Appeal No. A2/2015/2839 A

IN THE COURT OF APPEAL
CIVIL DIVISION
BETWEEN

(1) STEPHANE PARIS
(2) ANGEL GARDEN

Applicants/Claimants

-and-

(1) ANDREW LEWIS
(2) MELANIE BYNG

Respondents/Defendants

APPLICANTS' RESPONSE TO RESPONDENTS' RESPONSE

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1. Although the Applicants are very well aware that a further response by them was not asked for by the court, the Applicants need to address some points raised by the Respondents' Barrister Jonathan Price, in the Respondents' Response. The Applicants note and submit that this same Barrister did submit unrequested responses to both the Applicants' Closing Submissions and their Permission to Appeal, and that these unrequested responses were in fact accepted without censure.

The Extract Admitting Lying by the 2nd Respondent is Now Legally in the Public Domain

2. The Respondents state at Paragraph 5 that they have not waived privilege over the extract admitting lying which constitutes the Applicants' request for reopening appeal. This has no bearing on the fact that any documents quoted or referred to in open court are deemed to be public knowledge. This extract and the admission of lying was referred in open court when case C00SA374 was heard in Swansea Civil Justice Centre, and is therefore now in the public domain, as per CPR 31.22 (1)(a).

Why the Applicants Didn't Apply to Use the Extract Sooner

3. The Applicants had been advised and cautioned severally by both their lawyers and the Respondents' solicitors that this admission, made during mediation, *could not be revealed at any time*. Based on this advice they felt unable to do anything about it.
   Barrister Jonathan Price states at Paragraph 26 that:

   > *"The line of authorities applying Unilever PLC v The Proctor & Gamble Co. [2000] 1 WLR 2436 makes it clear that any privilege in "without prejudice" communications cannot "act as a cloak for perjury, blackmail or other "unambiguous impropriety"'. In such circumstances, it is open to a litigant to apply to the court to waive any privilege in the material."*

   The Applicants are Litigants in Person, and as HHJ Seys Llewellyn said himself at the Pre-Trail Review, when he denied them their request to release disclosure material from confidentiality, that the opposing Barrister has a duty to inform LiPs or any case law which may be of benefit to their case since LiPs cannot be expected to be aware of all legal matters which could pertain to them. The fact that Barrister Jonathan Price remained silent about this until now, cannot and must not be used against the Applicants who were tortuously warned by him and solicitor Robert Dougans *not to tell anyone* that the 2nd Respondent had admitted using the credentials of a mental health doctor to have the 2nd Applicant shunned as having a non-existent condition while she was in fact being bereaved.

Malice

4. At Paragraph 15, Barrister Jonathan Price attempts to obfuscate malice by stating:

   > "*The Appellants appear to submit that the Extract amounts to an admission that the Second Respondent did not honestly believe the Second Appellant to be mentally ill. The words of the Extract do not bear that meaning*."

   In fact he knows perfectly well that this misrepresents the Applicants' submission which is that the 2nd Respondent is admitting that she knowingly made false statements which were *"understandably distressing"* to the 2nd Applicant about her mental health, using Professor Byng's medical credentials. His further statements:

   > *"The Extract is perfectly consistent with the Second Respondent having concluded, on the basis of her own observations and research, that the Second Appellant is mentally ill."*

   And at Paragraph 19:

   > *"The Extract is perfectly consistent with the Second Respondent having herself come to an honest belief that the Second Respondent was mentally ill."*

both unsurprisingly totally ignore the end of the extract, which is the most crucial part:

> *"Any comments I have made which might suggest otherwise are untrue and understandably distressing to Ms Garden."*

Examples of such comments can be found at paragraph 5 of the Applicants' Grounds of Appeal (AD-1), and make it abundantly clear that far from doing any research, the 2nd Respondent used her husband's credentials liberally and maliciously to convince others the 2nd Applicant was mentally ill.

5. Even if the 2nd Respondent had genuinely done some research on the matter and came to that erroneous conclusion, this would be nothing more than a "personal opinion" and could never be a "clinical judgement" (AD-14). Stating that something is a clinical judgement, as the 2nd Respondent did, cannot but infer that a medical doctor - such as her husband - had looked at an actual patient and formed an official diagnosis, and she both acknowledged this and denied having made that inference when this was pointed out by HHJ Seys Llewellyn in court (AD-37/38).

6. Further, had the 2nd Respondent done any actual research on Borderline Personality Disorder, she would have immediately discovered that ostracisation is the main trigger for self-harm for a person suffering from this condition. Therefore even were the 2nd Respondent's belief in this matter honest and true, her widespread convincing of others to ostracise the 2nd Applicant cannot be seen as anything other than the 2nd Respondent attempting to lead the 2nd Applicant to commit suicide. This is certainly a malicious act of harassment, achieved by monitoring and spying, and one which must be properly seen as reckless as to the truth.

7. The Applicants are not disputing the salient fact, as per paragraph 15 of the Respondents' response, that *"Second Respondent's husband was never in a position to make a formal diagnosis of the Second Appellant's mental state"*. However, as per Paragraph 21 of the Applicants' Grounds of Appeal (AD-7), it is clear that Professor Richard Byng was very much involved in the hate campaign against the Applicants, and one doesn't need a *"formal diagnosis"* in order to spread about a fake clinical judgement.

8. The Applicants are amazed to read at Paragraph 29 that an admission of knowingly causing "*distress*" by making "*untrue*" statements is viewed by Barrister Jonathan Price as to "*not reveal any "unambiguous impropriety", or, indeed, any wrongdoing at all."* The Applicants agree that the impropriety revealed is indeed unambiguous, but not to see it as wrongdoing goes against all statute, including Defamation, natural law, the Human Rights Act and common sense.

