

Neutral Citation No. [2013] NICA 53

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

Delivered: 30/09/2013

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

BETWEEN:

NORTHERN IRELAND COURTS AND TRIBUNALS SERVICE

Appellant;

-and-

THE OFFICIAL SOLICITOR TO THE COURT OF JUDICATURE IN  
NORTHERN IRELAND

Respondent.

-and-

THE ATTORNEY GENERAL FOR NORTHERN IRELAND

Intervening.

Before: Morgan LCJ, Higgins LJ and Girvan LJ

**MORGAN LCJ (delivering the judgment of the court)**

[1] This appeal arises from an originating summons dated 27 May 2010 heard by McCloskey J in which the appellant sought a determination as to whether the deduction by the Court Funds Office of management fees to pay for professional investment advice received in relation to the funds of patients and minors from the individual funds held in court during the period from 1996 until April 2010 was lawful. In respect of that question the court held that the Court Funds Office had no statutory power to discharge the management fees of stockbrokers from court funds but that the payment of management fees from court funds would be permissible where this had been specifically authorised by court order.

[2] The judge further concluded that although Rule 47 of the Court Funds Rules 1979 (the 1979 Rules) provided authority for the payment out of court funds of brokers' transaction fees after 18 January 2007 where the funds were invested in securities designated by Order 80 Rule 15 of the Court of Judicature Rules it did not do so in respect of the period prior to 18 January 2007 since no such securities were designated before that date. He also held that orders made by the court in the relevant period were not sufficient authority for payment of transaction charges and management fees unless they stated in terms that such charges or fees were to be paid from the funds in court. This appeal concerns the judge's conclusions first on the applicability of Rule 47 in the period prior to 18 January 2007 and secondly on whether the Orders of the court were sufficient to justify the payment from court funds of transaction charges and management fees.

## **Background**

[3] The Accountant General is the accounting officer for funds held in court. Those funds comprise awards of damages on behalf of minors held until they attain their majority and the funds of patients who fall under the protection of the Office of Care and Protection. In the remainder of this judgment unless the context indicates otherwise any reference to patients includes minors. The management of this responsibility is conducted by the office of the Accountant General which was renamed in 1979 the Court Funds Office (the CFO). The CFO currently manages approximately £260 million on behalf of 14,000 minors and patients.

[4] In order to protect and steward the funds for the benefit of the party ultimately entitled to them the CFO has retained stockbrokers who were selected after a competitive process. The stockbrokers provide initial advice on the investment of funds and subsequent periodic monitoring of the investments as a result of which some reinvestment might be recommended. They also report on performance and secure the custody of the investments.

[5] Of the 14,000 cases under the management of the CFO approximately 200 cases are treated by the stockbrokers as "portfolio" cases. These typically involve patients rather than minors. The individual funds in question are normally substantial and the beneficiary has recurring financial needs. The present arrangement is that the portfolio is reviewed every 12 months and the stockbrokers are paid a percentage payment based on the size of the individual fund together with transaction charges.

[6] The remainder of the cases are "sundry" cases. Most of the cases belonging to this category have involved investment in government gilts only. Transaction fees are paid to the stockbrokers in respect of all purchases and sales of gilts. The stockbrokers also levy management charges or fees for their services in cases belonging to this category. They receive an annual payment based on a percentage, 0.18%, of each individual fund. Their investment recommendations are made

initially on the receipt of the funds and then subsequently as part of their review. The review recommendations for sundry cases are generally applicable in the same way to each of those cases.

[7] Once the stockbrokers have made the recommendation the CFO, assuming that they accept the recommendation, which they usually do, will prepare a draft payment schedule setting out how it is proposed the fund should be dealt with. An application is then made in the name of the Accountant General to the Master if the case is a High Court case or to the County Court judge. Various forms of orders have been produced by way of example but all material orders approved by the court authorise the Accountant General "to pay such management fees and transaction fees to the stockbrokers as he may agree with them in respect of the patient's portfolio". In the period from 1996 to April 2010 the CFO relied upon this order as authority for the deduction of management and transaction fees from the patient's account. The Accountant General also relies upon Rule 47 of the 1979 Rules as authority in any event for the deduction of transaction fees from the funds held on behalf of the individual patient.

