THE COURT OF APPEAL

NEUTRAL CITATION NUMBER: [2020] IECA 28

RECORD NUMBER: 2017/488

HIGH COURT RECORD NUMBER: 2017/6224 P

Baker J.
Noonan J.
Power J.

BETWEEN/

P.C.

PLAINTIFF/APPELLANT

-AND-

THE MINISTER FOR HEALTH, HEALTH SERVICES EXECUTIVE, CATHERINE WHITE, TOM TOBIN, NORMA HARNEDY, GENERAL SOLICITOR FOR MINORS AND WARDS OF COURT, PATRICE O'KEEFFE, REGISTRAR OF WARDS OF COURT, IRELAND, AOIFE NÍ CHORCORAIN, LYNN OLIVER, JOSIE CLARE, TONY MCNAMARA

DEFENDANTS/RESPONDENTS

JUDGMENT of Mr. Justice Noonan delivered on the 19th day of February, 2020

1. This appeal is brought by the appellant ("Mr. C.") against the order of the President of the High Court, Kelly P., made herein on the 9th October, 2017.

2. The appeal forms part of a large number of proceedings, applications and appeals brought by Mr. C. concerning his mother, Mrs. C. While it is not necessary to refer in detail to each of these pieces of litigation, it is appropriate to mention the broad history of the matter in order to gain a full understanding of the context in which the order under appeal was made.

Relevant Facts

3. The background to the matter was most recently considered by the Supreme Court in *A.C. v. Cork University Hospital and Others* & *A.C. v Fitzpatrick and Ors* [2019] IESC 73. The sole judgment was delivered by O'Malley J., with whom the other members of the court agreed and I gratefully adopt the detailed history and chronology of events set out therein.

4. In brief summary, Mrs. C., who is now 97 years of age, fractured her hip in 2015 and was treated in Cork University Hospital ("CUH"). She was discharged from hospital, but unfortunately fractured her other hip some days later and was readmitted. Thereafter, it is fair to say that relations between Mr. C. and his sister, on the one hand, and the hospital authorities, on the other, became extremely strained. This, initially at least, appears to have stemmed from a belief on the part of Mr. C. and his sister that the treatment regime directed by the clinicians charged with Mrs. C.'s care, and in particular the administration of various medications, were inappropriate for her and should be replaced by, *inter alia*, natural remedies felt by Mr. C. and his sister to be more appropriate for Mrs. C. A multidisciplinary team of clinicians considered that Mrs. C. lacked capacity to make a decision about her discharge from hospital and that she

required long term care in a nursing home setting. These conclusions have at all times been vehemently opposed by Mr. C.

5. Unfortunately, relations between the parties deteriorated even further and became fractious, with Mr. C. accusing the hospital of falsely imprisoning and assaulting his mother. He attempted to remove his mother from the hospital necessitating the intervention of the Gardaí.

6. The foregoing events culminated in Mr. C. applying to the President of the High Court for an inquiry, pursuant to Article 40.4 of the Constitution, into the allegedly unlawful detention of his mother at CUH. The President directed an inquiry and, in advance of the hearing of the inquiry, was advised by counsel for the HSE, the body responsible for the hospital, that the HSE had decided to make an application to have Mrs. C. made a ward of court. The hearing of the Art. 40 inquiry took place on the 11th July, 2016 and on the same date, Kelly P. delivered an *ex tempore* judgment holding that Mrs. C. was not in unlawful detention. The President also made an order pursuant to s. 11 of the Lunacy Regulation (Ireland) Act, 1871 appointing a medical visitor to report to the court as to the capacity of Mrs. C. to make decisions concerning her own welfare or property. Mr. C. lodged an appeal against the judgment of Kelly P. in the Article 40 matter to this court.

7. Three days later, on the 14th July, 2016, CUH was notified by a letter signed by Mrs. C. that she intended to transfer to the Mater Private Hospital in Cork on that date. Mr. C. arrived at the hospital that afternoon and claimed that security staff attempted to remove him from the hospital. This prompted a second Article 40 application by Mr. C. on the 22nd July, 2016. The matter again came before Kelly P. who directed an inquiry which was heard on the 25th July, 2016. Mr. C. asked the President to recuse himself and that application was refused. The President again held that Mrs. C. was not unlawfully detained. Mr. C. again appealed the Article 40 decision.

