



Neutral Citation Number: [2023] EWHC 1810 (Admin)

Case No: KB/2022/004838

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 14/07/2023

Before :

THE HONOURABLE MR JUSTICE TURNER

Between :

THE DIRECTOR OF THE SERIOUS FRAUD
OFFICE

Applicant

- and -

NINA JIANG

Respondent

David O'Mahony (instructed by Serious Fraud Office) for the Applicant
No representation for the Respondent

Hearing date: 14 July 2023

Judgment Approved by the court
for handing down
(subject to editorial corrections)

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The Hon Mr Justice Turner :

1. This is an application for summary judgment on a claim for civil recovery of the proceeds of crime under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 ('POCA'). The proceedings have been served on the respondent pursuant to an order granting permission for alternative service made by Master Gidden on 24th January 2023. No response was received from the respondent who is believed to have fled to China.
2. These proceedings have been commenced under Part 8 of the Civil Procedure Rules under which it is not possible to apply for default judgment. An application for summary judgment is, however, permissible and on 4th April 2023 Master Gidden gave the necessary permission to apply for summary judgment. The respondent was served with the application and all relevant documents and, again, no response has been received.
3. The respondent has not appeared at court today and so I will proceed in her absence.
4. Pursuant to CPR 24.2 the court may give summary judgment if: "(a) it considers that...(ii) that defendant has no real prospect of successfully defending the claim or issue; and (b) there is no other compelling reason why the case or issue should be disposed of at a trial."
5. The authorities relevant to the scope of CPR 24.2 are well known and for the purposes of this application add nothing of relevance to the wording of the rule.
6. The applicant's case is that one Dr Jiang was part of a business enterprise that relied on corruption for its survival. The monies earned by that business enterprise were used to purchase a house at 2 Fulwood Park Mansions, Chesterwood Drive, Sheffield, S10 5DU the current value of which is estimated to be £202,290. The house purchase transaction was therefore a money laundering transaction. The house and the rental income that was earned from it were thus obtained through unlawful conduct and are recoverable under section 266 of POCA. The rental income is held in an account in the name of Blundells Residential Lettings.

7. The respondent is the current registered proprietor of the apartment. Her parents Dr Jiang and his wife were the directors and shareholders of a United Kingdom company: Castmasters Limited ('Castmasters').
8. Sarclad Limited ('Sarclad') is a United Kingdom company that designs and manufactures technology based products for the metal industry. Under a Deferred Prosecution Agreement dated 6th July 2016, Sarclad agreed that it had conspired with Dr Jiang to commit offences under the provisions of both the Prevention of Corruption Act 1906 and the Bribery Act 2010 in relation to its business in China. By that agreement, it also agreed to disgorge £6,201,085 in profits and to pay a financial penalty of £ 352,000.
9. Dr Jiang was arrested and released on bail on 10th December 2014. On 4th January 2015, he fled to China in breach of his bail conditions. The respondent, in turn, appears to have fled to China on 28th September 2017.
10. These proceedings are founded upon the statutory framework set out in Part 5 of POCA the scope of which is provided for in Section 240 (2) which states that "the powers conferred by this part are exercisable in relation to any property...whether or not any proceedings have been brought for an offence in connection with the property".
11. Under section 243, the applicant, as a relevant enforcement authority, can bring proceedings against any person it thinks holds "recoverable property".
12. Under section 266, in so far as is material to this application, if the court is satisfied that any property is recoverable, the court must make a recovery order which must be vested in the trustee for civil recovery. There are a number of statutory limitations and exceptions by way of safeguards against what would otherwise be the consequences the making of such an order but I am satisfied that none are of any application in the circumstances of this case.
13. Recoverable property is defined by sections 304 to 309 of POCA. In short, property obtained through unlawful conduct is recoverable property but if it has been disposed of (since it was so obtained), it is recoverable property only if it is held by a person into whose hands it may be followed.

14. Recoverable property obtained through unlawful conduct may be followed into the hands of a person obtaining it on a disposal by the person who through the conduct obtained the property or a person into whose hands it may be followed.
15. Section 305 provides for the circumstances under which property may be traced. In particular, if a person disposes of recoverable property which represents the original property, the property may be followed into the hands of the person who obtained it.
16. Under section 307, profits accruing in respect of the recoverable property are to be treated as representing the property obtained through unlawful conduct.
17. Unlawful conduct is defined by sections 241 and 242. The court must decide on a balance of probabilities whether it has been proved that any matters alleged to constitute unlawful conduct have occurred. It is not, however, necessary for the enforcement authority to identify precisely when or by whom or in what circumstances. Accordingly, there is no requirement to prove a direct link with any offence or offences but rather a causal connection with relevant criminal conduct of the kinds relied on by the authority.
18. The applicant's case is that the purchase of the house which is the subject matter of this application was a money laundering transaction. It is alleged that the relevant money was obtained through business generated by bribery which is a criminal offence. It is also a criminal offence under POCA to conceal, convert or transfer criminal property. A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person. Property is criminal property if it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly), and the alleged offender knows or suspects that it constitutes or represents such a benefit.
19. The applicant contends that the evidence shows that the respondent's father bribed companies to obtain business on behalf of Sarclad. This was done under two 'agency agreements' between Sarclad and Castmasters. The details are set out in: three self-reporting documents made by solicitors McGuireWoods London LLP acting on behalf of Sarclad; the Statement of Facts that accompanied the Deferred Prosecution Agreement

and in a witness statement dated 21 December 2022 of Michael Cheek, an accredited financial investigator employed by the applicant.

20. In addition to bribing people in order to obtain relevant contracts, Dr Jiang also utilised what the applicant has described as a parasitic business conducted through Arshan in China. It provided services and spare parts for the products Sarclad sold in China. Under this business Sarclad acted as wholesaler and Arshan as retailer. The applicant's case is that the material before the court proves that this business would not have existed but for the Sarclad contracts in China and thus the corrupt conduct of Dr Jiang in relation to them.
21. The investigation revealed three methods by which Castmasters obtained its benefit from the corrupt scheme. They comprised:
 - (i) payments made from Sarclad's bank accounts to Castmasters' bank accounts a schedule of which had been provided;
 - (ii) the netting off the invoices issued by Castmasters to Sarclad under the agency agreements against the invoices issued by Sarclad to Anshan for spare parts; and
 - (iii) payments from Anshan at a Chinese branch of the Bank of China.
22. The respondent's house was bought on 19th October 2012 for £125,000. The purchasers were Dr Jiang and the respondent as tenants in common in equal shares. There was no mortgage or charge registered against the property. The property was thereafter transferred into the sole name of the respondent on 19th October 2014 for no consideration. The applicant's case is that this was a money laundering transaction as part of a scheme by Dr Jiang to divest himself of his property after the investigation began.
23. The purchase price of £125,000 had been transferred from one of Dr Jiang's HSBC accounts. The monies in that account were referable to:
 - (i) a total of £53,591.87 in three payments from Sarclad for expenses incurred by Dr Jiang whilst working on behalf of Sarclad;
 - (ii) a £50,000 bond maturity which can be traced to payments from Arshan;
 - (iii) the sum of £10,000 received from Dr Jiang's NatWest account which can also be traced to payments from Arshan; and
 - (iv) a £ 20,000 cash deposit which the applicant has been unable to trace but which it asks the court to infer from the context also comes from the same corrupt business.
24. The property has also generated rental income the total of which comprises recoverable property by the operation of section 307 of POCA.

25. I am entirely satisfied on the evidence before me that the respondent has no real prospect of successfully defending the claim and there is no other compelling reason why the case should be disposed of at a trial. Accordingly, I make the order sought.