Connecting the Extract of Admitted Lying to the Case

9. Barrister Jonathan Price states at paragraph 21:

   "If (which the Respondents do not admit) the Extract proves that the Second Respondent knowingly lied about the Second Appellant's mental health, that would not establish malice in respect of the Re-Tweet."

   The obdurate insistence on technicalities to avoid the clear malice and harassment in the 2nd Respondent's actions cannot hide her admission that she knew her statements to be *"untrue and understandably distressing to Ms Garden".* Neither can Mr Price's marked and unreasonable avoidance of the frankness of the admission that she was lying to knowingly cause damage and distress (i.e., conscious harassment), disguise the extent of the Respondents' covert course of conduct evidenced by the sheer amount of similar statements and comments, to so many people (see paragraph 19 of the Applicants' Ground of Appeal for some examples (AD-6)) and much of which is still unknown, having been admitted at trial to have been further communicated by telephone and in person, or in the case of the 1st Respondent, via still unreleased emails due to a breached Court Order. This context, and the consequent unreliability of the Respondents' testimony must be taken into account when considering the overt defamation in the round.

10. Although HHJ Seys Llewellyn refused to re-include the covert harassment in the case because there was too much of it, and it would cost too much in time and money to readjust the trial window to take it all into consideration, he did promise to look at the covert course of conduct as background to the case. He then failed to do so at trial, using the lack of harassment claims as the reason. This extract shows obvious lies and malice, and as HHJ Seys Llewellyn said himself in his judgement at paragraph 231ii:

    "in the case of each Defendant the defence will be defeated if malice is shown."

Affecting the 1st Respondent

11. Paragraphs 23-25 of the Respondents' response have already been dealt with by the Applicants at paragraphs 14-16 of their Grounds of Appeal (AD-5). They reassert the public interest of an influential person, falsely advertising that he always ignores hearsay and only

deals with evidence, yet privately accepts hearsay wholeheartedly and spreads malicious unsubstantiated rumours. This makes the 1st Respondent guilty of malice.

12. The 1st Respondent moreover remains in breach of an Order to provide evidence of further warnings he sent to the "big-hitters", which the Applicants were then blamed for not knowing. Given that following the 2nd Respondent's initial warning which was fully quoted in the judgement (complete with lies which were exposed as such at trial), the 1st Respondent instantly adopted and spread the notion that the 2nd Applicant suffers from mental illness, in terms referred to in Paragraph 16 of the Applicants' Grounds of Appeal (AD-5/6), it cannot be assumed that these undisclosed warnings to the "big-hitters" did not contain similarly false and reckless malicious statements to those of the 2nd Respondent.

Wider Grievances

13. In his conclusion at Paragraph 30, Barrister Jonathan Price states that the Applicants' Grounds of Appeal:

    "has focussed upon these wider grievances rather than in establishing the Applicants' specific pleaded claims"

    The Applicants submit that their grounds have been persuasively focused on proving malice, and that fairly examined, they defeat the Respondents' defence. The Applicants would also like to point out that Barrister Jonathan Price's submission completely avoids the reality of a admission of criminally and knowingly making distressing and untrue statements about the 2nd Applicant's mental health using a doctor's credentials, in order to cause social ostracisation, by irrelevantly focusing a large part of his submission on the costs order (paragraphs 5-11), within which he also states at paragraph 10 that:

    "When the Appellants' finally vacated the Property on 31 October 2016 it was discovered that they had caused thousands of pounds worth of damage to the Property prior to vacating it"

    Not only is this irrelevant to the pleaded issue, it is also untrue as it implies the Applicants have caused physical damage to their own property, whereas the most that could be said, is that the house wasn't fully cleared out prior to the Respondents breaking in and changing the locks without warning when properly challenged about their own refusal to obey Court Orders. Painted artwork on the walls of the Applicants' own home, is merely a cosmetic issue. If it is relevant, it is only relevant to the obligation upon citizens to raise robust objection to serious and damaging injustice.

Conclusion

14. In conclusion:

    i) the tortuous and malicious admission of knowingly lying by the 2nd Respondent, of which both Respondents and Professor Byng were fully aware at trial, and which Mr Price has failed to robustly address in his submission, is incontrovertible from the extract provided, which is now in the public domain;

    ii) the extract shows that when the 2nd Respondent insisted to the Judge that she had not used her husband's credentials, she was lying - i.e,. this is perjury - even when the Judge specifically said that her statements in emails indeed looked as if she was citing her husband's clinical judgement, which she strenuously denied;

    iii) this admission also applies to Dr Lewis, who was also similarly reckless as to the truth, the extent of which he has deliberately obfuscated by remaining in breach of a Court Order. Moreover he is an influential man who advertises himself to be evidence-based yet in reality spreads unsubstantiated and untrue statements about someone's mental health in order to have others shun them. This is in the public interest;

    iv) both Respondents have been reckless as to the truth of their statements, while claiming at trial, to know the symptoms and effects of Borderline Personality Disorder. Yet at the same time, they were conducting a covert campaign which they would have known, based on this claimed knowledge, would be likely to lead a person afflicted with such a disorder to commit suicide.

15. For these reasons, and those laid our in the Applicants' Grounds of Appeal, in order to avoid gross injustice, adhere to the CPR, obey natural law, uphold Human Rights and counter the deceits perpetrated upon the court by the Respondents and their legal representatives, this appeal must be reopened.

30 November 2016

Stéphane Paris Angel Garden