8. The medical visitor's report was delivered to the President on 22nd July, 2016. Kelly P. advised the parties that the medical visitor's report had concluded that Mrs. C. had senile dementia, was of unsound mind and incapable of planning her care needs.

9. The hearing of the wardship application took place before the President on 19th August, 2016. It was not attended by Mrs. C. or any member of her family. The President made an order taking Mrs. C. into wardship on that date and appointed the General Solicitor as her Committee. In December 2016, the President approved the transfer of Mrs. C. from CUH to Saint Finbarr's Hospital in Cork, a long term care facility for the elderly where Mrs. C. now resides.

10. Mr. C.'s appeals in the first and second Article 40 inquiries were dealt with in a judgment of the Court of Appeal of the 2nd July, 2018, delivered by Hogan J. The court concluded that CUH had not acted lawfully in preventing Mrs. C. from leaving the hospital on the 23rd June, 2016 and by implication, on the 14th July, 2016. Since however, Mrs. C. was no longer in CUH at that time, no order for release was necessary. The HSE appealed to the Supreme Court. Very shortly after this judgment was delivered, on the 10th July,

2018, Mr. C. attempted to remove his mother from Saint Finbarr's and was prevented from doing so. This appears to have resulted in a further application the next day, the 11th July, 2018, to the President by the HSE for various orders relating to Mrs. C. Later in July 2018, Mr. C. made a further Article 40 application in respect of Mrs. C. which was heard by Faherty J. who delivered judgment on the 3rd August, 2018. She held that Mrs. C. was not unlawfully detained.

11. Appeals in respect of all three Article 40 Applications were heard and determined by the Supreme Court in the judgment of O'Malley J. to which I have already referred above.

12. In its judgment, the Supreme Court held that the Court of Appeal had been in error in concluding that Mrs. C. had been unlawfully detained in CUH. Mr. C.'s appeal against the order of Faherty J. was dismissed. In the course of her judgment, O'Malley J. analysed the wardship proceedings concerning Mrs. C. She noted that a number of orders had been made in those proceedings, including the order of 19th August, 2016, which took her into wardship. The latter order was found by the O'Malley J. to have been made in breach of Mrs. C.'s right to fair procedures. However, O'Malley J. was at pains to point out that all other orders made in the course of the wardship proceedings were valid. Thus she noted (at para. 364 – 365): -

> "364. …Since the jurisdiction to make protective orders in the wardship jurisdiction exists once the wardship proceedings have commenced, it is possible to distinguish between the order taking into wardship and the orders made thereafter. Thus, if the order of the 19th August 2016 was invalid, it does not necessarily follow that every order made since then was unlawful.
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> 365. I have come to the conclusion that, as operated in this case, the process concerning Mrs. C. was flawed in respect of the original order, but that the orders made thereafter were fully lawful."

13. The court noted the fact that the wardship proceedings commenced with the appointment of the medical visitor and the proceedings continued even after the making of the invalid order on 19th August, 2016. Those proceedings permitted protective measures to be taken as long as they continued (see para. 378).

The Current Proceedings

14. The proceedings now before this court were commenced by Mr. C. issuing a plenary summons on the 10th July, 2017. There are thirteen named defendants. The summons is in narrative format and is primarily concerned with the treatment of Mrs. C. while a patient in CUH and Saint Finbarr's. It alleges that she was subjected to inhuman and degrading treatment amounting to torture and was falsely imprisoned at the hospital. It claims further, that a variety of drugs were administered to Mrs. C. without authorisation. It alleges that various of the parties committed perjury by swearing false affidavits in order to have Mrs. C. unlawfully made a ward of court to silence her. The summons complains that Mr. C. and his sister were subjected to unauthorised surveillance.

