



Neutral Citation Number: [2025] EWHC 92 (KB)

Case No: KB-2024-002760

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
SITTING IN LONDON
URGENT APPLICATIONS COURT 37

Tuesday 21st January 2025

Before:
FORDHAM J

Between:
FRANNY INVESTMENTS LIMITED **Claimant**
- and -
(1) FEMI ALABA OLAJIDE
(2) PRINCE EDEKI
(3) PERSONS UNKNOWN **Defendants**

Frances Edeki assisting **Franciscan Disi** for the **Claimant**
Janaka Siriwardena (instructed by Direct Access) for the **First and Second Defendants**

Hearing date: 21.1.25

Judgment as delivered in open court at the hearing

Approved Judgment

FORDHAM J

Note: This judgment was produced and approved by the Judge, after a read-out ex tempore judgment.

FORDHAM J:

Introduction

1. These are ongoing proceedings in the High Court. There have been two previous oral hearings in the urgent applications court, Court 37. The first was on 27 August 2024 and related to a Form N244 application issued that day supported by a witness statement of Franciscan Disi and a statement of claim together with 10 exhibits. Frances Edeki was heard by Murray J at that hearing, as she has been by me today. Murray J's order gave notice to 5 named defendants and "persons unknown being persons who have unlawfully entered and/or unlawfully remain in occupation of the residential property of 29 Bredgar House, Lewisham Park, London SE13 6QN" (the Property). It gave notice of a hearing on 6 September 2024 at which the Claimant was seeking interim injunctions relating to the Property. The Order recorded an undertaking by the Claimant to issue a claim against those defendants by 3 September 2024. The second hearing was before Sheldon J who recorded compliance with that undertaking. The Claimant was now represented by direct access Counsel, with Frances Edeki also in attendance. The First and Second (Femi Olajide and Prince Edeki) attended the second hearing in person. Sheldon J delivered a 23-paragraph judgment. He ordered an interim injunction against two named individuals, who at that stage were the third and fourth Defendants, named as Morris Akpata and Oluwatoyin Akpata. Sheldon J declined to grant an injunction in relation to the First or Second Defendants, or against Dionne Harris, or against "Persons Unknown". He recorded that the application for interim injunctions had arisen in the context of a "painful family dispute"; that he was not making findings in relation to allegations against the Second Defendant (Prince Edeki) because they were not relevant to the issues regarding the interim injunctions; and that he was not making findings in relation to allegations that documents presented to the Court were forgeries or fabrications.
2. The context was that everybody agreed that the First Defendant (Femi Olajide) had been an occupier of the Premises. The Claimant's position was that that was the consequence of a series of "holiday let agreements". I have seen documents dated 8 March 2023, 7 April 2023 and 8 August 2023. The Claimant's evidence is that in fact the "holiday let agreements" began in 2022. The First Defendant, who on the evidence before me is said first to have produced an alleged "assured shorthold tenancy", by showing it to the police on his mobile phone, on 1 March 2024, produced to Sheldon J an "assured shorthold tenancy" document dated 22 November 2021. In it the Second Defendant appeared as witness, and his mobile phone number (ending 1200) was included as contact information for the landlord (clause 38). The Second Defendant says that was because he was assisting his father the John Edeki who was the company secretary of the Claimant and whose signature was said by the First and Second Defendants to appear on that assured shorthold tenancy document. Also produced to Sheldon J, I am told, was a screenshot of what was said by the First Defendant to have been a bank transfer in the sum of £1,300 on 9 January 2022 to an HSBC account of the Claimant (beginning 723). The Claimant's case before Sheldon J was that forged documentation had been put before the Court, including specifically that the signature of the late John Edeki was a forgery.
3. The order made against the Akpatas – who had been named notified by virtue of Murray J's order – was based on Sheldon J's finding of a strong case that the Akpatas were trespassers at the Property with no legal right to remain there, where damages

would be an inadequate remedy absent evidence about their financial position. They had not responded to the application for an injunction, or appeared in Court, but they have been served. There was evidence of documents found at the Property by the police in their name including Council Tax documentation for the Property. Mr Akpata was said to be the First Defendant's cousin.

4. The order sought against the First Defendant was refused. Sheldon J was satisfied that there was sufficient evidence that the First Defendant did still "reside at" the Property. He reasoned that whatever the origin of occupation, and whatever the position with the document dated 22 November 2021, the continuity and duration of occupation would make the First Defendant an assured shorthold tenant, and that the proper forum for resolving the question of possession was the county court. He therefore rejected what he had been told by the Claimant, namely the "standard eviction process" was "inadequate".