### **Statutory background**

[8] The learned trial judge engaged in a careful and illuminating exploration of the statutory history leading up to the enactment of the Judicature (Northern Ireland) Act 1978 (the 1978 Act). In light of the discrete questions which arise in this appeal it is not necessary for us to review that. Part VII of the 1978 Act deals with funds in court. Section 77 provides for the office of Accountant General and section 78 establishes the Accountant General as the accounting officer for funds held in court. Section 79 requires the Accountant General to establish a bank account and section 80 requires those paying in monies on behalf of patients to do so into that account. That section also requires those holding securities or effects of patients to transfer or deliver those holdings to the Accountant General.

[9] Section 81 of the 1978 Act deals with the investment of funds in court. Although there have been a number of minor revisions of the section the issues in this case can conveniently be dealt with by examining the section as amended.

"Save in a case in which it is provided by an order of the court that it shall not be placed or invested as mentioned in the following provisions of this section, and subject to any provision to the contrary made by rules made under the next following section, a sum of money in the Court of Judicature or in the county court—

- (a) may, if the High Court or the county court (as the case may be) so orders, be dealt with in

such of the following ways as may be specified in the order, namely:—

- (i) it may be placed, in accordance with rules so made, to a deposit account or a short-term investment account (that is to say, to an account of one or other of two kinds such that, in the case of an account of either kind, there will, under rules so made, but subject to any exceptions thereby prescribed, fall to accrue on moneys placed thereto interest derived from the transfer to, and investment by, the National Debt Commissioners of the moneys placed to all the accounts of those kinds);
  - (ii) it may be placed to a long-term investment account for transfer, under rules so made, to such one of the funds established by schemes made under section 42 of the Administration of Justice Act 1982 as may be so specified;
  - (iii) it may be invested by the Accountant General in such of the securities designated for the purposes of this paragraph by rules made under section 55 of this Act or Article 47 of the County Courts (Northern Ireland) Order 1980 as may be so specified;
  - (iv) it may be invested by the Accountant General in accordance with directions given by an advisory committee appointed by the Lord Chancellor in accordance with rules made under the next following section;
- (b) shall, if no order is made with respect to it under the foregoing paragraph, be dealt with as follows—
- (i) except in a case in which it was paid in under section 63 of the Trustee Act

(Northern Ireland) 1958, it shall be placed, in accordance with rules made under the next following section, to a deposit account;

- (ii) in the said excepted case, it shall be invested by the Accountant General in such manner as may be prescribed by rules so made."

[10] The learned trial judge understandably carefully parsed each of the express options contained in section 81(a)(i) – (iv). Each of these options required an order of the court. The first option provided for placement in a deposit or short-term investment account. The second option provided for placement in a long-term deposit account with a view to transfer to a Common Investment Fund established under the Administration of Justice Act 1982. Such investment schemes under the control of an investment manager were established from at least 1991. The investment manager was empowered by the terms of the scheme to pay any fees or expenses arising from the operation of the fund.

[11] The third express option provided by section 81(a) of the 1978 Act enabled the court to authorise the Accountant General to invest in securities designated by Rules. As the learned trial judge pointed out no such Rules were in fact made until 18 January 2007 when Order 80 Rule 15 of the RCJ and corresponding Rules in the County Court provided a wide range of investment options. The circumstances which led to the making of these Rules are not clear. What is clear is that there was no security designated for the purposes of this third option between 1978 and January 2007.

[12] The fourth express option enabled the court to authorise the Accountant General to invest in accordance with directions given by the Lord Chancellor's advisory committee in accordance with Rules made under section 82 of the 1978 Act. In fact no such advisory committee was ever established so this option was redundant throughout the entire period in issue.

[13] The fifth option available under section 81 was provided by the opening words of the section which empowered the court to direct that the money should not be placed or invested in any of the options set out within the section. In the event that the court made no order as to how the money should be placed or invested section 81(b) provided that the money should be placed on deposit in accordance with the Rules made under section 82.

[14] Section 82 provides the vires for Rules dealing with funds in court.

“82(1) The Lord Chancellor, with the concurrence of the Treasury, may make rules regulating, subject to the provisions of section 80, the deposit, payment, delivery and transfer in, into and out of the Court of Judicature and the county court of money, securities and effects which belong to suitors or are otherwise capable of being deposited in, or paid or transferred into, the Court of Judicature or the county court or are under the custody of the Court of Judicature or the county court, and regulating the evidence of such deposit, payment, delivery or transfer and, subject to the provisions of section 81, the manner in which money, securities and effects in court are to be dealt with, and in particular...”

