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IN THE HIGH COURT OF JUSTICE

Nos.CL-2021-000725

BUSINESS AND PROPERTY COURTS  
OF ENGLAND & WALES  
COMMERCIAL COURT (QBD)



CL-2022-000012

Neutral Citation Number: [2022] EWHC 712 (Comm)

Rolls Building  
Fetter Lane  
London, EC4A 1NL

Thursday, 10 February 2022

Before:

HIS HONOUR JUDGE PELLING QC

(Sitting as a Judge of the High Court)

B E T W E E N :

GREAT HALL MORTGAGES No.1 PLC & Anor.

Claimants

- and -

LAW DEBENTURE CORPORATE SERVICES LTD & Ors.

Defendants

-and-

GREAT HALL MORTGAGES No.1 PLC & Anor.

Claimants

- and -

CHERRY SERVICES LTD & Ors.

Defendants

MS C. COOKE appeared on behalf of the Part 7 Claimant, Part 7 Defendants, Part 7 Proposed Defendants and Part 8 Claimants.

THE PART 7 SECOND CLAIMANT AND PART 8 DEFENDANTS did not appear and were not represented.

J U D G M E N T

**Via Microsoft Teams**

JUDGE PELLING:

- 1 This is an application for directions brought by Great Hall Mortgages No.1 PLC, the first Part 7 claimant in the Part 7 proceedings, and by Fieldfisher LLP, Duncan Black and Mr Michael Phillip Chissick (the proposed Part 7 defendants); and by Great Hall Mortgages No.1 PLC, Law Debenture Corporate Services Ltd, Mark Howard Filer, LDC Securitisation Director No.3 Ltd, LDC Securitisation Director No.4 Ltd and Law Debenture Intermediary Corporation PLC, who are the claimants in the Part 8 proceedings.
  
- 2 The background to this claim is that Great Hall Mortgages No.1 PLC has been the subject of what it maintains is a corporate attack by those who have no interest in and are wholly unauthorised to act on its behalf for the purpose effectively of securing control of it. In these proceedings Great Hall Mortgages No.1 PLC is the company against whom it is alleged the challenge has been made. Law Debenture Corporate Services Ltd is Great Hall's company secretary. Mr Filer, LCT Securitisation Director No.3 and No.4 are the genuine directors of Great Hall and Law Debenture Intermediary Corporate PLC is the share trustee for Great Hall. The proposed Part 7 defendants are Fieldfisher, the well-known London law firm, and two partners in that firm who are instructed by the Great Hall parties in relation to these proceedings.
  
- 3 The nature of the dispute that gives rise to the various applications before the court is effectively an assertion by those who claim to be the genuine directors of the company that attempts have been made by the Part 8 defendants illegitimately to assert control over Great Hall Mortgages No.1 PLC (the company) and in that regard in effect to remove the assets of that company from the control of its genuine directors,.

4 It is alleged by those who claim to be the genuine directors of the company that this is a claim or a dispute which has similarities with many others that have troubled both the Chancery Division and in the Commercial Court, which appear to be orchestrated by a Mr Hussain, using various pseudonyms and corporate vehicles registered in the Marshall Islands. It is said that this case has remarkable similarities with a case decided by Miles J, *Business Mortgage Finance 4 Plc & Ors v Hussain* [2021] EWCH 171 Ch. It is noteworthy that in that case Miles J found, as is alleged in this case, that the defendants in that case never occupied any of the roles they purported to occupy. He then went on in his judgment in those proceedings at para. 252:

"They are, for legal purposes, strangers to the Securitisations. The reasons they have given for their actions are spurious. The corporate assault has been going on for the best part of two years, in the teeth of earlier orders of the courts and the Claimants' reasoned protests. It must now stop."

5 The proceedings that are currently before the court and which require to be case managed is an application made to join the Fieldfisher parties as parties to the Part 7 claim ("the joinder application") and an application of 12 January 2022 issued by the company and the Part 7 defendants to strike out the Part 7 proceedings and for summary judgment. At the same time, some Part 8 proceedings have been issued in which the Part 8 claimants seek declaratory and injunctive relief in order to confirm the identity of those who are claimed to be the genuine office holders and to declare as illegitimate steps taken by the Part 8 defendants.