First Defendant

5. The application before me today (Form N244 dated 30.12.24) seeks, again, to obtain an interim injunction against the First Defendant. There are really two essential points put forward. The first is that the Claimant is now in a position to prove the forgery of the November 2021 document, as well as the falsity of the bank transfer screenshot. There is a witness statement of Mr Oghenetega Cassidy (dated 18.11.24, and served on 30.12.24). It describes a conversation on 1 March 2024 during which the First Defendant is said to have admitted that the tenancy document which he showed to the police was "a falsified document". The First Defendant's position is that he does not know Mr Cassidy and that no such conversation took place. The Claimant puts forward handwriting expert report (dated 12.11.24) which considers the signature of the late John Edeki alongside other signature samples, on which report the Claimant relies in asking the Court to conclude and accept that there was forgery and fabrication. The problem with all of this is that Sheldon J explained that, even if the basis of occupation had arisen out of so-called "holiday let agreements", the continuity and duration of the occupation would give rise to the position of assured shorthold tenant, even leaving aside the November 2021 document and what was said about it. His conclusion was that the proper forum for seeking possession against the First Defendant was the county court.
6. Ms Edeki tells me that county court proceedings seeking possession against the First Defendant pursuant to section 8 (which I have understood to mean of the Housing Act 1988) had in fact been issued on 28 August 2024 although that claim was not served at that stage. The reference is L02ER313. Mr Siriwardena's position, based on the documents that he had seen, is that there were Particulars of Claim dated 17 September 2024 signed by the solicitors for the Claimant – RG Solicitors of NW6 7RB who are on the record in the county court proceedings – but that the section 8 claim was not commenced, he says, until 2 October 2024. If there were county court proceedings issued at the time of the oral hearing on 6 September 2024 before Sheldon J, it does not appear that that fact was disclosed by the Claimant or Counsel. Be all of that as it may, everyone agrees that there are county court possession proceedings against the First Defendant; that there was an oral hearing on 25 November 2024 before District Judge Prevatt; and that the Judge identified deadlines for steps by the parties, and directed a further hearing. I have seen a county court order reflecting all of that but also listing that hearing for 25 April 2025 and linking it to another county court claim. Ms Edeki's

position is that that hearing date has only recently become known to the Claimant and to RG Solicitors who remain on the record in the county court.

7. The linked claim is a claim for harassment brought by the First Defendant against the Claimant, I am told. The reference is L01BR994. Everyone agrees that there was an oral hearing in relation to that claim at the county court on 12 September 2024, before District Judge Ahmed. One of the issues arising in the harassment claim concerns the genuineness of the November 2021 assured shorthold tenancy document. There is email traffic reflecting a court order by DJ Ahmed, requiring that document to be provided, with RG Solicitors stating that only a copy rather than the required original was supplied on 18 September 2024.
8. The second essential point put forward is that the First Defendant can now be shown by the Claimant no longer to be in occupation of the Property. There is a “tracing report”. There is evidence of attendance at the Property on 13 December 2024, with a video and photographs of an individual in a white T-shirt leaving the Property; and photos of the sparse contents within the Property. The Claimant’s case is that documents were found on that occasion in the name of “Rilwan Alao”. The First Defendant’s case is that the photographed individual is “Wele Wele-Ade”, a friend who was permitted by the First Defendant to be at the Property in conjunction with a visit by the First Defendant to Nigeria which started the following day (14 December 2024). The Claimant’s argument is that, in the light of the photographic evidence and the Tracing Report, this court should now today reach a different view on whether there is any evidence that the First Defendant remains “resident” and that beyond any doubt he does not.
9. In my judgment, the answer to all of this is that the correct and appropriate forum for resolving the question of possession so far as the First Defendant is concerned is the county court. Sheldon J did not find an obvious lack of residence on the part of the First Defendant from the evidence that the Akpatas were living at the property, and were registered for council tax. That was including by reference to the evidence from photographs of belongings seen on 21 and 23 August 2024. Sheldon J emphasised the appropriateness of the county court forum, a point which is now strongly reinforced in my judgment by the fact that proceedings are on foot with one hearing having already taken place and directions for another; and all in the context of disputes, including as to forgery, which are being ventilated before this Court. Ms Edeki emphasises that this Court retains “jurisdiction”. She submits that parallel proceedings are appropriate in the circumstances. The problem, in my judgment, is that the Claimant is seeking by an interim remedy of an injunction, to achieve the substantive outcome of peremptory possession when there is the forum of county court possession proceedings at which factual and legal matters can all be resolved, not on an interim basis, but on a final basis. I am unable to accept that it is appropriate to grant, or that the balance of convenience and justice favours a grant, of an injunction by way of interim relief in these High Court proceedings.