This section provides wide powers as to how money, securities and effects in court are to be dealt with and is plainly intended to be complementary to the approaches to investment and placement set out in section 81(a) of the 1978 Act.

[15] The rule-making power was exercised by the making of the Courts Funds Rules 1979. Rule 2 defines securities as including units and investments effected by placing money on deposit. Rule 13 sets out the authority for dealing with funds in court.

“13. - (1) Except where these rules otherwise provide and subject to paragraph (2), funds in court shall be dealt with by the Accountant General only in accordance with a Payment Schedule.

(2) Where directions are signed by a Master instructing the Accountant General-

- (a) to deal with funds;
- (b) to pay annual sums;
- (c) to apply interest or to carry over a fund;
- (d) to renew bonds or mortgages;
- (e) to effect a conversion or exchange of securities by sale and re-investment or otherwise;
- (f) to invest money or place money on deposit;

- (g) to replace or deposit money withdrawn under rule 35(iii), or
- (h) to invest interest on funds carried over to an account of unclaimed balances under rule 55,

such directions shall be sufficient authority to the Accountant General to deal with the funds accordingly.”

The breadth of the power to deal with funds contained in section 82(1) of the 1978 Act is mirrored in the terms of Rule 13 (2)(a) and (f) providing a general power to deal with funds and wide powers to invest money or place it on deposit.

Rule 47 deals with charges on the purchase or sale of securities.

“47. Except where rule 31 applies and subject to any directions of the court-

- (i) where money in court is invested in the purchase of securities, the payment for the purchase shall include broker's commission and value added tax;
- (ii) where securities in court are sold, broker's commission and value added tax shall be deducted from the proceeds of sale.”

[16] In light of the uncertainty about the power to deduct management fees from patients’ funds the NICTS stopped the practice in April 2010. Section 98 of the Justice (Northern Ireland) Act 2011 amended section 81 of the 1978 Act by adding section 81 (2) which was intended to ensure that such fees could thereafter be deducted. It is not necessary for the purposes of this judgment to comment further on that provision.

### **The conclusions of the learned trial judge**

[17] The judge noted that the provisions of the 1978 Act and the Rules of Court made under it were the outcome of consideration of the MacDermott Report. At the time of the report the then Rules of Court provided for a sufficiently wide range of options for the investment of patients’ monies in securities. The MacDermott Report clearly envisaged that investment in securities should continue and that a designated list of appropriate securities should be provided by Rules. Section 81 (1)(a)(iii) of the 1978 Act provided the mechanism for such an outcome. However no such designation occurred until 18 January 2007. The judge considered the terms of

section 82 of the 1978 Act and recognised that it had the potential to enable Rules to be made introducing new and different disposal mechanisms. He concluded, however, that the 1979 Rules did not effect any such new disposal mechanism. Having satisfied himself that the only express statutory mechanism for investment in securities was that provided by section 81(1)(a)(iii) of the 1978 Act he went on to hold that Rule 47 of the 1979 Rules, which provided for brokers' commission, could only apply to securities duly designated by rules of court. That meant that it could not apply to investments in securities pursuant to a payment schedule approved by the Master between 1996 and January 2007. Although he questioned whether such orders were consistent with the statutory scheme he considered that the *omnia praesumuntur* principle required him to accept the orders as lawful.

[18] In order to examine the extent to which an order of the court authorised the deduction of management fees and transaction charges from patients' funds the learned trial judge first examined whether there was implied statutory authority to retain and remunerate stockbrokers in connection with the methods of disposal prescribed by section 81. He concluded that there was no plausible or sustainable argument that such services were required by the Accountant General in order to effect either of the placement disposals authorised in section 81(a)(i) or (ii) of the 1978 Act. He noted that there was no evidence that such services were required for a disposal which did not fall within the prescribed options in section 81. The only reference in section 81 to investment in securities was to "securities designated by rules of court" and not those selected by CFO stockbrokers. He further noted that under the fourth prescribed option in section 81 the necessary expertise was to be supplied by a committee appointed by the Lord Chancellor. In light of the fact that the deduction of management fees and transaction charges clearly involved the levying of charges on the property of citizens he concluded that the test was one of necessary implication as stated by the House of Lords in Attorney General v Wilts United Dairies [1921] 38 TLR. He stated that the test was not satisfied in this case. He rejected the suggestion that the test was the less rigorous test of necessary or proper implication. Having come to that view he concluded that if the order of the court was silent regarding the source from which professional fees were to be paid the monies could not lawfully be collected from the funds of patients.

