

THE HIGH COURT

[2019 No. 541 P.]

BETWEEN

JOHN SHERIDAN

PLAINTIFF

AND

EMERALD CONTRACT CLEANERS (IRELAND) LIMITED,
HELEN BERNADETTE SHERIDAN, FERGUS SHERIDAN, JAMES SHERIDAN, KEVIN
SHERIDAN, ALAN WARD AND KEN LYONS

DEFENDANTS

JUDGMENT of Mr. Justice Allen delivered on the 28th day of August, 2019

1. On 30th May 2019, for the reasons given in an *ex tempore* judgment then delivered, I made an order pursuant to the inherent jurisdiction of the court dismissing this action as frivolous and vexatious and an Isaac Wunder order precluding the plaintiff from instituting or prosecuting any further claim against any of the defendants without prior leave of the High Court.
2. With the benefit of hindsight, it might have been better if I had delivered a written judgment. The plaintiff was and is unrepresented and appears to have fundamentally misunderstood my judgment.
3. On 26th July 2019, the plaintiff applied to the court for leave to bring an action against each of the defendants. As on the previous application, the plaintiff acted *pro se*.
4. In support of his application the plaintiff filed a grounding affidavit, sworn on 15th July 2019; a short legal submission; a folder of papers which included some, but not all of the material which was before the court on 30th May 2019; and some new material.
5. In substance, the plaintiff seeks permission to revive the action which was dismissed and, possibly, to add a further claim arising out of the same complaints. The plaintiff claims to have new evidence in support of his claims which was not previously available and which, it is said, was not considered when I made my order on 30th May 2019.
6. The plaintiff is one of seven children of Patrick Francis Sheridan. He is the legal personal representative of his late brother, James Vincent Sheridan, who was born on 16th May 1952 in Holles Street Hospital, Dublin, and who died on 20th December 1971 in Cobleskill, Schoharie, New York. The deceased's birth certificate records his name as James Vincent. The death certificate from the State of New York Department of Health records the name of the deceased as Seamus V. Sheridan. The grant of letters of administration de bonis non granted to the plaintiff gives the name of the deceased as James Vincent Sheridan.
7. The Capital Acquisitions Tax Form A3C filed on behalf of the plaintiff as part of his application for representation gave an address for the deceased at 51 St. Agnes Park, Crumlin, Dublin but a copy of a grant of letters of administration dated 7th February, 1972 from the Surrogate's Court for the County of Dutchess, in the City of Poughkeepsie,

New York, was obtained that showed the deceased's address was 230 Honey Lane, Poughkeepsie, New York.

8. James Vincent Sheridan was nineteen years old when he was killed in a car crash. The affidavits previously sworn by the plaintiff showed that James Vincent was blind from birth and attended a special school for the blind in the Bronx, New York, from the age of six years to fifteen years. James Vincent lived in school from Monday to Friday and came home for the weekends.
9. By reference to the papers filed in the Surrogate's Court, Dutchess County, State of New York, in 1972, James Vincent Sheridan owned no property. A grant of letters of administration intestate was extracted by Patrick Francis Sheridan to allow a fatal injuries action to be brought on behalf of the estate of Seamus Sheridan. That action was settled in 1974 for US \$35,000. After the attorney's fees were paid, there was US \$25,000 left which was divided equally between James Vincent's parents.
10. Patrick Francis Sheridan had a brother, James Valentine Sheridan. For some years prior to 1989, probably from about 1972, Patrick Francis and James Valentine were directors and shareholders of an Irish registered company called Emerald Contract Cleaners (Ireland) Limited, which was registered under CRO 22322. The Companies Office returns suggest that Patrick Francis Sheridan held one of the 3,000 issued ordinary shares in that company and that "James Vincent Sheridan" held the other 2,999 ordinary shares.
11. In 1989, Emerald Contract Cleaners (Ireland) Limited, CRO 22322, changed its name to Emerald Contract Cleaners Limited and on 10th August 1989 a new company was formed under CRO 148369, called Emerald Contract Cleaners (Ireland) Limited, the directors of which were recorded as "James Vincent Sheridan" and Helen Sheridan, who was the wife of James Valentine Sheridan. Since 1989, the Emerald Contract Cleaning business has been carried on by Emerald Contract Cleaners (Ireland) Limited, CRO 148369, which is the first defendant. James Valentine Sheridan has since died and the other six defendants in these proceedings are the shareholders in that company.
12. In the judgment which I delivered on 30th May 2019, I identified two strands to the plaintiff's case. The first was that James Vincent Sheridan, late of 230 Honey Lane, Poughkeepsie, New York, was a director and shareholder of Emerald Contract Cleaners Limited, CRO 22322.
13. That case was said to be established or evidenced firstly by a notification to the Companies Registration Office dated 12th June 1979, of a change in the residential address of "*James Vincent Sheridan*" with effect from September 1972, to 229, Sea Park Road, Malahide, Co. Dublin; secondly, by a notification to the Companies Registration Office dated 7th December 1984, recording that the secretary of CRO 22322 was "*James Vincent Sheridan*"; and thirdly, by a form filed on 31st August 1989, showing that "*James Vincent Sheridan*" had been appointed a director of the new company, CRO 148369.

