

THE HIGH COURT

[2020 No. 10 CAB]

PROCEEDS OF CRIME

IN THE MATTER OF SECTION 3(1) OF THE PROCEEDS OF CRIME ACTS 1996-2016

BETWEEN:

CRIMINAL ASSETS BUREAU

APPLICANT

-AND-

LUK YAU KWOK, WEIZHONG ZHANG AND HUIJUAN XU

RESPONDENTS

JUDGMENT of The Hon. Mr. Justice Alexander Owens delivered on the 15th day of February 2021.

1. This application relates to four items of property. Three of these items consist of houses in Tipperary Town, Fermoy, County Cork and Blanchardstown, County Dublin. The fourth is the credit balance in a bank account. The Criminal Assets Bureau (the Bureau) claims that all of these assets were acquired with or in connection with property which constitutes proceeds of crime. The Bureau seeks orders under s.3(1) of the Proceeds of Crime Act 1996 in respect of each of these assets.
2. The first property is No 1, Mountain View, Bansha Road, Tipperary Town (Mountain View). This was bought by Luk Yau Kwok in 2015 for €130,500. Mountain View consists of an old house fronting onto a street with a shed at the back. The title is on Folios 45877 and 49882 of the Register of Freeholders, County Tipperary. A small unregistered element of the title is held under a lease dated 30 May 1907 for a term of 999 years.
3. The second property is a semi-derelict house called "Weston" situated on Rathealy Road, Fermoy, County Cork (Weston). This was bought by Luk Yau Kwok for €135,000 in 2017. He is registered as owner of this property which is comprised in Folio 176725 of the Register of Freeholders, County Cork.
4. The Third property is a house at 3 Warrenstown Rise, Blanchardstown, Dublin 15 (Warrenstown). This was bought in 2016 for €195,000. The transfer was taken in the name of Huijuan Xu who is registered as owner. This property is comprised in Folio 187517 of the Register of Freeholders, County Dublin and is free of mortgage.
5. The fourth property is the credit balance in a bank account of Huijuan Xu in AIB Portlaoise.
6. Lodgements to this account since 2016 consist of rent from Warrenstown and salary. Huijuan Xu has been able to accumulate over €40,000 in this account. She very rarely used the money in the account to meet household or personal expenses. Withdrawals since the purchase of Warrenstown have been minimal. If Warrenstown was purchased using proceeds of crime, it will follow that this rent is derived from proceeds of crime.
7. The head of the Bureau has given evidence of his belief that the defendants are in control of these assets and that each of these assets was acquired in whole or in part with or in connection with property which directly or indirectly constitutes proceeds of crime. The

material put before Detective Chief Superintendent Gubbins and referred to in his affidavit of 25 May 2020 fully supports this belief.

I am satisfied that there are reasonable grounds for his belief in relation each of the properties.

8. In my view, the evidence presented by the Bureau is compelling and establishes to the requisite standard of proof that the four properties were acquired with or in connection with property which directly or indirectly constitutes proceeds of crime. It follows that there will be an order under s.3(1) of the 1996 Act in relation to each of the properties.
9. Weizhong Zhang has fled the State and his current whereabouts are unknown. Huijuan Xu is the wife of Weizhong Zhang. She has also left the State. There is no basis on which these orders should be refused as there is nothing to show that a serious risk of injustice to any of the respondents or any other person who could be affected might result.
10. The evidence establishes that Mountain View and Weston were bought by Luk Yau Kwok for use as cannabis grow-houses. There is little or nothing to support his explanations to the Bureau of where he got the money to buy these properties. He has little connection with Ireland. The reasons given by him for his purchase of these unattractive and dilapidated properties are unconvincing. Most of the funds which passed to the solicitors acting in the purchases were provided in dribs and drabs from unexplained sources. Much of the money was cash.
11. Luk Yau Kwok can point to some drawings from his own accounts as sources of funds to buy Mountain View and Weston. He claims he funded part of one of the purchases with €40,000 in loans from friends in Ireland. He was part of a criminal enterprise in which large amounts of money were generated from cannabis production. I am satisfied that he and his associates had access to large receipts from sale of cannabis and these were available to reimburse out of pocket expenses and repay any others who assisted by lending him money. The evidence indicates that these individuals were involved with grow-houses elsewhere, both in Ireland and in England.
12. Mountain View and Weston were part and parcel of the fixed assets of a criminal conspiracy to grow and sell cannabis. The purchases were not funded from legitimate personal resources. To any extent that Luk Yau Kwok did deploy legitimately acquired funds in these purchases, these were likely to have been replaced from illegitimate resources.
13. The purchase of Warrenstown was funded by a series of electronic money transfers from China. Some of the money was routed through the AIB account of Huijuan Xu and the rest was sent directly to the solicitor's account. Weizhong Zhang organised this purchase and provided €20,000 in cash. He was also involved with Luk Yau Kwok and others in buying Mountain View and Weston. He was fully involved in developing and running these properties as cannabis grow-houses.

