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No. BR-2017-000319

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
OF ENGLAND & WALES  
INSOLVENCY AND COMPANIES LIST (ChD)  
[2019] EWHC 2397 (Ch)

Rolls Building  
Fetter Lane  
London, EC4A 1NL

Thursday 22 August 2019

Before:

MR JUSTICE FANCOURT

IN THE MATTER OF KATIA STOILOVA NESTOROVA GOREMSANDU

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

B E T W E E N :

KATIA STOILOVA NESTOROVA GOREMSANDU

Applicant

- and -

(1) SIMON ROBERT THOMAS  
(2) NICHOLAS HUGH O'REILLY  
(AS TRUSTEES IN BANKRUPTCY  
OF KATIA STOILOVA NESTOROVA GOREMSANDU)

Respondents

MS C. WRIGHT appeared on behalf of the Applicant.

MR R. BOWLES (instructed by Blake Morgan LLP) appeared on behalf of the Respondents.

J U D G M E N T

(Transcribed from poor quality audio)

MR JUSTICE FANCOURT:

- 1 This is an application by Mrs Goremsandu for whom Ms Wright appears before me today. The application was issued on 16 August of this year and is made against her trustees in bankruptcy. Mrs Goremsandu seeks an interim injunction restraining the trustees in bankruptcy from inquiring into her affairs and an order requiring them to remove restrictions that they have placed on properties that she owns, either in her own name or jointly with her son. That injunction is sought pending the outcome of an application that she has made to have her bankruptcy annulled.
- 2 The circumstances, and a brief chronology, are the following. The bankruptcy order was made on 20 May this year. The application to annul was made extremely promptly by Mrs Goremsandu on 23 May 2019. By that time, an application for judicial review had been made by Mrs Goremsandu against the petitioning creditor, HMRC. The debt on which the petition was based was a liability for income tax and other tax liability, which is challenged by Mrs Goremsandu. She has been challenging the assessment for some two years and has exhausted all means of challenging the assessment through the First Tier Tribunal and the Upper Tribunal and the final attempt to do so is her issue of judicial review proceedings in May of this year. I am told that those proceedings have not yet been dealt with. It is unknown, therefore, whether or not Mrs Goremsandu will be given leave to pursue her claim for judicial review.
- 3 Mrs Goremsandu then issued an application to stay the conduct of the bankruptcy. That was issued on 4 July this year. Both applications, an application to annul and the application to stay, came before Insolvency and Companies Court Judge Jones on 17 July this year. He made an order adjourning the hearing of both applications to 17 January 2020.
- 4 It is evident that Mrs Goremsandu has failed to cooperate with her trustees in bankruptcy, who have taken the usual steps of provision of a questionnaire, attempting to have meetings with her and writing letters explaining what it is that they expect her to do. I am told today that the reason why Mrs Goremsandu is not engaging at all with her trustees in bankruptcy is that she does not consider that it is appropriate for her to do so until the hearing of her application to annul her bankruptcy in January next year.
- 5 The application for an injunction, as it was explained to me today, is, in particular, to seek to require the trustees in bankruptcy (1) to remove restrictions that they have placed on the title to the properties that Mrs Goremsandu owns, (2) to provide access to bank accounts, so that she can receive payment of her pension - I am told that she has not been able to have her pension since the bank in question became aware of her bankruptcy - (3) to prevent the trustees in bankruptcy from interfering with the tenancies of the properties that she owns and, more generally, (4) to restrain them from conducting the affairs of the bankrupt estate until January 2020.
- 6 I am satisfied that no such injunction should be granted. In effect, the application for an injunction is seeking by another route to stay the bankruptcy until the hearing of the application for an annulment. It is only in exceptional cases that a stay of a bankruptcy order, once made, is granted. The reason for that is that a stay will leave the position as between the debtor, creditors and the trustees in bankruptcy in limbo for a prolonged period

of time, to the potential serious prejudice of the existing creditors and other persons dealing with the debtor.

- 7 When the applications for an annulment and a stay were heard by Judge Jones in July, he must inevitably have considered whether or not it was appropriate to grant a stay pending the later hearing of the application to annul and it is clear that he declined to do so, since he adjourned both applications, the application to annul and the application for a stay, to be heard in January 2020. In effect, therefore, Mrs Goremsandu today is seeking to revive a matter that was implicitly decided against her back in July.
- 8 So far as matters of particular prejudice that are relied upon are concerned, the placing of restrictions on the title to properties is a basic step that is taken in the case of any bankrupt who has identifiable property and there is nothing as such which is prejudicial to Mrs Goremsandu's interests in such a restriction being placed. I decline to make any order that those restrictions should be removed.
- 9 So far as access to bank accounts is concerned, the particular complaint now relied upon was only raised for the first time in submissions this morning. It is not a matter that the trustees in bankruptcy have had an opportunity to address. I have been told on their behalf that it is a matter that they are willing to address in an appropriate way.
- 10 The reason why these matters have not been addressed is Mrs Goremsandu's wrongful refusal to engage with her trustees in bankruptcy. She must understand that, whatever she may think about her prospects of achieving an annulment in due course, it seems to me to depend almost entirely on the outcome of the judicial review proceedings. In the meantime, the bankruptcy order stands and she is required by statute to cooperate with her trustees in bankruptcy. If she fails to do so, she may be committing criminal offences and she may be brought back before this court for further orders to be made against her. If she cooperates with her trustees in bankruptcy, then it seems to me to be highly likely that a sensible arrangement will be able to be made in relation to one or more of her bank accounts to enable her pension to be paid into that account.
- 11 So far as a threat of repossession of the properties is concerned, again this is a matter that was only raised for the first time today. If there is a threat, whether it is based on the fact of the bankruptcy or on non-payment of mortgage interest, that again is a matter that the trustees in bankruptcy, as well as Mrs Goremsandu, will have a legitimate interest in seeking to resolve with the mortgagees. The trustees are under a duty to preserve and to protect the assets of the estate. Once again, it seems to me that what is needed is cooperation between Mrs Goremsandu and the trustees in bankruptcy. I am told that they have not yet been provided with information about the rent payments that are made by the tenants of the various properties. It is necessary, in my judgment, for Mrs Goremsandu to provide this relevant information to the trustees in bankruptcy, including details about the mortgages, so that the trustees can engage, as appropriate, with the mortgagees and seek to ensure that no repossession, which will be prejudicial to the interests of Mrs Goremsandu or her creditors, takes place. Unless she cooperates with her trustees in bankruptcy, those elementary steps will not be able to be undertaken.
- 12 In all the circumstances, therefore, it seems to me to be quite inappropriate to grant an injunction in the terms that are sought and I dismiss the application.

**LATER**

- 13 I will direct that the order of 16 August this year and the application notice issued on the same date be amended to remove the name of Mr Gareth Price, and to include, insofar as it is not there, the name of Mr O'Reilly as being the correct joint trustee in bankruptcy, together with Mr Thomas.
- 14 The application I will certify as having been made totally without merit on the basis that it was, in effect, a renewal of the application for a stay that had already been made and disposed of on an interim basis until January 2020.
- 15 Insofar as new matters were raised today, giving rise to particular prejudice, and relief was sought in relation to those, these were matters that could and should have been dealt with by proper engagement between Mrs Goremsandu and her trustees in bankruptcy and should not have been made the subject of an application, which they eventually were before me today.

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**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge