

Neutral Citation Number: [2014] EWHC 138 (QB)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
LONDON MERCANTILE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 05/02/2014

Before :

HIS HONOUR JUDGE MACKIE QC

In the matters of
DHARAM PRAKASH GOPEE,
BARONS FINANCE LIMITED, REDDY
CORPORATION LIMITED, GHANA
COMMERCIAL BUNKS, GHANA COMMERCIAL
FINANCE LIMITED, BARONS BRIDGING
FINANCE, BARONS BRIDGING I LIMITED,
PANGOLD LIMITED, PANGOLD PROPERTIES
LIMITED, AGNI INVESTMENTS LIMITED,
BARONS FINANCE 2 LIMITED, MONEYLINK
FINANCE LIMITED, SPEEDY BRIDGING
FINANCE, EURO BRIDGING FINANCE
- and -
NUMEROUS DEFENDANTS

Judgment

Judge Mackie QC :

1. The Court is making, on its own initiative in the exercise of its case management powers, unusual orders affecting an individual litigant in person and companies associated with him, who only occasionally instruct Counsel. I am therefore setting out my reasons in detail as this may assist Mr Gopee when making applications to the Court of Appeal. I am also taking the opportunity to summarise the current position in this litigation.

Background

2. This judgment should be read with that in Barons Finance and Reddy Corporation-v-Makanju [2013] EWHC153(QB). That decision was about an application for permission to appeal. I later allowed the appeal for the reasons given in that judgment. When dealing with the background in that case I said this;
3. *“This is one of a collection of cases from county courts in the Greater London area, which I will call the “Barons cases”, which have been sent to the London Mercantile Court to coordinate. The cases involve claims and appeals arising from loans made by Barons and companies associated with it including Reddy Corporation Limited and Ghana Commercial Banks (sic). Sometimes, as a result of clerical errors, other similar names are used. The loans were generally made to people who have arrived in this country quite recently and are under severe financial pressure, at high rates of interest usually secured by charges on the borrowers’ homes. In some of the cases, but not this one, there is an intermediary between Barons and the borrower whose role has been controversial. In most cases the Defendants now seek to set aside or appeal against orders obtained some years ago. These Defendants generally claim that they entered into the loans under severe financial and personal pressures and have only recently learned of the legal grounds upon which the original judgments, often obtained by default or after only perfunctory resistance, may be challenged. The Defendants often say that they were unaware of their legal rights when entering into the transaction in dispute.*
4. *The Claimant is usually represented by its director Mr Gopee, a quasi litigant in person of great experience but sometimes by Counsel. The Defendants often represent themselves. Those retaining lawyers often do so only sporadically. The lawyers, operating on a shoestring, sometimes lack full instructions on the facts and, as a result, the legal issues.”*

Preliminary matters

5. There are currently 30 actions brought in, or transferred to, this Court. Of these 19 are stayed because they involve Barons Finance Limited, a company which has been in liquidation since 12 September 2012. The Liquidator has now had a considerable period to consider the company’s position. I bear in mind that his position has been complicated by an apparent failure by Mr Gopee to cooperate and by an alleged assignment of the benefit of the company’s loan portfolio to another of Mr Gopee’s companies. For case management purposes, I ask the Liquidator’s solicitors to let the Court know within 14 days of today when the company will be in a position to decide what position to take on the cases before the Court. A copy of this judgment will be sent to the Liquidator’s solicitors.

