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| *Judgment: approved by the court for handing down (subject to editorial corrections)** | *Delivered:* **ex tempore 26/01/2023** |

**IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND**

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**ON APPEAL FROM THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND CHANCERY DIVISION**

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**BETWEEN:**

**DOROTHY MOFFAT**

**appellant:**

**v**

**ANGELA HAMILL, LAURENCE MOFFAT, THE WOODLAND TRUST, OUTDOOR RECREATION NI AND R ROBINSON AND SONS LIMITED**

**respondents:**

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**The appellant appeared as a Litigant in Person**
**Mr M McEwen (instructed by Holmes & Moffitt solicitors) for the respondent**
**Other parties: See paras [3] – [8] below**

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**Before: McCloskey LJ and Huddleston J**

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**McCLOSKEY LJ** (*delivering the judgment of the court*)

*Introduction*

[1] Dorothy Moffat, who is self-representing, brought separate, though inter-related, proceedings against the above-named respondents, in different combinations, seeking the twofold relief of (a) an order setting aside a transfer of certain disputed lands and (b) an injunction restraining the 3rd respondent, namely the Woodland Trust, from carrying out certain activities on the lands. By her judgemnt and consequential order McBride J dismissed the appellant's claims.

*Parties*

[2] There is a certain degree of uncertainty arising out of the following considerations. First, the order of the Chancery Court filed on 23 June 2022 is confined to the appellant's application for an injunction. It does not encompass the dismissal of the application to set aside a transfer of the disputed lands. Nor is this dismissal recorded in a separate order. This is a purely technical matter which has no consequence of substance. We shall treat this as a composite appeal against everything.

[3] The second matter of some uncertainty relates to the parties to the appeal. This arises out of the composition of the Notice of Appeal and the title of certain further materials, affidavits sworn by the appellant and written submissions provided by her, generated subsequently. The solution which the court devises to address this is to treat all of the parties listed in the title of this judgment as respondents to the appeal. If and insofar as any of these parties is not on notice of this appeal, as will become apparent this is a matter of no moment and no discernible prejudice to any of them follows.

[4] Related to the immediately two preceding paragraphs is another matter of some uncertainty. The skeleton argument belatedly received by the court (just one full working day in advance of the listing) was expressed to be on behalf of the 1st and 5th respondents. The court enquired into this issue at the outset of the hearing. Counsel's response was to the effect that on its face the appeal was being pursued against one party only, namely Angela Hamill. Given this submission, the court could not understand how counsel had been instructed by a separate firm of solicitors on behalf of the 5th respondent. Furthermore, in counsel's skeleton argument it was stated that at first instance the 1st respondent had relied upon an affidavit sworn on behalf of the 5th respondent and, indeed, was continuing to rely on these affidavits. The skeleton argument stated that the affidavits were "attached": they were not. Moreover, the copy of the sole order made at first instance was available to the court only because the court had made efforts to acquire it in advance of the hearing. It quickly became apparent that neither of the firms of solicitors concerned had taken the elementary step of bespeaking this order. If they had done so they would surely have realised that the order did not faithfully reflect the judgment delivered.

[5] Linked to all of the foregoing is the further consideration that the only firm of solicitors actively involved in the appeal phase was the firm on record for the 1st rspondent.

[6] If there were any deficiency in the court's knowledge or misunderstanding of any of the foregoing matters on its part same could have been easily rectified during or in the wake of the hearing conducted on 16 January 2023 and the period of grace allowed by the directions issued by the court on that date. Nothing further, however, was received from any firm of solicitors representing any of the respondents.

[7] In all of the foregoing circumstances the court could not be satisfied that the 5th respondent was actively resisting the appeal. The only party who with any degree

of clarity was doing so is the 1st respondent. This is recorded in the title above under the heading "Representation."