14. In my judgment of 30th May, 2019, I said that James Vincent Sheridan, late of Poughkeepsie, New York, who had died on 20th December 1972, could not possibly have been the person referred to in those Companies Office filings.
15. Each of the Companies Office filings relied upon by the plaintiff gave the address of James Vincent Sheridan as 229, Sea Park Road, Malahide, Co. Dublin. That was the address of James Valentine Sheridan. The property was purchased by James Valentine Sheridan in 1972 and is now registered in the name of his widow, Helen Sheridan.
16. As I said in my judgment of 30th May 2019, the claim that James Vincent Sheridan, late of Poughkeepsie, New York, was a director and shareholder of CRO 22322 was canvassed before the High Court in 2001 and 2002, firstly on an application by the plaintiffs' mother Pauline Sheridan (who was then the legal personal representative of James Vincent Sheridan) to restore CRO 22322 to the Register of Companies, and secondly on a subsequent, successful, application by James Valentine Sheridan to set aside the order restoring the company to the Register on the grounds that it had been falsely obtained. By order of the High Court (Carroll J.) made on 5th November, 2002, the order of the High Court (Carroll J.) made on 19th February, 2001 (restoring CRO 22322 to the register) was vacated and the court declared that all documents subsequent to the making of that order were null and void.
17. Pauline Elizabeth Sheridan, the plaintiff's mother, had extracted a grant of letters of administration intestate in the estate of James Vincent Sheridan and the premise of her petition to restore CRO 22322 was that James Vincent Sheridan had been a director and shareholder of the company. That was palpably false and an affidavit of Mr. Paul Farrell, Registrar of Companies, filed on 29th June, 2004 shows that in the course of the hearing of James Valentine Sheridan's application on 30th October, 2002, Carroll J. observed that the order of 19th February, 2001 had been obtained by perjury.
18. The second strand of the plaintiff's case was a claim to recover from the defendants IR£2,112,210, said to have been transferred to either CRO 22322 or CRO 148369 "*in the name of James V. Sheridan*" and said to have been the property of James Vincent Sheridan, which the plaintiff sought to recover for the benefit of his estate.
19. The ostensible basis of this claim was a revenue form dated 14th December 1993 on which there was a figure of "2112210". This document was said to show that a sum of IR£2,112,210, which had been transferred by, or from the estate of, James Vincent Sheridan, late of Poughkeepsie, New York, to CRO 148369, had been paid over to the Revenue as an overpayment of VAT.
20. That claim had also previously been made before the High Court and dismissed. In 1996, in litigation between the plaintiff's parents, the plaintiff's brother John Sheridan produced to the High Court the VAT form which he asserted showed a payment by Patrick Francis Sheridan into the VAT account of CRO 148369. The case then made was that Patrick Francis Sheridan had paid this money, with the intention of recovering it later, in order to benefit James Vincent Sheridan.