15. Various other complaints are made about Mrs. C.'s treatment. The summons complains of unlawful interference with the visitation rights of members of Mrs. C.'s family. Claims of deceit and conspiracy are levelled against a number of the defendants in connection with the wardship application. The summons alleges that the provisions of the Lunacy Regulation (Ireland) Act, 1871 are repugnant to the Constitution and incompatible with the European Convention on Human Rights, although the Attorney General is not a party to the proceedings. It alleges that the President acted unlawfully in initiating the wardship proceedings. It alleges that various of the defendants breached provisions of the Data Protection Amendment Act, 2003 and conspired to disclose confidential information concerning Mrs. C.

16. The prayers for relief seek damages "for the C. Family" for the false imprisonment and torture of Mrs. C., damages for misfeasance in public office against the Registrar of Wards of Court and the President, although he is not a defendant, and damages for breach of the constitutional and other rights of "the C. Family". In addition, various injunctive reliefs are sought, primarily to restrain the prescribing and administration of certain drugs to Mrs. C. and to restrain any limitation on visitation rights to her. Mandatory orders are sought requiring herbal remedies to be administered to Mrs. C. together with physiotherapy of her own choosing and referrals to doctors nominated by Mr. C. and his sister. Finally, a declaration that the 1871 Act is invalid is sought, together with an order setting aside all orders made in the wardship proceedings.

17. The issuing of the summons was followed on the 12th July, 2017 by a notice of motion seeking certain interlocutory reliefs. These consisted of orders restraining the administration of certain drugs to Mrs. C. and limiting the visitation rights of Mr. C. and his sister to their mother. A number of other orders are sought which, although expressed as prohibitory, are in effect mandatory in nature. These include requiring staff at Saint Finbarr's Hospital to permit Mrs. C. to exercise and stand and to permit Mr. C. and his sister to assist Mrs. C. with these activities. An order is sought requiring Mrs. C. to be allowed use CBD oil from the hemp plant to treat her epilepsy, to participate in physiotherapy of her own choosing and to allow Mr. C. and his sister to nominate a doctor and, if necessary, a specialist to give opinions regarding the condition and treatment of Mrs. C.

18. On the same date Mr. C. applied to the High Court (Gilligan J.) for short service of the motion, which was granted and made returnable to the 18th July, 2017. On the latter date, counsel for the various parties appeared and sought time to file replying affidavits which resulted in the matter being adjourned for hearing to the 8th August, 2017. On the latter date, the matter again come before the court (Barton J.) by which time a number of replying affidavits had been filed within a very short timeframe by the defendants. A transcript of the hearing on that date has been made available to this court. Barton J. was informed that the matter was likely to take a number of days and considered it would not be possible to facilitate the hearing of the matter at a vacation sitting.

19. It is evident from the transcript that Barton J. decided that the matter should be adjourned for hearing before the President of the High Court in the Wardship List on the 9th October, 2017. This was made clear by Barton J. on more than one occasion towards the end of the hearing and there is absolutely no doubt that at the conclusion of the hearing, Mr. C. was aware that the matter stood adjourned to the 9th October before the President of the High Court in the Wardship List. At the hearing of this appeal, Mr. C. conceded that he was aware of these facts. The transcript also discloses that Mr. C. objected to the matter being transferred to the President because he was "conflicted" but Barton J. indicated to him that he could make an application in that regard to the President.

20. The transcript of the hearing of this appeal shows that Mr. C. articulated his position clearly to this court (at p. 13, line 23-25): -

> "Mr. C: I knew the 9th October, I never denied that I knew the 9th October, right, ok, but it was not listed. The case was not listed."

21. In the light of that concession and indeed the clarity of the transcript of the hearing before Barton J., it is, to say the least, surprising to find the following in Mr. C's written submissions on this appeal (at para. 5): -

> "Judge Barton listed the motion for hearing on 4 September 2017, but because counsel had personal holidays on that date, Judge Barton put it in for 11 September 2017."