14. Huijuan Xu came to Ireland after her husband. She arrived here in 2015. Her employments gave her a very modest income. Her annual average earnings in the period from 2016 to 2018 were between €7,000 and €9,000. Notwithstanding this, she has substantial savings in her bank account.
15. Weizhong Zhang's employments provided him with a very modest disclosed income. He claimed to gardaí that he got other wages in cash. He was employed by friends of Luk Yau Kwok in their Chinese supermarket in Dublin between 2014 and 2016. He was subsequently employed by an entity called HBV Ireland. His disclosed annual wage in the years between 2015 and 2018 averaged €21,900.
16. Notwithstanding this apparent paucity of resources, Huijuan Xu was able to buy Warrenstown. In interviews with the Bureau she claimed that the money to fund this purchase was gifts from China. I have concluded that the only rational explanation is that money transfers from China used to buy this house were not gifts from relatives or friends. I have concluded that these payments derived from laundered money or payments which were proceeds of crime.
17. I have also concluded that Huijuan Xu has been able to save her salary and rent by living off her husband's earnings from the illegal drugs trade. There is no evidence that she used any resources to reimburse her alleged benefactors. The cash income received by her husband from the cannabis produced in the Tipperary grow-house has not been accounted for. He was involved in this operation in a management capacity and had access to plenty of money from the proceeds.
18. Luk Yau Kwok was born in 1955. He lives in England and controls a company which is described in its accounts as being involved principally in food distribution. In 2013 he came to the notice of police in England. He had a property in the High Street of Evesham in Worcestershire. A cannabis grow-house was found there. The cannabis seized was worth between £208,000 and £624,000. He explained to police that he had let the rooms where the cannabis was found to a Quan Li for cash. He said he knew nothing about the cannabis operation.
19. Mountain View was searched by gardaí on 19 December 2018. A fully operational cannabis grow-house was found there. The cannabis plants had a value of €189,500. It is likely that this grow-house had been operating for a period of 40 months. It could have generated as much as €1,896,000 in income over that period. Weston was searched by gardaí on 15 April 2017. It also had been converted into a cannabis grow-house. Cannabis plants having an estimated value of €240,000 were discovered there.
20. Warrenstown was searched by gardaí on 15 May 2019. Records relating to the purchase of Weston were found there. The gardaí also located details relating to expenditure of setting up a grow-house and connecting Weizhong Zhang to others who had been operating a cannabis grow-house in Ballyroan, County Laois. These items included a letting agreement for that property. The former address of Weizhong Zhang and Huijuan Xu at Bridle Walk, Kilminchy was used by the tenant of the Ballyroan grow-house as an

address on this letting agreement. A bank statement of the tenant was found. The statement gave the Bridle Walk address as the address of the account holder. Other material seized included photographs on a mobile phone which showed equipment for cannabis cultivation.

