THE COURT OF APPEAL

Court of Appeal Record No.: 2025 208
High Court Record No.: 2023 4017 P
Neutral Citation No.: [2026] IECA 109

Faherty J.
Binchy J.
Pilkington J.

BETWEEN/

JUERG VON GEITZ

APPELLANT/ PLAINTIFF

- AND -

TOM O'BRIEN AND MAZARS

RESPONDENTS/ DEFENDANTS

RULING ON COSTS of Mr. Justice Binchy delivered on the 25th day of June 2026

1. On 20th February last, I delivered judgment in this matter, with which Faherty J. and Pilkington J. concurred, whereby the appeal of the appellant herein was dismissed. That appeal was from a judgment of the High Court of 3rd July 2025 by which these proceedings were struck out pursuant to an application of the respondents brought under O. 19, r. 28 of the Rules of the Superior Courts on the basis that the proceedings were bound to fail.

2. Very briefly, the background to the proceedings is that the first named respondent (hereafter "the Receiver") had been appointed as receiver over the property the subject of the proceedings (hereafter the "Property"), which had been charged in favour of Bank of Ireland as security for borrowings advanced by that bank to a third party, a Mr. Murtagh, who was the owner of the Property. At some stage Mr. Murtagh allowed the appellant into possession of the Property, and when the Receiver sought to recover possession of the Property as receiver thereof, the appellant refused to give up possession. Instead, he claimed that he had a lease over the Property, while at the same time advancing the inconsistent claim that he was entitled to ownership of the same on the grounds of adverse possession.

3. Notwithstanding these claims, the Receiver succeeded in recovering possession of and disposing of the Property, and the appellant issued these proceedings against the Receiver and the second named respondent (the latter being the firm in which the Receiver is a partner) seeking damages as against the respondents, and an order setting aside the conveyance of the Property to the purchaser of the same. The Receiver then brought an application pursuant to O. 19, r. 28 of the Rules of the Superior Courts, for an order striking out the proceedings on the grounds that they amounted to an abuse of process and/or were bound to fail. That application was granted by the High Court, and, as already mentioned above, the appellant's appeal from that decision of the High Court was dismissed.

4. It is uncontentious to say that the respondents have been "*entirely successful*" in opposing the appeal, as that term is used in s. 169 of the Legal Services Regulation Act, 2015 ("the 2015 Act"). In the usual way, in such circumstances, a provisional view was expressed in the judgment that the respondents, having been entirely successful in resisting the appeal, were entitled to an order for the costs incurred by them in connection with the same. However, the appellant was afforded the opportunity to make written submissions to contend for a different order, and he has availed of that opportunity.

5. In his submissions, the appellant has acknowledged, as he must, that the Court has rejected his appeal, but he submits that the appeal was not frivolous or vexatious and that it represented what he describes as "*a bona fide attempt to obtain appellate clarification on the scope of the summary strike-out jurisdiction in a property context.*" He submitted that he pursued the appeal in the genuine and reasonable belief that the High Court had applied what he refers to as "*the summary strike-out jurisdiction*" too broadly, in circumstances in which, he maintained that questions of fact and law relating to possession and title remained in issue. The appellant conducted the appeal as a litigant in person, and while acknowledging that that does not alter the general principles as to costs, he asked that this should be taken into account as a factor when assessing the overall justice and proportionality of any costs order. He submitted that it would be disproportionate in the circumstances for the Court to make an award of costs against him, and instead submitted that each party should bear their own costs.

6. For their part, the respondents submitted that the appellant has failed to engage in any way with the factors set out in s. 169(1) of the Legal Services Regulation Act, 2015. They submit that they have been put to the expense of litigation which lacked merit and formed part of a campaign by the appellant to extract a payment from the Receiver. The respondents noted that the Court had found that the appellant had relied on a lease, which he had amended unilaterally so as to include his own name as tenant, in order to extract money from the Receiver. The respondents also referred to serious and unfounded allegations of fraud and perjury made by the appellant as against the Receiver. The respondents submitted that the behaviour of the appellant in attempting to "*stretch*" his own negotiating position is not such as would ordinarily attract the sympathy of the Court when deciding on costs. They submitted that the appellant has failed to identify any circumstance within the meaning of s. 169 of the 2015 Act that would cause the Court to depart from the normal rule that costs follow the event.

7. I am satisfied that the respondents are correct in their submissions, and that they are entitled to an order for their costs. Having regard to the fact that the respondents have been "*entirely successful*" in resisting the appeal, as that term is used in s. 169(1) of the 2015 Act, and also having regard to the conduct of the appellant (which he admits) in adding his name to a lease in order to improve his negotiating position with the Receiver – which effectively was for the purpose of deceiving the Receiver into thinking that the appellant was the owner of a leasehold interest in the premises – there can be no doubt that the appropriate order as to costs is one that the respondents are entitled to an order directing the appellant to discharge the costs incurred by them in this appeal, and I so order.

8. Since this ruling is being delivered remotely, Faherty J. and Pilkington J. have authorised me to indicate their agreement with the same.