the purchase of land that lacked the requisite statutory formalities and was, in a contractual sense, incomplete. The claimant's expectation was not an expectation that he would, if the planning application succeeded, become entitled to a "certain interest in land" but an expectation that the outstanding contractual terms would be agreed and incorporated into a formal written agreement which would include the agreed core financial terms and that his purchase and development of the property would follow. His expectation was always a contingent one. The court would not have been able to infer the contractual terms that further negotiations would or might have produced so as to make complete the inchoate agreement. Proprietary estoppel required clarity as to what it was that the object of the estoppel was to be estopped from

> denying, or asserting, and clarity as to the interest in the property in question that that denial, or assertion, would otherwise defeat. To treat a "proprietary estoppel equity" as requiring neither a proprietary claim by a claimant nor an estoppel against the defendant but simply unconscionable behaviour was a recipe for confusion."

On the plaintiff's case, in effect, the defendant here is relying on the outcome of a successful negotiation and asserting an unformulated estoppel.

[18] A short quotation from the headnote of Thorner v Major [2009] 3 All ER 945 at 946 is also helpful:

> "To establish proprietary estoppel, in a particular case, the relevant assurance had to be clear enough. What amounted to sufficient clarity was dependant on context. The promise had to be unambiguous and had to appear to have been intended to be taken seriously. Taken in its context, it had to have been a promise which one might reasonably expect to be relied on by the person to whom it had been made. Proprietary estoppel looked backwards from the moment when the promise fell due to be performed and asked whether, in the circumstances which it actually happened, it would be unconscionable for the promise not to be kept."

[19] I note that in that case also it was held, consistently with the earlier authorities that a necessary element of proprietary estoppel is that the assurances given to the claimant should relate to identified property owned by the defendant: Lord Walker of Gestingthorpe at [61]. I have taken into account the other authorities relied on by counsel on both sides.

The Defendant's case on the facts

[20] The defendant's case for saying that it acted to its detriment under an expectation created or encouraged by the plaintiff's servants or agents is based on a certain amount of correspondence, documents and e-mails which have been made available but also on the second affidavit of Mr Nevin Ringland of 17 December 2014. He refers to documents showing that Praxis had it in mind to engage in fixed capital investment infrastructure at the Walled Garden from at least 25 June 2003 when a business plan to that effect was sent to a Mr Eric Taylor of the Northern Ireland Office. An internal document of theirs stressed the importance of a desire for a longer lease for them in the light of that, in November 2003. He avers that at all times the officials he was dealing with on behalf of the plaintiff "were very supportive of the defendant's plans and were doing their utmost to help these to come to fruition. There was never any suggestion that the plaintiff had any other

end in mind". Among the people Mr Ringland met was Mr Bernard McGuigan whose affidavit I have taken into account. Mr Ringland avers that he explained to Mr McGuigan that the original licence had only seven years to run and they would require a longer period to justify the expenditure. He avers that Mr McGuigan indicated that "in principle, he saw no difficulty with granting a lease. … There should not be a problem with the lease".

[21] Mr Ringland asserts that "it was clear that the plaintiff was under no doubt as to the need for the lease". However, the letter of 9 February 2004 (page 209 of the trial bundle) is worthy of quotation:

> "Dear Mr McGuigan
>
> **Extension of Lease on the Walled Garden at Hillsborough Castle**
>
> As you are aware, the Secretary Garden Charity has a ten year lease on the Walled Garden at Hillsborough of which seven years remain.
>
> It is our intention to refurbish some of the existing buildings and possibly erect others in keeping with the site and in agreement with the Northern Ireland Office and Planning Department etc. In order to justify such capital investment it would be necessary to have a longer lease. The Secret Garden Charity would request that the current seven year lease be extended to 25 years to facilitate our intention to improve infrastructure on site.
>
> Yours sincerely
> Nevin Ringland"

[22] It can be seen that Mr Ringland was labouring under a misapprehension at this time. The Secret Garden Charity had no lease on the property but merely a licence, of which seven years then remained. It was in fact the Northern Ireland Office in subsequent correspondence who pointed out that they would need a lease.

[23] The explanation for this misapprehension on the part of Praxis would appear to be that they had not instructed solicitors on their behalf to advise them at this time, nor indeed for a number of years to come.

