

# THE HIGH COURT

[2023] IEHC 613

[Record No. 2012/612 JR]

**BETWEEN:-**

**ARNAUD GAULTIER**

**APPLICANT**

**AND**

**REGISTRAR OF COMPANIES ACTS, 1963 – 2009**

**RESPONDENT**

## **RULING of Mr Justice Barr on the Applicant's Motion that the Court should revisit its Judgment.**

### **Background.**

**1.** The court delivered its substantive judgment in this matter on 28<sup>th</sup> July 2023. That judgment has neutral citation [2023] IEHC 461.

**2.** At the conclusion of its judgment, the court invited the parties to make written submissions within four weeks of delivery of the judgment, in relation to the terms of the final order and on costs and on any other matters that might arise.

**3.** The applicant petitioned the court for an oral hearing in relation to his application to have the judgment revisited by the court. In support of that application the applicant furnished a number of emails and an affidavit sworn by him on 28<sup>th</sup> August 2023, together with a copy of the substantive judgment, which had a number of suggested amendments recorded using the 'tracked changes' feature, which the applicant submitted should be added to the judgment so as to make it accurate in all respects.

**4.** The court acceded to the applicant's request for an oral hearing of his application to amend the judgment. The matter was listed for hearing before the court at 10.30 hours on 19<sup>th</sup> October 2023.

On the day prior to the hearing, the applicant contacted the court registrar by email, to request that the hearing of his application be taken remotely via the pepxip platform. The court acceded to that request.

5. Unfortunately, it appears that the VMR code was not sent to the applicant in sufficient time to enable him to attend the hearing remotely. When he attended the court in person, at approximately 10.49 hours on 19<sup>th</sup> October 2023, the court indicated to him that it would not be able to take up his application at that time, as the court had a matter that was already at hearing and which was due to resume at 11.00 hours. The applicant was offered the opportunity to have his application taken seven days later, on 26<sup>th</sup> October 2023. He was given the option of having that hearing either in person, or being held remotely. The applicant stated that he would prefer that the court would deliver its ruling on the basis of the affidavit filed by him, the exhibits thereto and the documents that he had sent by way of email to the court registrar. The court acceded to that request and stated that it would proceed to issue its written ruling on his application and if appropriate, on the terms of the final order.

**Ruling.**

6. This is the ruling of the court on the applicant's application that the court should revisit its substantive judgment herein.

7. The court has read and considered the submissions made by the applicant, as contained in his affidavit and emails. The court has also considered the documents that were exhibited to the affidavit sworn by the applicant on 28<sup>th</sup> August 2023, together with the copy judgment, which contains the amendments that are suggested ought to be made by the court before issuing its final order.

8. The court accepts that it has jurisdiction in an appropriate case to revisit its judgment at any time prior to the perfection of the final order of the court consequent upon delivery of the judgment. However, the relevant legal authorities make it clear that this jurisdiction is to be exercised with caution and only where there are strong reasons for revisiting the judgment: see *Re McInerney Homes Ltd* [2011] IEHC 25; *Re Vantive Holdings Ltd* [2009] IESC 69; *Re Middleview Ltd* [2016] IEHC 143.

9. In the present case, the applicant in his affidavit of 28<sup>th</sup> August 2023, has exhibited a document which he maintains demonstrates that he served the respondent in person with a notice of appeal to the Supreme Court of a particular matter at 16.35 hours on 11<sup>th</sup> April 2023. Having regard to the substantive judgment delivered by the court in this matter, the court is not satisfied that the production of this document provides strong reasons why the court should revisit its judgment in this

case.

**10.** The court has also considered the numerous amendments which the applicant states ought to be made to the court's judgment, as set out in the copy amended judgment furnished by him. It is clear that the applicant is unhappy with many aspects of the court's judgment in this matter. The fact that he is less than satisfied with the judgment of the court, does not mean that it is appropriate for the court to revisit its judgment. If the applicant is unhappy with any aspect of the judgment delivered by the court, his remedy is to appeal that judgment to the Court of Appeal.

**11.** Having considered all the material and arguments submitted by the applicant, the court is not satisfied that it would be in accordance with the dictates of justice, for it to revisit its substantive judgment herein, which was delivered on 28<sup>th</sup> July 2023. Accordingly, the court refuses the application made by the applicant that it should revisit its judgment herein.

**Final Order.**

**12.** The court directs that the final order shall be drawn so as to provide the following:

- (a) The court refuses the applicant's application to revisit its judgment delivered on 28<sup>th</sup> July 2023;
- (b) The respondent is entitled to an order in terms of paragraph 1 of its notice of motion dated 22<sup>nd</sup> March 2022;
- (c) The court awards the costs of the proceedings to the respondent against the applicant; such costs are to include all reserved costs and the costs of written submissions; such costs are to be adjudicated upon in default of agreement;
- (d) There will be a stay on the order for costs for 28 days and if either party lodges a notice of appeal within that time, the stay is to continue until the first directions hearing before the Court of Appeal;
- (e) Each party is to have liberty to take up a copy of the DAR of the proceedings, at their own expense, for the purposes of an appeal.

Mr Justice Anthony Barr.

25<sup>th</sup> October 2023