The Hearing before the President on the 9th October, 2017

22. Mr. C. did not attend the hearing before the President having been called at first and second calling. All thirteen defendants were represented. The order recites that the notice of motion, all affidavits and exhibits in the matter were read by the court and submissions made by counsel. The curial part of the order insofar as is relevant, provides: -

> "(1) That the plaintiff's application be and the same is hereby dismissed;
>
> (2) That these proceedings be stayed and that the plaintiff may take not further steps in these proceedings save on application to this Court on four days' notice to the respective defendants;
>
> (3) That the plaintiff be prohibited from taking any proceedings which address either the life, the liberty, the health or the welfare of his mother [A.C.] other than by an application in the Wardship proceedings and such application not to be brought unless two clear days' notice is given to the General Solicitor for Minors and Wards of Court, the Committee of [A.C.]…"

Mr. C.'s non-attendance on the 9th October, 2017

23. Mr. C.'s first ground of appeal states: -

> "1. P.C. was taken by surprise on 24th October 2017 when he did a Central Office search of record number 2017/6224 P to discover an order dismissing his injunctive

relief motion was made on 9th October 2017. The motion was not listed in the legal diary for hearing, mention, or to fix a date."

24. In his written submissions to this Court (at para. 1), Mr. C. goes considerably further: -

> "The motion was not listed under its title or record number but deceptively assigned a false entitlement and forum shopped before President Kelly on 9th October 2017 in the Wards' List, thereby depriving P.C. of hearing notice."

25. As I have already noted, there is absolutely no doubt that Mr. C. knew that his motion was due to be listed for hearing before the President in the Wardship List on the 9th October, 2017. In essence, he says that he did not attend because the matter did not appear in the Legal Diary. Despite Mr. C.'s very extensive experience as a litigant in person, he appears to suggest that it never occurred to him to attend before the President on the date in question to establish why his motion was not listed. There was certainly no inconvenience for Mr. C. in doing so as he already had business in High Court Number 6 on the same day, a few metres from the President's court. In his written submissions, the following statement is made by Mr. C.: -

> "6. The secretive, deceptive listing of the motion on 9th October 2017 in the Wards of Court List was first discovered by P.C. in submissions from the Chief State Solicitor in mid-November 2017, which states the motion was listed in the Legal Diary for hearing on the morning of 9th October 2017…"

26. It will be recalled that Mr. C. considered his motion to be sufficiently urgent in July 2017 to seek an order for short service and thereafter an urgent vacation hearing date. It is therefore extraordinary that, as his submissions suggest, Mr. C. took no steps of any kind to establish what happened to his application, which he knew was due to be listed on 9th October before the President, until he incidentally discovered that fact in mid-November 2017, and by chance. This statement is moreover demonstrably incorrect as Mr. C.'s first ground of appeal shows that, according to himself, he discovered that the matter had in fact been heard on 9th October, 2017 as early as on 24th October, 2017 as a result of conducting a Central Office search, leading to his Notice of Appeal dated the 27th October, 2017.

27. If this were genuinely a case of Mr. C. having been taken by surprise, the Rules of the Superior Courts provide a remedy in O. 52, r. 12: -

> "Where any of the parties to a motion on notice fails to attend, the Court may proceed in the absence of such party. Where the Court has so proceeded, such proceeding shall not in any manner be reheard unless the Court shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence…."

28. Where a genuine mistake has been made therefore, the court is entitled to rehear the matter, absent wilful delay or negligence. Had Mr. C. made a *bona fide* mistake, it would have been open to him to apply to the President to have the matter reheard. Courts can

and frequently do strike matters out where the moving party does not attend, but it is commonplace where genuine oversight has occurred to reinstate the case. Because Mr. C. did not follow the proper course under the Rules and apply to the High Court to have the matter reheard but instead appealed, it is necessary on the unusual facts of this case for this court to make a determination concerning whether Mr. C's failure to attend was due to wilful default or negligence. The respondents approached their submissions on that basis and it seems to me that it would be a waste of court time to determine this aspect of the appeal by reference only to the Rules of Court and to the correct procedural approach to an order alleged to be made without notice to the other party.

