

THE HIGH COURT

[2014 No. 336 S]

BETWEEN
THOMAS LOOMES PRACTISING AS THOMAS LOOMES AND COMPANY SOLICITORS
PLAINTIFF

AND
MAJELLA RIPPINGTON, SHAUN RIPPINGTON AND
EDEL BANAHAN
DEFENDANTS

JUDGMENT of Mr. Justice Meenan delivered on the 6th day of March, 2020

Introduction

1. This is a claim by the plaintiff, a firm of Solicitors, to recover professional fees from the defendants which were incurred when they were instructed to act on behalf of the defendants in proceedings entitled *Magella Rippington, Shaun Rippington and Edel Banahan v. Michael Cox and Mary Butler, the High Court (2011 No. 8319 P) (the "probate proceedings")*.
2. The probate proceedings were but one of a number of proceedings initiated by the first named plaintiff, Ms. Rippington, and the other named defendants against numerous individuals, in particular, professional people who may have crossed their path. In the various proceedings, when unsuccessful at first instance, as was almost invariably the case, the decision was appealed, with a similar result. Court proceedings were in addition to various complaints made by Ms. Rippington to the Law Society, which were equally unsuccessful. Ultimately, in proceedings entitled *Majella Rippington v. Ireland, The Attorney General, the Principal Probate Registry, the Law Society of Ireland & Ors. (2018 No. 4803 P)*, Simons J. made an "Isaac Wunder" Order against Ms. Rippington.
3. In these proceedings, Ms. Rippington, who appeared in person on behalf of the second and third named defendants, sought to resist judgment in favour of the plaintiffs by attempting to relitigate matters long since decided against her and by alleging professional negligence on the part of the plaintiff. Needless to say, Ms. Rippington had no expert report to substantiate her claims, despite being advised by the Court of the requirement for same in the course of a failed adjournment application by her some time before the date for hearing.

Probate proceedings

4. The probate proceedings concerned the will of the late Celine Murphy, sister of Ms. Rippington, who died on 15 March 2011. Ms. Rippington and the second and third named defendants challenged the will on the grounds, *inter alia*, that the will had not been executed by the late Ms. Murphy and, in the alternative, that Ms. Murphy had lacked the testamentary capacity to make the will.
5. The probate proceedings were heard by Noonan J. In the course of his judgment dismissing the claim, Noonan J. stated: -

"48. Furthermore, not a single shred of evidence was produced by the plaintiffs at the trial in support of any of these extremely serious and scandalous allegations.

Indeed, more than that, not once in the course of cross-examining the defendants or any of their witnesses did Mrs. Rippington seek to suggest that they had exercised any influence over the deceased, good bad or indifferent, and specifically in relation to the making of her will. Nor did she suggest in cross-examination that the circumstances of the execution of the will were other than as stated by Michael Cox and Joanna Butler despite the clear plea that the deceased could not possibly have made a will in the circumstances alleged thus leading to the inevitable conclusion that either it was a forgery or as a minimum, the attesting witnesses had perjured themselves in their affidavits.”

and: -

“52. In summary, I found Mrs. Rippington to be domineering, manipulative and an utterly unreliable witness who was prepared to say anything that she felt might serve her purpose. Insofar as any of Mrs. Rippington’s evidence conflicted with that of any other witness who gave evidence in the course of the trial, I reject Mrs. Rippington’s evidence.”

6. As to Ms. Rippington’s standards of probity and honesty, the following passage from the said judgment tells us much: -

“51. At the date of her death, Ms. Murphy owned a BMW jeep which subsequently disappeared. Despite repeated requests from the defendant’s solicitors, the plaintiffs steadfastly refused to disclose the whereabouts of this vehicle. When cross-examined about this, Mrs. Rippington finally admitted that she took the vehicle, used it herself for a period of time and then proceeded to sell it. When she was asked how she managed to sell a vehicle that did not belong to her, she said that the registration certificate had her name on it as a result of her applying for a duplicate certificate to be issued in her name. She was unable, or unwilling, to explain how this had been achieved and then sought to justify it by saying that she was owed money.”

7. The decision of Noonan J. was unsuccessfully appealed to the Court of Appeal. Following these unsuccessful probate proceedings, Ms. Rippington sought to challenge an interlocutory Order made by the High Court (O’Neill J.), on 23 July 2012, in the course of the probate proceedings. This Order had authorised Anne Stephenson, Solicitor, to apply to be appointed as administrator *pendente lite* for the purpose of gathering in and preserving the assets of the deceased, paying the debts of the deceased (including her funeral expenses) and discharging the mortgage on the property of the deceased. This challenge was made notwithstanding the fact that the said Order was made on consent.

Order of 23 July 2012 (the “Order”)

8. Ms. Rippington sought an extension of time to appeal the Order, which was refused. There then followed an unsuccessful appeal to the Court of Appeal.