6. I have listed above what appear to be the other main Barons companies. That list is not complete or accurate for a variety of reasons, not least typographical and similar errors by the parties and the various courts. When referring to Barons companies I include all those affected by my Order against Mr Gopee of 19 July 2013 as amended on 29 January 2014. I refer in this judgment to Mr Gopee as such but in some documents he is mistakenly referred to as ‘Mr Ghopee’.
7. I have referred to the limited representation available to Defendant borrowers and the fact that many are not able to represent themselves. Some Defendants simply give up. An additional problem for Defendants, most of whom lack legal aid, is that neither the Claimant companies nor Mr Gopee ever pay costs ordered by the Court.
8. Mr Gopee is more used to County Court litigation where the Court draws up the orders. As a result parties have often failed to draw up orders after hearings or have done so inaccurately. Rather than allow the litigation to grind to a halt I have adopted the occasional practice of preparing notes and directions which my clerk has sent to the parties.
9. The relevant background includes the established and lengthy record of incompetence, impropriety, lack of integrity and abuse of the rights of consumers shown by Mr Gopee and his companies recorded and found by the Tribunal (Barons Bridging Finance 1 Limited Case No CCA/2011/0004 and 0005). That decisions must be read as a whole but Paragraphs 5.26 and 5.105 record;

“Enough has been said already to show that the continuation of activities by BFL, BBF and Ghana Bunks for a sizeable period of time whilst unlicensed demonstrates in the Tribunal’s view a lack of integrity on the part of Mr Gopee and those companies. The Tribunal again refers to the fact that in its view, it is also unfair, improper and deceitful to enforce agreements which are unenforceable without having obtained an order from the OFT allowing such enforcement. The overall impression duly created by such arrangements on the part of BFL, BBF and Ghana Bunks, both to consumers and to the various county courts where actions have been instituted, is that those entities were entitled to enforce the relevant agreements although they had been told in no uncertain terms by the Court of Appeal in particular, that they were likely to, if not in fact, be trading whilst unlicensed... Mr Gopee, as the person in charge of Reddy’s business, not to mention those of the relevant associates, as well as those associates have shown themselves independently and together as being incapable of dealing with consumers on a fair basis.... The Tribunal has found that Mr Gopee in particular, not to mention his associates, have shown themselves to be unfair and lacking in the suitable degree of integrity and competence required to conduct a consumer credit or an ancillary credit business.”

Developments since the Court gave judgment in Makanju

10. On 14 March 2013, after hearing argument from Counsel for the parties and from Mr Makanju in person I ordered that existing judgments in the cases of Adewale, Adedoyin, Adebayo and Makanju, both for money sums and for possession, be set aside. I made directions for the substantive hearing of those cases. I made different directions in the case of Olatunji and stood over that of Nnabuife. I allowed Reddy Corporation and Barons Bridging Finance Limited to be added as Claimants but declined to allow Barons Bridging Finance 1 Limited to be substituted for the Claimant Barons Finance Limited.
11. I had at various hearings directed informally that all proceedings brought by the Barons' companies in the County Court for recovery of money or possession from borrowers be brought in or, if already started, be transferred to the London Mercantile Court, which is part of the High Court. I had however made no formal order to that effect.
12. In May 2013, having received an email from the OFT and forwarded a copy to Mr Gopee, and being concerned that the Claimant companies were still enforcing in the County Courts, the Court sent the following message to Mr Gopee:

"I have received a communication from the OFT which indicates that despite my direction the above have been or may have been bringing proceedings in Northampton and other County Courts.

Given the considerations set out in judgments I have given in these matters and the court's concern that many Defendants may have no access to legal representation I propose, pursuant to the Court's management powers under the CPR and /or the inherent jurisdiction of the High Court, to consider making an order requiring all current actions, whether brought within the London area or elsewhere, to be transferred to this Court and that, until further order, all new actions be started in this Court.

Before I reach a decision whether or not to make such an order the Claimants must have a proper opportunity to oppose it if they wish to do so. The Court will therefore fix a hearing in the week beginning 10 June to hear any representations they or any of them wish to make.

In the meantime I direct that the Claimants must at any County Court hearing before the June hearing before me draw this note to the attention of the judge. I also advise the Claimants to bring no new actions in the County Court until the above hearing has taken place. If, for Limitation Act reasons, the Claimants need to take action they may issue proceedings in this court."