[24] Discussions, on a basis which I accept for these purposes were friendly and positive, continued for some time after that particular letter. The Praxis business plan was discussed with officials on behalf of one or other Secretary of State. Mr McGuigan, says Mr Ringland, was "very helpful and very positive". He

telephoned Mr McGuigan in February 2005 as he wished to commence these works in the middle of 2005. Mr Ringland says that Mr McGuigan said that Praxis must write formally to the Secretary of State to request a lease. On 3 March 2005 Mr Ringland then wrote on behalf of Praxis requesting a lease and referring, this time correctly, to the existing licence. "We would suggest a 15 year lease, subject to the normal clauses in relation to reasonable conduct etc. on the side by Praxis Care Group". A letter was written to Mr McGuigan on 9 March 2005. The then Secretary of State for Northern Ireland Mr Paul Murphy asked his Private Secretary to reply to Mr Ringland on 5 April 2005. This letter reads as follows:

> "The Secretary of State has seen your letter of 3 March and has asked me to reply on his behalf.
>
> Mr Murphy, like previous Secretaries of States, supports the work carried out at the Walled Garden complex by Praxis.
>
> Having considered the issues surrounding security of tenure he believes that we can, subject to agreement on terms, consent to Praxis's request for a lease on the Walled Garden complex.
>
> Can you please contact John Chittick at Hillsborough Castle … who will be dealing with this matter on behalf of the NIO. Mr Murphy extends his best wishes for the continuing success of your work." (My underlining)

It might be thought the words "subject to agreement in terms" presented an insuperable barrier to the claim now being made on behalf of Praxis. It means "subject to contract" and means that no legally binding agreement is being entered into until a formal legal agreement was entered into : see Bonner Properties Ltd v McGurran Construction Ltd [2008] Ch. 16; [2009] NICA 49. Mr McMillan submits, however, that these words were rendered of no legal effect by a conversation between Mr Ringland and Mr McGuigan on the telephone immediately after the receipt of the letter from the Private Secretary to the Secretary of State. Mr Ringland avers that he told Mr McGuigan that they were scheduled to start work in June of 2005. "Mr McGuigan's response was to the effect that there were a number of hoops to jump through before the lease would be granted. In reply, I indicated that I was generally unhappy with the position. I was worried that the formalities may take a long time. Mr McGuigan indicated that this was not the case and that they would fast stream any response". He went on to say that the permission was simply a formality. He went on to say that he was somewhat embarrassed by this difficulty "coming out of the woodwork".

[25] Praxis lay stress on the assurance to Mr Ringland that the permission i.e., it is suggested, the lease, was simply a formality. In support of that they referred to an e-mail, properly disclosed by the plaintiff, from Mr McGuigan to Mr Chittick on 6 April 2005 which includes the following: "The main thing I want to clarify is how long the lease will last. Neville has asked for 15 years so I assume that is what we offer them".

[26] I observe that the phrase that Mr Ringland also attributes to Mr McGuigan to the effect "that there were a number of hoops to jump through before the lease would be granted" might be taken as rather qualifying the assurance on which he does rely.

[27] Mr Bernard McGuigan swore an affidavit on 22 December 2014 in reply. He candidly acknowledges that the NIO was supportive of these plans at that time. He is being asked to recollect conversations some 9-11 years ago. He doubts whether he would have said some of things attributed to him and has no memory of others. At this stage, I am obliged to take the defendant's evidence at its height.

[28] Counsel for Praxis refers to some e-mails of this period, as indicated above. It seems to me that they are qualified in their language but that in any event they were internal to the NIO and not therefore assurances being given to Praxis. There followed from 2005 long periods of negotiations for a lease to which I will turn as part of my summary of the plaintiff's case. The height of the defendant's case is really to be found in April 2005 on the basis of the assurance Mr McGuigan is said to have given that the completion of the list would be simply a formality, thus negativing the subject to agreement clause in the letter of the Secretary of State of the previous day. This was before the works were executed which would constitute a detriment were carried out.