- 6 The issue that really arises on this application is how these various applications should be managed. The Fieldfisher parties take the view that they should not be put to the expense and inconvenience of having to file evidence in relation to the joinder application and I accept that as appropriate as a temporary measure because if the strike out applications succeed then there will be no proceedings to which the Fieldfisher parties can be joined, and therefore it would be a waste of time and cost to force the Fieldfisher parties to respond to the joinder application while the strike out application is pending.
- 7 In those circumstances what I propose to do in this case as I have done in others where a similar issue has arisen is to direct that the joinder application be listed for directions on the hand down of the judgment in the Part 7 strike out application with the time for the Fieldfisher parties to file evidence in relation to the joinder application being extended until then, with the intention that if the strike out application should fail, directions should be given in the joinder application for the filing of evidence in answer and reply in the usual way.
- 8 In my judgment, this is an appropriate and proportionate way to proceed in relation to these applications, designed as it is to ensure that only a proportionate amount of court resources are allocated to this dispute, whilst at the same time minimising the costs which are being incurred at various stages in the process. It seems to me it is appropriate that the Part 8 claim be listed at the same time as the strike out claim since it is in effect the mirror image of the strike out application. In those circumstances, as it seems to me, a direction to that effect is entirely appropriate.
- 9 At this point I should draw attention to some written submissions ostensibly filed on behalf of Great Hall Mortgage No.1 PLC and Cherry Services Ltd and signed by Mr Usman

Ahmad. In those written submissions it is submitted that the appropriate way to proceed is to treat the various proceedings as separate because they are “disparate” and to direct that they should not be heard together or joined; that all parties should be required to file evidence in respect of all of the applications; and that any substantive hearings should be heard remotely on the grounds that the Cherry entities are litigants in person with no officers ordinarily resident in the jurisdiction, and travelling to England in the present climate “... is unpredictable and may be impossible.” So far as those submissions are concerned, I do not accept that these proceedings are disparate; nor do I accept that they should not be heard together in the way I have described. Arranging for these proceedings to be listed in the way I have described involves a proportionate use of court resources; it ensures that parties' costs in relation to these proceedings are kept in proportionate control; and it ensures that the disputes between the parties concerning the status of the Cherry parties can be resolved in early course and in a way which is determinative of the interests of all parties to this dispute.

- 10 So far as the filing of evidence is concerned, for the reasons I have already given it is inappropriate that the Fieldfisher defendant should be required to file any evidence in relation to the joinder application until after the strike out application has been determined because if the strike out application succeeds then there will be no proceedings to which the Fieldfisher parties can be joined.
- 11 So far as hearing the substantive hearings remotely are concerned, in my judgment, given the issues that arise in this case, that is entirely inappropriate. There is, at the heart of this dispute, an allegation that the individuals who stand behind the Cherry parties are mere pseudonyms for a Mr Hussain who is or who has been found to be the individual standing behind a number of the cases to which reference is made in the skeleton argument filed on

behalf of the company, and Fieldfisher parties. The belief of those parties is that the individuals concerned simply have no existence other than as the alter egos or pseudonyms of Mr Hussain.

- 12 In those circumstances it is plainly necessary that evidence be filed by those individuals that demonstrate firstly that they exist and secondly that their identities are as they have described them to be. In that connection it is vital that there should be an in person hearing at which those individuals can appear and, if they appear, demonstrate quickly and without room for any doubts or hesitation that their identities are correctly stated in these proceedings. This is a process which has been adopted in a number of other cases and in other cases where attempts have been made to apply for permission to appeal, it has been held, albeit on the applications for permission, that an attended hearing in the circumstances of cases such as this is essential.
- 13 In those circumstances I propose to adopt that course in this case as well and to give the directions that are sought, subject to the variations that I indicated in the course of argument and in the course of this judgment so that broadly the format of the orders followed those that I made in the *Eurohome* and *Stratton* cases that I decided only a few days ago.
- 14 Furthermore, what I propose to direct is that if possible the strike out application and part 8 proceedings in this case be listed not at the same time as the *Stratton* and *Eurohome* cases, but to follow on, perhaps the day after, in the interests of thereby reducing the amount of time that has to be devoted to the disposal of these cases. By listing them in this way before one judge, who is likely to be me, it will mean that the time taken overall in dealing with the applications one way or the other will be reduced (thereby ensuring that only a proportionate amount of public resource is devoted to the resolution of these applications

and claims) whilst at the same time ensuring that parties to particular cases do not have to incur costs by being present when other cases are being resolved.

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**CERTIFICATE**

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Official Court Reporters and Audio Transcribers  
5 New Street Square, London, EC4A 3BF  
Tel: 020 7831 5627 Fax: 020 7831 7737  
civil@opus2.digital*