9. Having been unsuccessful in attempting to directly challenge the validity of the Order, Ms. Rippington mounted a collateral attack on the Order by way of a claim against Ireland, the Attorney General, the Principal Probate Registry, the Law Society and a number of named professional persons who had been involved in the probate proceedings. Each of these various defendants brought an application to have the proceedings as against them dismissed on the basis that they were frivolous and vexatious, disclosed no cause of action and were an abuse of the court process. This matter was heard by Simons J.
10. In the course of his judgment, Simons J. stated: -
- “70. Ms. Rippington has been unable to point to any actionable wrong on the part of any of the Defendants. Her entire case against each Defendant is predicated on an argument that the order of 23 July 2012 was improperly made. However, the uncontroverted evidence before this court indicates that the order appointing the administrator *pendente lite* was made on consent, and, in any event, was a proper order to be made in the context of the then ongoing litigation.”
11. Further, Simons J., as referred to earlier, made an Isaac Wunder Order restraining Ms. Rippington from initiating proceedings against certain named defendants without the leave of the President of the High Court. Making this Order, having set out the relevant legal principles, Simons J. stated: -
- “99. Applying these principles to the facts of the present case, I am satisfied that it is appropriate to make such a restraining order against Ms. Rippington. As the chronology set out earlier in this judgment indicates, Ms. Rippington is engaged upon a relentless campaign to re-agitate issues in respect of the administration of her late sister’s estate. Ms. Rippington refuses to accept the fact that the order of the High Court (O’Neill J.) of 23 July 2012 cannot be set aside in circumstances where no appeal was taken in time, and the Court of Appeal has since refused to grant an extension of time. Ms. Rippington also refuses to accept that any appeal would, in any event, have failed in circumstances where there are no arguable grounds for setting aside that order.
100. The repeated attempts by Ms. Rippington to set aside the order of 23 July 2012 represent an abuse of the court process. The affected parties have been put to the trouble and expense of having to respond to each of her unmeritorious applications to court. To date, there have been at least five attempts on the part of Ms. Rippington to set aside the order...”

Application before this Court

12. The plaintiff acted for Ms. Rippington and the other defendants in the probate proceedings, and in obtaining the Order of 23 July 2012. Shortly thereafter, Ms. Rippington and the other defendants served a Notice of Discharge, on 1 August 2012. The plaintiff has produced to the Court a Bill of Costs drawn up by Connolly Lowe, Legal Cost Accountants, which sets out in considerable detail the professional services provided by the plaintiff, the various steps that were taken and the costs attributable to same. It

should be noted that Ms. Rippington made a complaint to the Law Society concerning the costs of the plaintiff. This complaint was rejected.

13. In her Defence and Counterclaim, Ms. Rippington, on behalf of herself and the second named defendant (there is also a Defence on behalf of the third named defendant), once again seeks to attack the Order of 23 July 2012 and alleges, without stating any particulars, that the legal services provided by the plaintiff were "*not up to a professional standard*". In her Counterclaim, Ms. Rippington and the second named defendant seek an order striking out the plaintiff's claim for summary judgment, an order for plenary hearing and "*further or in the alternative, damages, costs and outlay*".
14. The only matter of substance raised by Ms. Rippington is a general allegation of professional negligence against the plaintiff. As mentioned, no particulars are given and no expert report was obtained. In the course of the hearing, Mr. Thomas Loomes, Solicitor, gave evidence. In his evidence, he stated that he was instructed by Ms. Rippington and the other defendants to issue the probate proceedings, to obtain advices from counsel, to attend in court and to obtain the Order of 23 July 2012. Mr. Loomes also gave evidence of the difficulties encountered in representing Ms. Rippington and the other defendants and the upset and stress caused to him by her making baseless allegations against him to the Law Society.
15. Mr. Loomes was cross-examined by Ms. Rippington to little effect. In the absence of an expert report, Ms. Rippington's scope for cross-examination was limited. However, she did produce to the Court a document entitled "*book of evidence*". An examination of this document and the various enclosures did not reveal any defence to the plaintiff's claim.
16. It is well established that it is an abuse of the process of the court to launch a professional negligence action without first ascertaining that there are reasonable grounds for doing so. This equally applies where a person seeks to defend an action, such as this for professional fees, on the grounds that the professional involved was negligent and in breach of duty. I refer to the following passage from Denham J. (as she then was) in the decision of the Supreme Court in *Cooke v. Cronin & Neary* [1999] IESC 54, where she stated: -

"Legal Professional duty

Counsel for the Respondents submitted that this case was run on a wing and a prayer. He informed this Court that he had brought to the attention of the Learned High Court Judge the statement of Barr J. in *Reidy v. the National Maternity Hospital*, unreported judgment delivered on 31st July, 1997 where he stated at page 15:

'It is irresponsible and an abuse of the process of the court to launch a professional negligence action against institutions such as hospitals and professional personnel without first ascertaining that there are reasonable grounds for so doing. Initiation and prosecution of an action in negligence on

behalf of the plaintiff against the hospital necessarily required appropriate expert advice to support it.'

He pointed out that this had been endorsed by Kelly J. in *Connolly v. James A. Casey and Laura Murphy (Trading under the style and title of Casey and Murphy) and Michael Fitzgibbon*, unreported, High Court, Kelly J., 12th June, 1998. That was an action where the Defendants, who were solicitors, were sued for damages for professional negligence. Kelly J. stated at page 19:

'I have no difficulty in endorsing the views of Barr J. that the commencement of proceedings alleging professional negligence is irresponsible and an abuse of the process of the Court unless the persons advising such proceedings have reasonable grounds for so doing.'

While bearing in mind the important right of access to the Courts I am satisfied that these statements of law are correct..."

17. Having heard the evidence of Mr. Loomes, which I fully accept, I am satisfied that his firm was instructed by Ms. Rippington and the other named defendants and provided the professional services set out in detail in the Bill of Costs produced to the Court. Ms. Rippington has failed to substantiate in any way her allegation of professional negligence on the part of the plaintiff. Therefore, the plaintiff is entitled to succeed.

Conclusion

18. By reason of the foregoing, the plaintiff is entitled to succeed against the defendants to recover an amount for legal professional services. The actual amount recoverable may be determined, either by an order for adjudication of costs or, may be measured by this Court. I will hear the parties on this.