The plaintiff's case

[29] It is best, I think, before referring to some of the considerable volume of material which was drawn to my attention, to summarise the main thrust of Mr Dunford's submissions on behalf of the Secretary of State. He submits that, even if for these Order 113 purposes, the court could properly conclude that some expectation was encouraged by officials and the defendant did expend money to its detriment, thus meeting two of the four elements of proprietary estoppel, nevertheless their claim must fail because no expectation was created or encouraged of "a certain interest in land" and nor was there unconscionable behaviour on the part of either Secretary of State or officials on their behalf.

[30] A draft lease was sent by Praxis to officials. Originally this seems to have been drafted by Mr Ringland himself based on another lease in the possession of Praxis. This draft lease had a date of entry of 1 April 2006 for a period of 25 years "and thereafter from month to month with either party giving to the other three months' notice in writing." This availability to the landlord of giving three months'

notice in writing, thereby undercutting the claim that Praxis had a greater entitlement, is reinforced by Clause 4.6 of this draft agreement which reads as follows:

> "Notwithstanding anything herein contained if either the Lessor or the Lessee shall be desirous of determining the said term hereby granted at any time and of such desire either shall give to the other not less than three calendar months advance notice in writing then on the expiration of such notice as aforesaid the said term shall cease and determine absolutely but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant."

[31] Clause 6 of this draft agreement reads as follows:

> "It is hereby certified by the parties hereto that there is no agreement for a lease to which this lease gives effect."

Counsel for Praxis sensibly accepted that they could not make such a case i.e. that there was an agreement for a lease.

[32] Interestingly this draft called for the tenant to pay a nominal rent as Praxis had been paying for the licence. But that term does not appear to have been agreed at any time, orally or in writing, on behalf of the Secretary of State. Praxis seems to have sent its draft lease to its then solicitors on 21 September 2006 and they subsequently corresponded with the Crown Solicitor's Office. As late as 8 October 2007 those solicitors were asking Praxis "for your final consideration and urgent reply". In that letter of 8 October 2007 the solicitors point out that there "never was a sketch or diagram map to accompany the agreement but I recall you mentioning that Praxis had made some alterations since you took occupation, and it may be prudent to include these in the 'lease' map. You have a verbal agreement as to improvements made by Praxis at the end of the term of the agreement". On 21 December 2007 the solicitors are writing to Praxis enclosing correspondence "in this matter as to finalising the delineation of the map attaching the lease of the Secret Garden to Praxis. I believe that Joanne has given me as much map description as she has but as you see there still remains an element of uncertainty." There is an attendance note by the solicitor on the secretary in Praxis of 27 August 2008 in which it was noted that betterment had not been agreed; nor did the lessor's travelling draft agree with everything that Mr Ringland thought was agreed.

[33] In a letter of 24 November 2008 from the Praxis solicitor to Mr Ringland one finds many references to continued uncertainty. The opening two sentences read:

> "I refer to this matter and the plethora of documentation that has become associated with this file not only in respect of draft and travelling proposed leases but more importantly the total uncertainty as to the delineation of the area which Praxis has at 'the Secret Garden site' at Hillsborough Castle. I have received many variations of the grounds surrounding the 'Walled Garden' area."
> (My underlining).

The solicitor goes on to say that the map is flawed and to refer to the "huge level of uncertainty as to the lease map". He says that his opposite number in 2007 did believe the map was correct but it obviously differed from what Praxis thought it was going to get.

[34] It is not necessary to quote the continuing correspondence in full but there are also references to the important issue of rights of way to those parts of the property which Praxis wished to lease.

[35] On 27 March 2009 Mr George Harkness, General Manager on behalf of the plaintiff was writing of the new lease being for a period of 15 years with three yearly reviews, as opposed to the original 25 years. He also says the following:

> "We agreed a graduated increase in rent starting at £1,000 for 2009/10, £2,500 for 2010/11 and £5,000 from 2011/12 onwards."

It can be seen that differs from what was earlier and indeed later sought by Praxis.

[36] A letter from the NIO of 30 June 2010 references an enquiry from Mr Ringland as to whether the Secretary of State would actually sell the property. Praxis was applying for planning permission at one stage but the NIO wrote to the Planning Service pointing out that this was not with their consent. That did not render the application unlawful as they thought but it does indicate that there was not a meeting of minds at that time. On 20 August 2010 Mr Harkness declined to write a letter to the Heritage Lottery Fund because "the future use of the Walled Garden site at Hillsborough Castle will not be resolved until later this year".