### **The submissions of the parties**

[19] On the Rule 47 issue the appellant submits that the terms of the Rule express a general power to pay brokers' commission when securities are bought or sold and there is no express limitation of the power of sale or purchase to any specific class of securities. Secondly, if Rule 47 applied only to securities designated under section 81(a)(iii) of the 1978 Act it would have no application in relation to funds invested pursuant to a direction of an advisory committee established by the Lord Chancellor. If Rule 47 extends to such an investment it must also apply to monies invested pursuant to the residual power to invest outside the four options prescribed in section 81(a) of the 1978 Act. Thirdly, section 82 of the 1978 Act provides a power to



make rules regulating "subject to the provisions of section 81, the manner in which money, securities and effects of court are to be dealt with...". There is nothing to suggest that this power is directly linked to the designation of securities in section 81. In particular the phrase "subject to the provisions of section 81" does not in any way limit the scope of Rule 47.

[20] Fourthly, it was submitted that there was an inconsistency in the judge's reasoning in that he accepted that the residual power to invest outside the four prescribed methods in section 81 enabled the court to expressly authorise payments to stockbrokers but did not enable those stockbrokers to be paid under the Rules in circumstances where the purpose of Rule 47 was to ensure that brokers were paid for their professional services.

[21] The appellant submitted that in construing the court orders there were no special principles of construction above and beyond the general rules applicable to documents such as contracts or deeds. The order should be construed giving effect to the ordinary meaning of the language used taking account of the context in which the order was sought and made. The terms of the orders broadly stated that the Accountant General was "authorised to pay such management fees and transaction fees to the stockbrokers as he may agree with them in respect of the portfolio".

[22] It was submitted that the reference to "authorisation" for payment of fees appears in the context of an application being made for permission to deal with the specific funds held in court. That indicates that the application among other matters was to authorise the payment of fees from the monies in court. If the application and order is not read in that way that part of the application seeking authorisation is redundant. The Accountant General did not need the authority of the court to meet the cost of brokers' fees from his own money.

[23] The respondent noted that the learned trial judge had identified the four prescribed express methods of placement or investment of funds in court under section 81 of the 1978 Act. He expressed the view that the residual power would be appropriate in particular cases such as where a minor was about to attain his majority or where suitable proposals and trusts had been prepared by controllers. That caused him to question whether there was any residual power to invest in securities. The respondent contended that this provided the context against which the learned trial judge construed the provisions of Rule 47.

[24] It was submitted that Rule 47 is a provision which involves the deprivation of property without consent from the most vulnerable in society. It should, therefore, be construed restrictively. For that reason the term "securities" in Rule 47 should be construed as applying only to securities designated as described in section 81(a)(iii) of the 1978 Act.

[25] The learned trial judge had considerable doubt about the breath of the residual power in section 81. He recognised, however, that the Accountant General had a duty to obey orders of the court which were presumptively valid. There was, therefore, nothing inconsistent about his conclusion that express orders by the court in relation to the purchase and sale of securities were valid but that Rule 47 did not apply to them.

[26] The respondent submitted that orders of the court ought to be construed strictly and narrowly against a background where the order was depriving vulnerable members of society of their property and appeared to derogate from the statutory scheme governing the investment of funds in court. The order did not expressly require the payment for transaction costs or management fees to come from the patient's funds. The order identifies the payee but does not identify the amount. It was accepted that the Accountant General could only pay a reasonable amount and that any person dissatisfied could require him to account for the payment.

[27] The Attorney General was added as a party because a devolution issue arose as to whether or not the deductions constituted a breach of Article 1 Protocol 1 (A1P1) of the ECHR. The Attorney supported the appellant's view that Rule 47 applied to all securities as long as there was power to make the order for purchase or sale. He submitted, however, that there was no statutory provision for the deduction of management fees and that the deduction was, therefore, unlawful and offended A1P1. Even if there was a legal basis for the deduction he submitted that it was not accessible, precise or foreseeable.