21. That claim was determined in 1996 by McGuinness J. and was dismissed. In a written judgment delivered on 30th July, 1996 McGuinness J. said that apart from the inherent unlikelihood of anyone paying an unnecessary sum of over IRE2 million to the Revenue, she had the evidence of an officer of the Revenue Commissioners who explained that the number 2112210 did not represent money at all, but was a fictional figure used by the Revenue as a method of checking their computer programmes. McGuinness J. then concluded that: -
- "It is clear, therefore, that this entire edifice of accusation has been built on fiction. Based on this fiction, and on some other allegations in relation to the companies, the wife has reported her husband to the Fraud Squad, and he has been interviewed at length by the Garda authorities which must have been a distressing and difficult experience for him. It also appears that this investigation by the Fraud Squad was a complete waste of public money".*
22. On this application the plaintiff relies on what he says is new evidence which he says was not previously opened to the court, specifically an affidavit of Fintan Flannelly, sworn on 26th July 2017.
23. The affidavit of Mr. Flannelly is not new evidence. It was opened to the court on 30th May 2019, and I dealt with it in my *ex tempore* judgment.
24. Mr. Flannelly is a retired accountant who swore that he was the auditor of CRO 22322 from 1973 and of CRO 148369 from 1989 until about 1993. It was Mr. Flannelly who made the several Companies Office returns which identified the director and shareholder of the companies as "*James Vincent Sheridan*". Mr. Flannelly said that he was introduced to his client as James Vincent Sheridan, but it is perfectly clear, and Mr. Flannelly acknowledged, that his client was James Valentine Sheridan.
25. While Mr. Flannelly asserted a very clear recollection of a transfer "*in the late 1980's/ early 90's of ... IRE2,112,210 in the name of James Vincent Sheridan being transferred from AIB Manhattan, New York, to the AIB Bank account of the companies (CRO 22322 and 148369) at both Crumlin Cross in Dublin 12 and AIB Rathgar, Dublin 6, along with smaller transfers in the sum of IRE80,000 and IRE90,000 . . .*" there is, unsurprisingly, not a shred of evidence in support of that assertion. In any event, the stated purpose of those alleged transfers is said to have been director's loans from "*James Vincent Sheridan's account in Poughkeepsie, New York*". The James Vincent Sheridan referred to by Mr. Flannelly can only have been the person known to Mr. Flannelly as James Vincent Sheridan, and who in fact was James Valentine Sheridan.
26. I dealt with all this in my judgment on 30th May 2019. It is not new evidence.
27. I referred at the outset of this judgment to a possible further claim arising from the same complaints. It is this. By transfer dated 12th June 1972 made between Malahide Development Company Limited and James Sheridan, Malahide Development Company Limited transferred to James Sheridan part of the property comprised in Folio 18742, Co.

Dublin, as more particularly shown on the map annexed thereto and edged with a red verge line and numbered 229. On 19th June 1972, James Sheridan of 229 Sea Park Estate, Malahide, Co. Dublin, was registered as full owner of the lands comprised in a new Folio 19832 and on 2nd March 2017, Helen Sheridan was registered as full owner of that property.

28. On this application, the plaintiff has exhibited the Revenue affidavit Form A3C which was filed in support of his application for a grant of letters of administration in the estate of his late brother and which, startlingly, appears to have been prepared by a solicitor. According to that affidavit, the un-administered estate of James Vincent Sheridan amounted to €2,898,406, of which €950,000 was the estimated market value of 229, Sea Park, Malahide, Co. Dublin. That was bought by James Sheridan the year after James Vincent Sheridan died. The James Sheridan who bought that house was unquestionably James Valentine Sheridan. It could not possibly have been part of the estate of James Vincent Sheridan.
29. The affidavit of the plaintiff grounding this application also shows that on 6th July 2019 (only five weeks after his action had been dismissed as frivolous and vexatious) the plaintiff made a complaint to An Garda Síochána at Bray, Co. Wicklow, that the estate of James Vincent Sheridan had been "*fraudulently stolen by misrepresentation and misappropriated*" by the defendants. The plaintiff's statement to the Gardai included the usual declaration that it was true to the best of his knowledge and belief.
30. In the course of his statement to the Gardai, the plaintiff referred to the hearing before me on 30th May 2019. He told the Gardai that his evidence had been tested by the High Court, which it had. However, he went on to say, three times, that the evidence he had then put before the court had been queried by the defendants' barrister and that the court had described it as "*legal evidence*" and that the court had said to the defendants' barrister "*this is fraud*". The court said no such thing: and Mr. Sheridan has misrepresented to the Gardai what occurred in the High Court on 30th May, 2019. Having examined the evidence then put forward by the plaintiff, including the affidavit of Mr. Flannelly, the court concluded that the action had no reasonable prospect of success and was frivolous, and that there was an inherent hardship on the defendants in having to defend a claim that could not succeed, and so was vexatious, and dismissed it accordingly.
31. The plaintiff fundamentally misunderstands the proviso to the Isaac Wunder order. The possibility that the High Court might give permission to the plaintiff to bring further proceedings against the defendants is based upon the possibility that there might be a cause of action against one or more of the defendants arising out of matters other than those the subject of these proceedings. The claims the subject of these proceedings have been finally heard and determined and disposed of by the High Court. The plaintiff is not entitled, whether by reference to the terms of the Isaac Wunder order or otherwise, to ask the court to reopen or revisit those claims.

32. In the hope that it will spare the defendants the distressing and difficult experience of being interviewed at length by the Gardai, and in the hope that it will prevent a further waste of public money, I will ask my Registrar to send a copy of this judgment to the Superintendent of An Garda Síochána at Bray, marked for the attention of the investigating officer.