29. Having regard to the matters I have outlined, it appears to me probable that Mr. C. decided not to attend the hearing but at a minimum, he was negligent in failing to do so. If he had valid reasons for asking the President to recuse himself, he ought to have made that application to the President. He was expressly advised of this by Barton J. and of course had made that very application to the President previously in the second Article 40 application. As he elected not to make such application in the High Court, he cannot seek to do so for the first time in this court.

30. Further, this court should be slow to permit the bringing of appeals against orders made in the absence of the appellant where the Rules provide a remedy before the trial court. Order 52 is but one instance and there are, for example, other provisions for the setting aside of judgments obtained by surprise or mistake. It is, however, not open to appellants to this court to decide that they will not participate in a hearing at first instance and then seek to have their case heard *de novo* on appeal. In general, the function of this court is to correct error in the determination of the trial court, not to hear argument for the first time from a party who deliberately absented him or herself from that court.

31. That is all the more so when the appellant was the moving party before the High Court. All parties, particularly those initiating litigation, have a duty to the court to engage with the court's process and prosecute the ligation in a *bona fide* manner. A conscious decision to abstain from appearing in a matter, perhaps in anticipation of an unsuccessful outcome, and then seeking to appeal when that anticipation is realised, is a manipulation of litigation and an abuse of process.

32. The argument of the appellant that the orders of the President should be set aside on the grounds of surprise should for these reasons therefore, be dismissed.

Locus standi

33. Mr. C. is the sole plaintiff in these proceedings. The issue arising here is not whether Mr. C. can, in proceedings in which the interests of his mother are asserted, represent her as an advocate in court. In these proceedings, Mrs. C. is not a party at all. Rather, Mr. C. is the plaintiff who is purporting to seek orders directly affecting his mother and, in the legal sense, against her. There is no procedure known to our law whereby a party can seek orders affecting the interests of a non-party or which purport to assert rights on behalf of a non-party. In argument before this court, Mr. C. asserted that he had a right to bring these proceedings because he is the son of Mrs. C. This is a fundamental misconception

as a matter of law. Although Mr. C. might well be entitled to seek to vindicate his right to visit his mother, this is because that is a right that accrues to him and not to anybody else. For the same reason, he cannot seek to vindicate his sister's visitation rights in proceedings where she is not a party.

34. There are of course many instances where a party under a legal disability may or must bring or defend a claim through another party. The most obvious example is in the case of minors who, while lacking legal capacity, may bring proceedings through the intervention of a next friend, most commonly a parent. In such cases, the minor is also a named party to the litigation. A person who is under a disability may also be sued and the court may appoint a guardian to such defendant for the purposes of the litigation. *Guardians ad litem* are perhaps now more commonly seen in childcare proceedings where they are appointed by the court as independent persons to represent the interests of minor children. Wards of court may bring and defend proceedings through their committee, subject to the approval of the President of the High Court. These are all instances of persons under a disability suing and being sued through the intervention of representative parties. In all such cases the person under a disability is a party to the proceedings.

35. None of this is to suggest however, that the position could be remedied by simply joining Mrs. C. as a named party or substituting her as plaintiff. This would still not entitle Mr. C. to purport to represent his mother, even apart from any wardship consideration. The procedure whereby any person may apply to the High Court for an inquiry under Article 40 of the Constitution is wholly unique in our legal system. In general, a non-lawyer has no right to represent a party in ligation before our courts. There are sound policy reasons why this is so and the principle has been reiterated many times, indeed most recently by the Supreme Court in the judgment of O'Malley J. to which I have referred. She cited with approval the analysis of the issue by Humphreys J. in *Knowles v. Governor of Limerick Prison* [2016] IEHC 33 (at para. 315 of her judgment) where he observed: -

> "However, where a person is not representing themselves, it is a fundamental postulate of the legal system that they must be represented by a qualified legal professional, who in turn owes professional duties to the court."