## **Consideration**

### ***Rule 47***

[28] In order to determine the proper interpretation of Rule 47 of the 1979 Rules it is necessary to look at the use of the term "securities" in Part VII of the 1978 Act. The term first appears in section 80 which provides for the transfer to or deposit of securities with the Accountant General. The term "securities" is not defined in the 1978 Act but it is clear that the use of the term in section 80 must include a wide range of securities since this section provides the mechanism by which securities held by a person who becomes a patient are transferred to or deposited with the Accountant General.

[29] The next use of the term is found in section 81(a)(iii) which refers to investment in "such of the securities designated for the purpose of this paragraph...". There is nothing to suggest that the term "securities" has anything other than a broad meaning. The section contemplates designation of part of a greater whole. The next use of the term occurs in section 82 which refers to the deposit, payment, delivery and transfer of money, securities and effects and refers to

the manner in which money, securities and effects are to be dealt with. There is no limitation on the meaning of the term "securities" and it would be necessary to read into the statute words borrowed from the preceding section before it could be concluded that the term should be limited to those designated in section 81(a)(iii). Where the term "securities" has a wide meaning in both sections 80 and 81 there is no basis for limiting its meaning in section 82.

[30] Section 82 is, of course, the rule making power for the 1979 Rules. The term "securities" is defined in Rule 2 as set out at paragraph 15 above. The definition is dependent upon the scope of the power given by section 82 but it is unsurprising that the definition is in wide terms. It must follow, therefore, that where Rule 47 provides for the payment of brokers' commission on the purchase or sale of securities that must extend to securities of any description.

[31] That does not end, however, the interpretive exercise. The learned trial judge recognised that section 82 of the 1978 Act gave wide powers to the Lord Chancellor. In particular it provided that the Lord Chancellor could make rules regulating the manner in which money, security and effects in court were to be dealt with. The learned trial judge accepted that this power would have enabled the Lord Chancellor to provide for the investment of funds and securities beyond those designated for the purposes of section 81 but he concluded that the 1979 Rules did not have such an effect.

[32] It seems to be common case that the provisions of section 82 were not the subject of detailed consideration in the course of the hearing at first instance. This was probably the result of various changes in the emphasis of the hearing and the issues upon which the learned trial judge's views were sought. Indeed one of the peculiarities of this litigation was that further material and submissions were received after the delivery of the provisional judgment.

[33] We have already referred to the wide powers available under section 82. Rule 13 of the 1979 Rules deals with the authority for dealing with funds in court. Rule 13(1) contains the safeguard that funds in court can be dealt with by the Accountant General only in accordance with a payment schedule. Rule 13 (2) sets out the scope of what the Accountant General can do if he is instructed by a Master in signed directions. That is clearly a further safeguard to protect the interests of the patient.

[34] The scope of what the Accountant General can do in those circumstances is very broad. He can deal with funds, invest money, place money on deposit or convert or exchange securities by sale and reinvestment or otherwise. There is no limitation on the type of security in which the Accountant General can invest. As the learned trial judge noted in the course of his judgment there is a clear distinction throughout Part VII of the 1978 Act between placement and investment options. The express terms of Rule 13(2) provides the Accountant General with the authority to

invest monies in any form of security so long as the safeguards prescribed in the Rule are in place.

[35] We conclude, therefore, that section 82 of the 1978 Act enabled the Lord Chancellor to make rules providing for a wide range of investment options and that the 1979 Rules provided for investment in securities subject to the safeguards referred to above. The learned trial judge's interpretation of Rule 47 depended upon section 81(a)(iii) being the only statutory power enabling investment in securities. In light of our conclusion it follows that there is no reason to give "securities" a limited meaning and accordingly Rule 47 applied to all transactions carried out under the authority of signed directions by the Master from 1996.

[36] One of the issues debated in the course of the hearing below was the reason for the failure to designate any securities under section 81 before 18 January 2007. An obvious explanation is that in light of the 1979 Rules promulgated by the Lord Chancellor there was no need to do so. We agree, however, with the learned trial judge that further speculation on that topic is unlikely to be productive.

#### *The interpretation of court orders*

[37] All parties agreed that a court order should be construed giving effect to the ordinary meaning of the language used and taking account of the context in which the order was sought and made. The language used clearly favoured the construction put forward by the appellant. The application was concerned with the funds of the patient and included an application for authorisation to pay the management fees and transaction charges. If the Accountant General was to pay those fees and charges from his own resources no such authorisation was required. The fact that the application and Order were being made in respect of an investment of the funds of the patient was also, of course, part of the context.