21. The files of W X White Solicitors in Portlaoise show a connection between Weizhong Zhang and Luk Yau Kwok. The former was very involved in the acquisition of Mountain View and Weston and in provision of money for these purchases. These solicitors acted for the purchaser. W X White Solicitors also acted for the purchaser of Warrenstown.
22. Luk Yau Kwok gave an unsatisfactory explanation to the gardaí of the nature of his association with Mountain View and Weston. He produced through his accountant, Alan Tan, what purported to be a letting agreement for these properties to Quan Li. Quan Li was the alleged tenant of the Evesham property. There is no evidence that this person ever occupied either of Luk Yau Kwok's two Irish properties.
23. The occupant of the Mountain View grow-house had an English number for Rob in his phone contacts. The number for Rob was in contact with Weizhong Zhang's phone number several times. The garda raid on Mountain View was preceded by multiple messages between this man and Rob's number about upkeep and care of cannabis plants. Phones seized in the raid on Weston showed connection with a phone number subsequently used by Luk Yau Kwok to communicate with the Bureau.
24. Luk Yau Kwok, through his accountant, gave an explanation for the funding of Mountain View and Weston. Documents provided with this explanation do not marry funds available to Luk Yau Kwok with payments made for Mountain View and Weston. They show the provenance of only two out of three recorded transfers from Luk Yau Kwok to W X White Solicitors to buy Mountain View. The other transfers which funded this purchase came from unknown sources. As Weizhong Zhang was the origin of these payments which were sourced in cash, the obvious explanation is that he got the money from producing and selling cannabis.
25. On 24 March 2015 £10,000 which came into Luk Yau Kwok's account from a T K Tan was sent to W X White Solicitors. £7,500 sent to WX White on 2 April 2015 was funded by £2,000 in cash and various lodgements from other Kwok accounts. £11,300 was sent to W X White on 17 April 2015. This was funded by £9,000 in lodgements to the relevant Kwok account on 16 April 2015. It was suggested that money to buy the properties came from an AXA retirement policy. Only one payment was made from AXA prior to the purchase of Mountain View. I cannot find any relationship between this receipt and money which was used to buy Mountain View.
26. I was able to locate two transactions in the Kwok bank accounts which relate to Weston. The first was a transfer of £10,000 to W X White Solicitors on 26 February 2016. This was linked to a lodgement of £11,000 to the Kwok Account on 19 February 2016. The second was a transfer from a HBSC account of £2,894.64 on 6 August 2016 which was linked to an AXA lodgement to that account of 2 August 2016.

27. Luk Yau Kwok's explanations to the Bureau investigators are unbelievable. The idea that he would see any investment potential in these ramshackle properties in Irish country towns lacks any credibility. When he attended for interview at the Bureau he tried to explain away the document produced by his accountant with a view to showing the provenance of the funds to purchase the two properties. He claimed that friends who he only knew by nickname brought cash from him to his Irish solicitors. He then conceded that one of these intermediaries was Weizhong Zhang. He claimed he used cash to save on exchange losses and that he gave cash to friends to bring to Ireland to buy Weston. He claimed that he took out cash on his credit cards. He said that payments from his bank accounts to discharge credit cards accounted for money used to buy the Irish properties.
28. He was unable to give a satisfactory account for cash lodged by Weizhong Zhang to his bank account at AIB O'Connell Street, Limerick. Transfers from this account to W X White Solicitors totalled €11,700. The cash which funded these payments was lodged through automated teller machines at Portlaoise, Blanchardstown and Capel Street, Dublin. He claimed that he was paying back €40,000 borrowed from friends who own a Chinese shop in Dublin to assist in buying Mountain View little by little whenever they visited the UK.
29. It is clear that Weizhong Zhang was a prime mover in organising the purchase of Mountain View and Weston and the grow-house operations there. It is proved to my satisfaction by the Bureau that the money to buy these properties came from criminal activities.
30. The further explanations by Luk Yau Kwok in his affidavit sworn on 1 October 2020 merely repeat earlier improbable explanations. This affidavit makes no effort to engage with the detail of the damning evidence set out in the affidavits filed on behalf of the Bureau.
31. I do not accept the explanation that he bought Mountain View and Weston as investments with a view to either development or rental, or that he received rent collected by Weizhong Zhang for these properties. There is no objective reliable evidence of collection of rent or that any tenant occupied these properties. The only person identified as a tenant is the man who was also claimed by him to be tenant of the Evesham grow-house when it was raided by police.
32. Accounts exhibited by Luk Yau Kwok do not show loans or drawings reflecting money used to buy the Irish properties. There is no suggestion in these accounts that company money was used. Disclosed profits of AML Distributors Limited/AML Global Limited for the period between 2014 and the end of 2017 do not suggest that Luk Yau Kwok had funds available from these sources to enable him to buy the Irish properties.
33. Warrenstown and the savings balance in the AIB account of Huijuan Xu are also proved to my satisfaction to be proceeds of crime. The likely source of the funds to buy Warrenstown was money coming in to Weizhong Zhang from cannabis grow-house

operations in Tipperary and Laois which he was running at the time. He was either laundering that money or being remunerated by others for his criminal activities.

34. The explanation that relatives in China would club together to buy a house for Huijuan Xu lacks any credibility. It is proved to my satisfaction that Weizhong Zhang and Huijuan Xu were living off substantial sums derived from cannabis production and that this funded the purchase of Warrenstown and enabled Huijuan Xu to save her salary in her bank account. These savings were acquired in connection with proceeds of crime. The rent from Warrenstown which was saved into this bank account was income from property acquired with proceeds of crime.