36. His conclusion in that case, which was an Article 40 application, was that while any person may apply for an inquiry under Article 40, a non-lawyer is not entitled to represent the applicant at the hearing of the inquiry itself, save in exceptional circumstances. Indeed, such exceptional circumstances were held to arise here in the Article 40 proceedings brought by Mr. C. in respect of Mrs. C. both at first instance and on appeal. In the context of Article 40 inquiries, O'Malley J. held (at para. 388) that whether a lay person ought to be heard in the substantive inquiry on behalf of the applicant is a decision for the trial judge, but the general rule against such representation remains. She noted in particular that the availability of the Custody Issues Scheme in Article 40 cases may well justify a refusal of permission for lay representation. None of that arises in these proceedings which are plenary rather than by way of Article 40.

37. Separately from the foregoing, the status of the wardship proceedings must be considered. One of Mr. C.'s grounds of appeal is that the order of the President of the 19th August, 2016 taking Mrs. C. into wardship is invalid, and the Supreme Court has since accepted that this is so. Mr. C. however, appears to extrapolate from this that the President therefore had no jurisdiction to make the order now under appeal. However, as I have already noted, the Supreme Court made clear in its judgment that while the order of the 19th August, 2016 may be invalid, all other orders made in the course of the wardship proceedings which commenced on the 11th July, 2016 remain fully lawful.

38. It is clear therefore that the infirmity in this order does not deprive the President of jurisdiction in this matter or affect the validity of any other orders made herein. This is also clear from the following statement in Harris, *A Treatise on the Law and Practice in Lunacy in Ireland* (Corrigan and Wilson 1930) at p. 3: -

> "The jurisdiction of the Chief Justice, which includes the power of varying and discharging orders of his predecessors attaches in full when he makes the first order in the matter, which he may do immediately on the presentation of the petition and before the inquiry, the petitioner being directed to act on behalf of the patient, if necessary."

39. The order under appeal therefore, insofar as it touches on the rights and interests of Mrs. C., was made fully within the President's jurisdiction and remains valid.

The Order of the 9th October, 2017

40. I propose to comment on each of the three paragraphs of the order as they are set out at para. 22 above.

(1) As Mr. C. did not attend to move his application at either first or second calling, the President was entitled to dismiss it.

(2) In making an order staying the proceedings, the President did not exclude Mr. C. from progressing them further. Rather, in the future he would be permitted to do so only with the leave of the President on notice to the other parties. As is clear from his *ex tempore* judgment, the President had at that stage extensive experience of the various pieces of litigation involving Mr. C. and his mother. I have referred to only some of these. They also involved contempt proceedings concerning Mr. C. which were before the President on a number of occasions. In making this order, the President was entitled to have regard to the history of the matter, of which he was perhaps uniquely apprised, and Mr. C.'s behaviour which formed the subject matter of the contempt proceedings. He clearly also had regard to the fact that there were thirteen defendants concerned, each of whom was required to incur considerable cost and inconvenience on every occasion they were brought before the court by Mr. C. The President was also entitled to take into account that, despite his presence in the Four Courts building, Mr. C. had, having initially demanded an urgent hearing and brought all the other parties to court on three occasions, neglected or elected not to turn up himself. He was also entitled to have

regard to the fact that in these proceedings, Mr. C. had made serious allegations against all and sundry, including healthcare professionals, accusing them of the most serious imaginable medical malpractice and indeed, deliberate wrongdoing and deceit without a single shred of independent medical evidence to support his claims. It has long been held in our courts that the bringing of professional negligence proceedings in the absence of supportive expert evidence constitutes an abuse of process.

It seems to me that confronted with such a manifest abuse of the court's process on many levels, the making of the order in question was an appropriately proportionate response in the interests of doing justice between all the parties.

(3) In my view, this order must be viewed as a form of case management order. As is clear from his *ex tempore* judgment, the President was conscious of the fact that Mr. C. had made a variety of applications concerning his mother's welfare to different judges of the High Court at different times. Of course, in the case of applications seeking inquiries under Article 40, it is true to say that an applicant has a right to apply to any judge of the High Court. The Article 40 procedure is in this, as in other ways, unique. In all other cases, litigants have no right to insist that any particular judge does or does not hear his or her case. With the increasing complexity of ligation over the years, case management has become an ever more important tool in promoting the efficient progression of litigation. It is particularly well suited to complex litigation involving multiple parties. It has an important role to play in such litigation where on occasion, the number and complexity of issues and amount of parties can render access to justice extremely difficult in the absence of hands-on involvement by the court. Because our litigation system is adversarial, traditionally the pace and manner of litigation progression has been largely a matter for the parties, but that is becoming less and less so. One incident of litigation that is solely party lead can be lengthy delay, sometimes of such magnitude as to render meaningful access to justice impossible. Much recent jurisprudence shows a heightened awareness of the State's obligations under the ECHR, and in particular, the right to a fair trial within a reasonable time under Article 6. Where that right is potentially imperilled, the courts have shown an increased willingness to intervene by the adoption of measures such as case management.