[38] The learned trial judge also correctly took into account the statutory context. On his analysis of the statutory provisions he concluded at paragraph 36 of his judgment that the effect of section 81 was that where investment of securities was ordered by the court that could only be in securities designated by rules of court rather than those selected by the Accountant General, the CFO or the CFO stockbrokers. He, therefore, concluded that the stockbrokers had no place in the statutory architecture. Their employment could not, therefore, be ancillary to any powers or duties arising from the statute nor could it arise by way of necessary implication. He recognised that this sat uneasily with his conclusion that the orders were valid on the *omnia praesumuntur* principle.

[39] These conclusions of the learned trial judge also formed the basis for the analysis by the Attorney General of the compatibility of the deduction of fees and charges from the patient's funds. Since the learned trial judge found that there was no statutory power of deduction either ancillary to some other power or by way of

necessary implication it followed that the deduction was not in accordance with law and on that ground alone contrary to A1P1.

[40] In addition the Attorney General submitted that it followed from the findings of the learned trial judge that the law governing the interference was neither accessible, precise nor foreseeable. Those elements were necessary in order to guard against arbitrary action. Finally it was submitted that the absence of formal notice arrangements to the parties affected and the imprecise nature of the fee arrangements were material to whether the arrangements were arbitrary.

[41] For the reasons set out above we have concluded that there was express statutory power to invest in securities. Any obligation on the Accountant General to make an application to do so arose solely from his responsibility to protect and steward the funds of the patient. There was a prescribed statutory mechanism set out in Rule 13 of the 1979 Rules for the making of any such application which was under the control of the court. There was no express obligation on the Accountant General to contribute to the cost of professional advice in the selection of investment options.

[42] There are many circumstances in which professional advice would be required in order to protect the interests of the patient. Solicitors and architects may be required to advise in respect of the purchase or sale of property. Accountants may be required to advise on tax implications or the valuation of business assets. Medical advice may be necessary in respect of the patient's welfare. In all of these cases the obtaining of the advice is incidental to the statutory power to deal with the patient's funds and reasonably and properly carried out to achieve the purpose of protecting the welfare of the patient. Such ancillary powers are to be implied (see A-G v Great Eastern Railway Co (1880) 5 App Cas 473). Seeking advice on the appropriate investment options to protect the patient's funds is no different. In our view the obtaining of such advice falls within the same principle.

[43] We consider, therefore, that both the ordinary use of language and the statutory context lead to the conclusion that the Orders of the court were effective to authorise the payment of managements fee and transaction costs from the funds of patients.

[44] We accept that there is an interference with property for the purposes of A1P1. We accept the Attorney General's submission that the proper formulation of the rights established by A1P1 is set out in Sporrong and Lonroth v Sweden {1983} 5 EHRR 35.

“The first rule, which is of a general nature, enounces the principle of peaceful enjoyment of property; it is set out in the first sentence of the first paragraph. The second rule covers deprivation of

possessions and subjects it to certain conditions; it appears in the second sentence of the same paragraph. The third rule recognises that the States are entitled, amongst other things, to control the use of property in accordance with the general interest, by enforcing such laws as they deem necessary for the purpose; it is contained in the second paragraph.”

[45] Because the Attorney General approached the issue on the basis of the absence of statutory power as found by the learned trial judge he treated this as a deprivation of property. Since there is a statutory power we consider that the administration of the patient’s possessions constitutes an interference with his right to the peaceful enjoyment of those possessions and amounts to control of the use of this property (see Ollila v Finland 15 EHRR CD101). The stockbroking services were obtained as a result of a competition and there was no suggestion that the fees charged were other than reasonable for this kind of service. The procedure was detailed within the 1979 Rules and contained appropriate safeguards. The law was, therefore, accessible and foreseeable. The scheme was clearly in the general interest of ensuring that the property of vulnerable people was protected and if possible enhanced. It could not be said that the balance struck between the interests of the individual and the State was either unjustified or disproportionate. We conclude therefore that these arrangements were compatible with Article 1 Protocol 1 of the ECHR.

### **Conclusion**

[46] For the reasons given we allow the appeal on both issues.