13. On 31 May 2013 the Court received a letter from solicitors for the Liquidator of Barons Finance Limited stating that he had been appointed in September 2012 and that Mr Gopee was hampering his investigations and failing to cooperate in

numerous respects. The Liquidator also stated that the company had been purporting to assign the benefit of charges to third parties even after the date of the winding up petition.

14. The cases against Mr Akinwande and Ms Boladale were struck out in June 2013 as a result of the failure by Barons Finance 1 Limited (and Barons Finance Limited) to comply with the directions of the Court. The Claimants have failed to comply with an order requiring them to vacate registration of charges at HM Land Registry. At a hearing on 24 January 2014 the Defendants through their Counsel Mr Ollennu sought orders to remove those charges. I will make an Order but require a draft to be sent to the other side and lodged in the usual way. Counsel asserts, but Mr Gopee denies, that other Barons companies, Speedy Bridging Finance Limited and Euro Business Finance PLC are seeking to acquire rights over the properties in question. Against the background it seems extremely unlikely that those companies have any interest whatsoever in the properties. If the companies claim any rights they must apply to this Court to establish them and be ready, should the Defendants apply and justice require it, to provide security for costs.
15. On 10 June 2013 after a hearing I made an order staying all the actions in which the company in liquidation was a Claimant on the basis that any other party affected could apply to set that order aside. There has been no application by the Liquidator to set aside that aspect of the Order. I also ordered that all existing or proposed relevant proceedings in any County Court be transferred to or brought in this Court.
16. On 20 June 2013 I sent out a note headed "*Barons Finance Limited, Reddy Corporation, Ghana Commercial Banks, Ghana Commercial Finance, Barons Bridging Finance 1 Limited and other companies owned or managed by, or otherwise connected with Mr Darham Prakash Gopee.*" The note in substance said:

"I have at various times indicated that all current cases should be transferred to this Court and that any new ones should be brought here. I became concerned that my indication was not being observed and so sent the message attached to this note to Mr Gopee. Mr Gopee came to court on 10th June to take up the opportunity of being heard. Other interested parties attended by Counsel (although under a degree of misunderstanding about the purpose of the hearing).

Mr Gopee assured me that he had brought no new claims and that an order was unnecessary. He also said that he should not be required to issue proceedings in this court as the fee was lower when an action was brought through the Northampton County Court Bulk scheme. He was also concerned that further cases brought in this court might not receive justice as I have already decided several of them.

At the hearing on 10 June it also emerged, following a letter to the court dated 31 May 2013 from his solicitors, Stephenson's, that the liquidator of Barons Finance Limited is concerned about what is seen as a lack of cooperation by Mr Gopee and a failure to attend a court appointment. Mr Gopee has apparently

claimed that the loan book of Barons Finance Limited has been transferred to Barons Bridging Finance Limited and Reddy Corporation. At the hearing it seemed to be suggested that other Barons Finance Limited loans had been transferred to one or more companies with the first name Pangold.

At first sight it seems unlikely that any assignment by Barons Finance Limited of assets to another company managed by or connected with Mr Gopee will prove to be valid. Furthermore no such assignment can give the assignee greater rights than those enjoyed by the assignor. All the defences open to borrowers in a claim by Barons Finance Limited will be available to them if sued by the assignees. It is right that all cases brought by the assignees should be managed in the same way as those brought by the assignor. Furthermore there is a risk of injustice for borrowers, most of whom are of very modest means and either unrepresented or lacking more than occasional legal help, and may have no idea of the potential defences open to them. Moreover the District Judges in the London area, at least, will by now be aware that Barons cases may involve potential defences to borrowers. A name other than Barons will not catch the eye in the same way.

As I see it the case for keeping all these cases in one way place is overwhelming and the main disadvantage, the suggested risk that I may not have an open mind can be overcome, if it arises, by one or more cases being decided by a different judge. It is the case that I have decided legal issues against the lender companies and will continue to see these matters in the same way unless and until I am corrected by the Court of Appeal. That is consistency not bias. I have as yet conducted no trial involving evaluation of live witness evidence.