Accordingly, many courts, such as the Commercial Court, utilise streamlined procedures with early judicial intervention designed to ensure timely outcomes. Even in the absence of dedicated procedures, there can be no doubting the court's inherent jurisdiction to case manage its business where that appears appropriate.

The order made by the President at (3) in this case does no more than channel any proceedings concerning Mrs. C. through the medium of the wardship proceedings which again, is entirely appropriate and within his jurisdiction. The sole exception is to be found in Article 40 applications, as was made clear by this Court in another

case involving the same parties, *A.C. v. Cork University Hospital and Others* [2018] IECA 217. Apart from such Article 40 applications, I am satisfied that it was again quite appropriate to direct that any future applications concerning Mrs. C. should be brought in the course of the ongoing wardship proceedings, on notice to the General Solicitor. As the President said in his *ex tempore* judgment, this order does not operate to prevent Mr. C. bringing any appropriate application he wishes to bring, but merely directs the manner in which it should be brought.

The Grounds of Appeal

41. Mr. C. raises nine grounds of appeal which may be summarised and dealt with as follows:-

(1) Mr. C. was taken by surprise in relation to the hearing on the 9th October, 2017. For the reasons I have already set out, I reject this contention.

(2) This is an objection to Kelly P. hearing the matter on the grounds that he had a conflict of interest and was biased. Again I have already dealt with this. No application was made by Mr. C. to the President to recuse himself and he cannot make it in this court.

(3) These grounds all contains complaints about the lawfulness of the order of the 19th August, 2016 taking Mrs. C. into wardship. These complaints bear no relation to any relief sought in the notice of motion and have, in any event, no bearing on any of the other lawful orders made concerning Mrs. C.

(4) As at (3) above.

(5) As at (3) above.

(6) This concerns the privacy and visitation rights not only of Mr. C., but also of his sister and his mother. As I have explained, Mr. C. cannot make a claim about anybody's rights, save his own. Insofar as his rights are concerned, this Court cannot make any determinations of fact or law in relation to those rights as none were made at first instance due to Mr. C.'s absenting himself from the hearing.

(7) This is a complaint primarily about the administration of drugs to Mrs. C. It is not a complaint that Mr. C. is entitled to make as I have already held and, in any event, it is not the subject of any determination due to his absence from the court of first instance.

(8) This is a further complaint about the treatment of Mrs. C. to which the same considerations as in (7) apply.

(9) This is a further complaint about a failure to produce perfected orders concerning Mrs. C., a complaint never made before the President or considered by him and for the same reasons as before, cannot be embarked upon by this court for the first time.

42. The misconceived nature of Mr. C.'s grounds of appeal are further emphasised by the list of orders sought from this court including injunctions against the President from further hearing the matter, damages for Mrs. C. and Mr. C. and a declaration of incompatibly of the 1871 Act with the ECHR, none of which were, or could conceivably have been, the subject matter of the interlocutory application before the President.

Conclusion

43. In summary, none of the claims for relief sought at paras. 1 to 7 of Mr. C.'s notice of motion are maintainable by him for the various reasons I have alluded to above. In my view, the only claim that Mr. C. was ever entitled to make in this motion was that in relation to his own right to visit his mother referred to a para. 4. However, as Mr. C. declined to attend before the President to advance his claim in that regard, this court cannot consider it *de novo* in the absence of any determination by the High Court.

44. I am therefore of the view Mr. C.'s appeal should be dismissed.