*The Appeal*

[8] The materials available to this court (again from its own efforts) include a case management order dated 17 October 2022. This, in the usual way, identifies the senior judges who dealt with the listing on that date. It recalls that the court heard "the appellant in person and counsel on behalf of the respondent." At the outset of the hearing before us we drew this order to the attention of the appellant. Her reaction was to deny that there had been any such earlier listing and to assert that she had not previously attended this court. This set the tone for the hearing. The judgment of McBride J, at para [7], resonates in this context:

> "It was very difficult to discern the factual and legal basis of Ms Moffat's claim from the documents filed. The voluminous documentation filed consisted largely of papers relating to previous court proceedings in which Ms Moffat had been a party. In her oral submissions Ms Moffat made a number of unconnected fantastical submissions. For example, she accused Holmes & Moffitt solicitors of stealing the identity of other people; accused the PSNI of leaking her medical report when she made a statement in a legacy matter; accused the court of treating her as a 'bonded slave' as it required her to file affidavit evidence and accused an SDLP councillor of stalking and harassing her and of taking beneficial ownership of her lands because he had taken photographs of the newly installed walks made by the Woodland Trust and posted them on his Instagram account. Ms Moffat submitted that she had no trust or faith in the court process and submitted that she had been subject to coercive control by the court. Additionally, she alleged that there had been criminal and fraudulent behaviour in relation to the granting of planning permission to allow the Woodland Trust to develop the lands and she submitted that the Attorney General and the Official Solicitor had been involved in trying to steal her home."

[9] It was frankly difficult to decipher the submissions/representations of the appellant to this court. They included assertions that counsel for the first respondent had "prevented" her from obtaining discovery of certain unspecified documents at first instance. There was a further assertion that counsel had "brought into court" some unidentified judge on an unspecified occasion. In addition, there were multiple references to covert police activities prejudicial to the appellant

[10] This court attempted to remind the appellant of the purpose for which the case had been listed namely, as recorded unambiguously in the earlier case management order, to "deal with the extension of time" issue and "the legal grounds for appeal." During the exchanges which followed the appellant treated the court with egregious discourtesy. In particular, when the court attempted to articulate its ruling and further directions the appellant repeatedly interrupted, ignoring the court's numerous exhortations to conduct herself with the necessary decorum. During this phase of the hearing two persons with security responsibilities, unprompted by the judicial panel, considered it necessary to physically approach the appellant three times. Furthermore, the court found it necessary to remind the appellant that it would continue and complete its ruling in her absence if necessary. All in all, a lamentable spectacle.

[11] In the foregoing highly unsatisfactory circumstances the only point which emerged with any degree of clarity was the following. The appellant, appearing to focus for once on the time issue, asserted that she had been in email communication with the court during the period which had elapsed between delivery of the judgment at first instance and the advent of the Notice of Appeal which, on its face, had been served some 41 outside the time limit of six weeks prescribed by Order 59, rule 4(1)(c) of the Rules of the Court of Judicature. The appellant appeared to be contending that her electronic communication with the court office in some way excused or explained her non-compliance with this time limit. The court's reaction to this was a generous one. First, it adjourned the hearing to enable an ICOS check to be carried out by court officials, which did not yield anything material. Second, bearing in mind the possibility that electronic communications might not have been saved on the ICOS system and in the face of the appellant's insistence that there had been material communications of this kind, the court, rather than determining the time issue without further ado, drew up a ruling and case management order which afforded the appellant a further period of five days within which to produce the electronic communications concerned.

[12] The appellant duly availed of this facility. Within the period directed she attended the court office and provided certain further materials. Furthermore, she transmitted certain materials electronically. All of these have been considered by this court.

[13] The six weeks period prescribed by Order 59, rule 4(1)(c) falls to be "… calculated from the date on which the judgment or order of the court below was filed." As appears from what is recited above, both the judgment and the consequential order at first instance bear the same date, 16 June 2022. The most important feature of the order for present purposes is the following:

> "Filed date – 23 June 2022."