An order transferring all existing county court cases brought by any of the parties listed above is, as I see it, required by the overriding objective in CPR 1 and permitted by Section 41 of the County Courts Act 1984. I propose to exercise that power. As far as future cases are concerned the inherent jurisdiction of the High Court, as I understand it to be, permits me to make an order requiring that these be brought only in the London Mercantile Court.

Mr Gopee sometimes instructs Counsel but has not done so on this issue and I have heard only his personal submissions. Before I cause an order to be drafted and issued I will give him one further opportunity to instruct Counsel to oppose the course I propose to take, provided that he applies within 7 days of today.”

17. On 19 July 2013 I made an Order, headed with a warning that any breach of it would be a contempt of court, in the following terms;

“You Dharam Ghopee, whether by yourself, your employees, agents or otherwise howsoever take no steps to bring or continue any legal proceeding in any County Court to recover money due or to seek possession of any property arising out of or in connection with any loan, whether brought in the name of yourself or of any company or partnership in which you have any interest or control or over which you have any power of management, including but not limited to Reddy Corporation, Ghana Commercial Bunks, Ghana Commercial Finance, Barons Bridging 1 Limited, Pangold and any company with a similar name without first obtaining an Order from the London Mercantile Court permitting you to do so.

2. You forthwith seek to have transferred to the London Mercantile Court all existing proceedings which fall within the definition in Paragraph 1 above.

3. You, within 14 (fourteen) days, lodge with the London Mercantile Court a list containing details,(including date of issue, issue number, names of parties and name of Court) of all current County Court proceedings within the definition in Paragraph 1 above.

3. You may apply to this Court to seek to vary or discharge this Order within 7 (seven) days of it coming to your attention. Any such application must be supported by a witness statement lodged not less than 72 (seventy two) hours before the hearing and by a skeleton argument lodged not less than 24 (twenty four) hours before the hearing. You are advised (but not required) to have legal representation on any such application. This Order will remain in force, notwithstanding any such application, unless and until it is varied or discharged by this Court.”

18. On 29 July 2013, after a hearing attended by Counsel for some parties, including the Liquidator and Mr Gopee I made an order. This provided that, upon Mr Gopee agreeing to provide the Liquidator within 7 days with any letter before action, pleadings, correspondence, and court orders or notices in his possession or control, which relate to the claims to which Barons Finance Limited was a party, all cases in which the Liquidator is concerned were stayed.
19. There have been other hearings not directly relevant to the current issues. For example a dispute concerning the payment of rent was resolved in the case of Mr Kehinde Gbadegesin. Procedural orders have been made in other cases.
20. On 22 July 2013 I sent a note as follows to the OFT, to HM Land Registry and to Mr Gopee.

“I have received a letter from Mahul Shah of the OFT and emails from Genny Millinger of HM Land Registry seeking information and assistance about these cases. I thank you for these communications and apologise if my response has

seemed over cautious. However my job as a judge is to decide cases between parties impartially in accordance with the law. I am not a regulator or enforcer of wider obligations which are identified in judgments I make in individual cases. There is as yet, despite the growing number of cases coming to light, no sign of the OFT taking any action to deal with the matter. However that is a matter for the OFT, not me.” I attached a copy of the 19 July Order.

Mr and Mrs Ogunleye

21. On 24 October 2013 Mr and Mrs Ogunlye applied to this Court, without notice to the Claimant, and I heard live evidence from them. They live with their three children at a house in London E16 which they have owned since 1999. They borrowed £2,000 from Barons Finance Limited or Reddy Corporation in 2007. (It seems that at some point the lender became Barons Finance 1 Limited). They claim that they were seriously misled by the Claimants and by Mr Gopee. That claim is denied. County court proceedings were brought against them and transferred to this Court. At 9.15 am on 21 October they were about to go to work, as a support worker and a security guard, when their son answered the door to High Court bailiffs, supported by police, who evicted them in circumstances which must have been very distressful and humiliating. No notice had been given to them. Mr Gopee waited in a vehicle down the street. The children could not return to their universities that day. Mr and Mrs Ogunleye slept that night in a car and then secured temporary accommodation.
22. At the hearing on 24 October I set aside the eviction order on the basis that the Claimants could apply to restore it. The application came back with both sides having the opportunity to be present on 7 November 2013. I then said that I would put my concerns in writing so that Mr Gopee could obtain legal advice. I sent a note to Mr Gopee on 12 November expressing the provisional view that Mr Gopee’s acts and omissions were a serious abuse of process. My note continued:

“Mr and Mrs Ogunleye, like a number of other defendants in ‘Barons’ cases, applied in Bow County Court for permission to appeal out of time against a possession order. That application is still pending as Mr Ghopee knows. Mr Ghopee is also aware that all such applications in the London Mercantile Court have so far been successful. Following an application by the Ogunleye’s then solicitors, Mr Recorder Hancock QC ordered that the case be transferred from the County Court to the High Court to be heard by me. Mr Ghopee’s latest witness statement confirms that he knew that it had been transferred to the Mercantile Court. The County Court sent the file to the High Court not marked for me or the Mercantile court. It was then allocated to a Master. Mr Ghopee applied to that Master, without disclosing that an application for permission to appeal with prospects of success was pending or that the case was due to be heard by me. The Master, knowing none of this, gave permission to issue a writ of execution. Mr Ghopee, a very experienced litigant, must have known that if he had made proper disclosure to the Court, it would never have permitted execution to proceed. As a result of Mr Ghopee’s actions Mr

and Mrs Ogunleye and their children were forcibly and wrongfully evicted from their home and caused considerable distress and expense. The Court is minded to impose sanctions upon Mr Ghopee and to take whatever steps are open to it to secure from him reimbursement to the Ogunleyes for their loss. As the Ogunleyes are not currently represented the Court will write to them seeking details of their legal costs and of what if any other losses they have sustained. Once that information is at hand copies will be sent to Mr Ghopee and a further hearing arranged.”

23. The Court has received a Schedule of Costs from the solicitors who represented the Ogunleyes seeking costs of £1872 and ‘Eviction Expenses’ of £780.76. Both amounts are modest. I order that that Barons Finance 1 Limited and Reddy Corporation pay the total of £2,652.76 into Court (or if they prefer to the Ogunleyes) within 14 days, as a condition of being permitted to continue to pursue the action. That order is without prejudice to the Ogunleyes’ rights to seek payment of the costs from Mr Gopee and also to seek damages for unlawful eviction against the two companies and Mr Gopee.
24. I heard Mr Gopees’s explanation for this conduct both in November 2013 and again on 24 January 2014. He says that there was a misunderstanding, that the Defendants should have received a letter from the Court and that he was confused himself. I reject this account. Mr Gopee knew very well that the case should have gone to this Court and that there was an outstanding application for permission to appeal that had prospects of success and that the Defendants intended to pursue it.
25. The Ogunleyes have suffered a gross injustice as a result only of abuse of the Court process by Mr Gopee when representing one of his companies. No lawyer would have acted as Mr Gopee did. In general a company can only be represented at a court hearing by legal adviser having a right of audience. The company does not have the same right as an individual has to represent itself- see Civil Procedure 2013 Volume 2 13-7 at p2897. The Court may exercise its discretion to relax this rule. Different considerations arise at trial-see CPR39.6. In addition to the specific concerns in this case, the past record of Mr Gopee and his lack of candour referred to in other cases mentioned in this judgement are as I see it reasons for the Court to refuse to exercise its discretion. As I mentioned at the hearing on 24 January 2014 I was minded to refuse further permission to Mr Gopee to represent the Claimant company in this case. However Mr and Mrs Oguleye now have representation by Counsel and no party in any other case has objected to Mr Gopee’s role. I will not therefore take the point further at this stage.
26. I emphasise that when he appears in court Mr Gopee is invariably courteous and his submissions are brief and to the point. I do not suggest that he is intellectually not up to the task of representing the company. My concern is with the apparent lack of integrity surrounding his approach to some of these cases.
27. I have made the same Order in relation to permission to appeal in this case as in Konadu referred to below and for the same reasons.