[37] An internal memorandum from Mr Chittick to Mr McGuigan (page 278 of the trial bundle) of 10 August 2004 shows that it was the NIO that was pointing out to Mr Ringland that he needed a lease rather than a licence. Further correspondence has been exhibited, both internal and communicated between the parties, which is consistent with the plaintiff's case that while there was general support for the Praxis occupation of the premises the key aspects of a lease had not in fact been agreed.

[38] Ultimately the Secretary of State decided that this was an inappropriate use of the site and, as I have recited above, served a notice to terminate the extended licence of Praxis and to recover occupation of the Wall Garden and related ground and outbuildings occupied by the defendant.

Conclusions

[39] As cited above it is a necessary part of the doctrine of proprietary estoppel that the expectation gives rise to "a certain interest in land". When a father hands over the keys of a derelict house on his farm to his daughter and son-in-law and says make it your home the court was enabled, for the reasons set out in McLaughlin v Murphy [31] – [40], op. cit., to conclude that he meant an outright gift of the property in the light of all the circumstances found in that case.

[40] A party seeking to establish a leasehold interest faces greater difficulty. If he had moved into occupation on foot of a clearly defined and agreed agreement for a lease which had not been executed he could rely on the dictum that an agreement for a lease is as good as a lease. That is not the case here.

[41] While I am persuaded, that there is an arguable case that some expectation was created or encouraged by the attitude of the plaintiff and his predecessors in title that encouragement was always of a qualified kind. I find that the defendant has reached the modest threshold of having an arguable case that an expectation was created or encouraged on the part of Praxis that they would be given a lease. Whether that survived a full trial would remain to be seen.

[42] But what is wholly lacking in the case for Praxis is a definition of what that expectation amounted to. Praxis was clearly seeking a 25 year lease with a nominal rent. But there is no indication that Mr McGuigan or anyone else gave them an expectation of that. At one stage Praxis seemed content with 15 years but their later draft lease sought 25 years. They were undoubtedly seeking nominal rent as before but later seemed to have agreed verbally to a modest but increasing amount of rent for the property. Of particular importance, as pointed out by Lord Walker of Gestingthorpe in Thorner v Major op. cit. at [61], the expectation must relate to identified property. Here, even years later, the parties were not ad idem on what exactly was to be occupied and leased by Praxis. The matter was wholly uncertain. It seems to me therefore that Praxis have not established an arguable case that any expectation was created or encouraged on behalf of the plaintiff of "a certain interest in land" entitling them to remain in the property now after the expiry of the earlier licence. There is great ambiguity and uncertainty rather than clarity or certainty.

[43] That conclusion would be reinforced by two further factors, if that were necessary. As I have pointed out above for proprietary estoppel to be enforced by the court there must be an expectation created or encouraged by the plaintiff in this case that Praxis would receive a certain interest in land and upon which expectation Praxis acted to its detriment. It fails on the second of those rubrics but it also fails on

the fourth mentioned above i.e. that the court intervenes because it would be unconscionable not to do so. I have identified no unconscionable behaviour on the part of the plaintiff or the officials acting on his behalf. I see no dissimulation. It seems to me that they were, as instructed by their superiors, co-operative with Praxis but it was clearly the decision of Praxis to go ahead and build here without ensuring that it was legally wise to do so. They did not even consult a solicitor before commencing their works. They were relying on a successful conclusion of those negotiations.

[44] Further, I would point out that, even on the Praxis draft the Secretary of State would have had a right to terminate the contract after three months, completely undermining any suggestion that Praxis were now entitled to remain on here years after the licence had expired.

[45] For completeness I observe that the decision of this court on this occasion does not determine the alternative claim of Praxis to compensation by way of unjust enrichment, as raised by them. Whether that is a claim worth pursuing in all the circumstances is one that they will wish to carefully reflect upon.

[46] The plaintiff's application for an order of possession of the lands situated and known as the Walled Garden is therefore granted. I will hear counsel as to the date on which the defendant should give such possession.