It follows that the appellant's Notice of Appeal had to be served by 4 August 2022 at latest. The 1st and 6th respondents' stance is that it was not served on them until 13 September 2022. In the blizzard of material which the appellant has generated during recent months this has not been contested.

[14] It is not necessary for this court to review the entirety of the large quantity of materials generated by the appellant in pursuing this appeal, mainly for the reason that they have nothing to do with the issues determined and conclusions made in the first instance judgment or the issues identified in this court's case management order of 17 October 2022 namely (a) extension of time and (b) formulation of the grounds of appeal.

[15] Bearing in mind the immediately preceding paragraph, this court takes cognisance of the fact that among the extensive further materials provided by the appellant in response to this court's order of 9 January 2023 are certain electronic communications exchanged between the appellant and court officials in July/August 2022. Considered in conjunction with some of the earlier materials provided by the appellant the following facts emerge with clarity:

(i) The appellant received the first instance judgment on 22 June 2022 at latest. This was the day before the order of the Chancery Court was filed, thereby activating the six weeks' time limit.

(ii) The appellant has a recollection of having received a further copy of the judgment, again electronically, on 15 July 2022.

(iii) The subject of the appellant's electronic exchanges with the Chancery Court Office on 3 August 2022 was "The email sent on the 22 June at 5.05pm with the judgment attached in the case of Moffat v Hamill."

(iv) In an email to the court dated 28 July 2022 the appellant stated that she had attended the Chancery Court on 16 June 2022 and that judgment had not been given on that occasion (as it had not been perfected) and requested the "audio CD" of that listing.

(v) In an email to the Court of Appeal Office dated 27 July 2022 the appellant stated:

> "I have already spoken to you about an extension of time needed to lodge my Notice of Appeal. I expected to lodge the appeal notice by Friday but there are other pressures on me at the moment and so I would like an extension. As it is the holiday period, I think it would be reasonable to ask for an extension of time. You said that I should add this

request for an extension of time on to my Notice of Appeal
which is the course of action I will take."

(vi) Next, the subject of three further emails sent by the appellant to the Court of Appeal Office on 3 August 2022 became "The appeal I am preparing against the judgment and orders …"

(vii) The subject of the appellant's further email to the court office, dated 10 August 2022, was "Notice of Appeal but unsigned as yet/more papers to come."

***Conclusions***

[16] As demonstrated above, this purported appeal to the Court of Appeal is out of time. The extent of the lateness is 41 days. The appellant has been afforded ample opportunity to address this issue and has taken full advantage, as also noted above.

[17] While there is no application to this court to extend time, the court will resolve this issue in favour of the appellant by assuming that such an application has been made. The principles to be applied are well established: see *Davis v Northern Ireland Carriers* [1979] NI 19 at p 20A – D. Our application of these principles to the fact specific matrix of the present case is the following:

(i) The appellant made no application to extend time prior to expiry of the time limit.

(ii) The extent of the appellant's default – 41 days – is manifestly substantial.

(iii) If time is extended the other party/parties to this appeal will have to defend the appeal and there is no indication in the evidence amassed before this court that they can realistically be compensated by an award of costs, on whatever basis, against the appellant.

(iv) The appellant has had a full hearing of the merits of her case, at first instance.

(v) There is no point of substance in this appeal: see further para [20] *infra*.

(vi) There being no point of substance in the appeal the question of whether a point of substance of general and not merely particular significance does not arise.

[18] It follows from the foregoing analysis that there are no grounds upon which this court should exercise its discretionary power under Order 3, rule 5 of the Rules to extend time.

[19] Finally, it is the assessment of this court that the appellant's grounds of appeal are incoherent and unintelligible in their entirety. Accordingly, had there been no

time issue, this court would inevitably have exercised its power to summarily dismiss the appeal: see the recent decision of this court in *Haire v Industrial Temps Limited* [2023] NICA … [MCCL 12037], at para [14].

[20] To summarise, the court refuses to extend time and the appeal is dismissed accordingly. The judgment and order of McBride J are affirmed.