Second Defendant

10. Sheldon J dismissed the application for an interim injunction against the Second Defendant. That was on the basis that there was no evidence that he had ever been a trespasser at the Property in the sense of having occupied it or sought to occupy it. The Claimant accepts that the Second Defendant has never lived at the property. The Order sought today would restrain the Second Defendant from “dealing with the Property”.

Strong emphasis is placed on the phone number in the November 2021 assured shorthold tenancy document and in a conversation of 27 April 2024 described in the 18.11.24 witness statement of Mr Cassidy, when the First Defendant is said to have told Mr Cassidy that the Second Defendant had told him not to return the keys as the Second Defendant “intended to make use of the Property himself”. All of that, and those events, predated the hearing before Sheldon J on 6 September 2024. I am in no position to make findings of fact. There remains no evidence that the Second Defendant did “make use of the Property himself”; still less evidence on which I could make a finding of fact or in which I could have confidence. There is no basis, in my judgment, in making an order for interim relief, for concluding that the balance of convenience and justice favours an order against the Second Defendant whether relating to entering or occupying, or “otherwise dealing with the Property”. Everyone agrees that the Second Defendant has not been made a defendant to the possession proceedings in the county court. But if and insofar as there is some issue which is relevant to securing any legal entitlement to possession, that the Claimant may have, the county court remains the forum in which it should be resolved.

11. So, for the reasons that I have given there is no legal shortcut by way of interim relief in the High Court, essentially rerunning with further evidence the points that were ventilated before Sheldon J by the Claimant’s Counsel in September 2024, all in circumstances where the county court forum is available and indeed is being pursued.

Persons Unknown

12. Nor in the circumstances am I persuaded that it is appropriate to make any order relating to “persons unknown”. As with the injunctions being sought against the First and Second Defendants, an order against “persons unknown” is a rerun of an application which failed before Sheldon J. There are the photos of the individual seen on 13 December 2024 and the evidence about the name of Rilwan Alao on documents said to have been found within the Property. But the Claimant knew from the 27 August 2024 hearing in front of Murray J that it was possible to add a named individual and then serve papers in the name of that individual at the Property. Doing so was the platform for the order which Sheldon J subsequently made against the Akpatas, who did not respond. That course was not taken this time. I am in no position to make findings of fact on who is the individual in the photograph, or the basis or duration of any presence or stay at the Property. All of this in my judgment leads back to the fact that the forum for securing possession, where all relevant issues can properly be determined, is the county court; not an application for interim relief returning to the High Court.

Other Orders

13. The other orders sought on the interim application today included damages in the sum overall of £99,595, a finding of abuse of process by the First and Second Defendants, a recommendation for a criminal investigation into fraudulent documents; and a recommendation of a formal investigation by the local authority Lewisham Council. It is sufficient to say that there is in my judgment no basis for any of these orders; and no basis, so far as damages is concerned, for ordering them on this application for interim relief.
14. I therefore refuse the application that was made in Form N244 on 30 December 2024.

Strike-Out

15. I decline however to strike out that application, as sought by the Second Defendant, since I am refusing and therefore dismissing the application. I also decline, insofar as it is being sought, to strike out the High Court claim. I have, however, repeated in clear terms the point which Sheldon J made about the forum of the county court.

Costs

16. Finally, I have not been persuaded by Mr Siriwardena, who has argued that costs should be awarded today; still less on an indemnity basis. I make no order as to costs. In my judgment the position put forward relating to costs is really closely entwined in assertions and counter-assertions which are made in these proceedings. I have not made findings of fact. I have not resolved contested questions of alleged impropriety. I have not made findings of non-disclosure. Moreover, there are concerns based on reading the papers in this case. One example is the absence in the HSBC bank statement of the bank transfer said to have been evidenced by the screenshot which, on examination, omitted a digit from the account. Nobody is being implicated by findings of the Court, but nor exonerated. Although today I make no order as to costs, I lay down this marker. It does not follow that it is open to the Claimant, with costs impunity, to continue with repeated visits to the High Court. To do so may prove to be a perilous course from a costs perspective.

21.1.25