Other recent developments

28. By October Mr Gopee was still in breach of the 19 July Order at least in failing to file the list of cases specified in Paragraph 3. So the following note was sent to him on 28 October:

“I refer to the Order against Mr Ghopee dated 19 July 2013 which orders him, whether through his companies, agents or otherwise, to take no steps to seek possession of property or to recover money except as permitted.

In apparent breach of that order Mr Ghopee appears first to have sought and obtained trial directions in the Woolwich County Court in the case of Barons Finance 1 Ltd v Ikwue IPA57130 and secondly to have obtained possession in the case of Barons Finance 1 Limited and Reddy Corporation v Ogunlye 2013 Folio 583, formerly 9 PA44395.

Paragraph 3 of the Order required Mr Ghopee to file a list of cases at the London Mercantile Court. He appears not to have done so.

Mr Ghopee is required to attend the London Mercantile Court next Monday 4th November at 2pm to explain the position. Mr Ghopee is strongly advised to be represented on that occasion as it may be that contempt proceedings, which may lead to his committal to prison, will be initiated. If Mr Ghopee and/ or his lawyers cannot make that time and date the Court will fix another time next week. This message will be sent to Mr Ghopee by email and by post to the last known address on the court file.”

29. At the hearing on 7 November referred to above Mr Gopee claimed to have been under a misimpression about the scope of the 19 July Order. Again giving him the benefit of the doubt I informed him that, provided he applied for all further applications, whether issued by him or another party, in any County Court case covered by the Order dated 19 July 2013, to be transferred to the London Mercantile Court, the Court would take no further action as regards the case of Ikue referred to in my note of 28 October. That case was listed for hearing on 24 January but adjourned generally and I advised the Defendant to seek assistance from the Royal Courts of Justice Advice Bureau.

Ms Ahmed

30. On 6 December 2013, having received a letter from Ms Ahmed, a litigant in person expressing, as far as her command of English permitted, great concern about letters she did not understand, the Court made the following direction in the case of Barons Finance Limited v Ahmed and Safiu.

“This case has been transferred to the London Mercantile Court. The Claimant is in liquidation. The Defendants may well have good grounds for appeal and for setting aside the judgment. The Court has received a letter from Ms Ahmed

dated 14 November 2013. There is a purported assignment by the Claimant to Barons Finance 1 Limited and Reddy Corporation which may well be invalid. The Court will therefore add these two parties as Claimants. The Court orders and directs the Claimants (including Barons Finance 1 limited and Reddy Corporation) and Mr Ghopee, who appears to be closely connected to them, not to seek or accept recovery of any money or any property from the Defendants or either of them, nor take any action against them of any kind, without first obtaining an order from this Court.”

31. Any of the parties, including the liquidator of the First Claimant, may apply for a hearing to obtain further directions. Subject to that the case remains stayed.

Mr Thompson

32. On 19 December 2013 the Court refused to make an order on paper when Mr Gopee applied to add one of his companies to a claim by Barons Finance Limited against Mr Thompson. I said that the application required a hearing at which all parties had an opportunity to participate. The application is based upon an alleged assignment for nominal consideration purportedly made only a short time before the assignor went into liquidation. Mr Gopee must have known that any such application would be opposed by the Liquidator.
33. No application has been made for a hearing by Mr Gopee. On 17 January 2014 Mr Thompson applied for permission to appeal out of time. I granted that application and gave further directions which permit the Liquidator to apply to vary these.
34. In the course of Mr Thompson’s application it emerged that Pangold Estate Limited had brought an action in the Romford County Court (3PB69022) against the current ‘tenant’ of the property charged to secure Mr Thompson’s original loan from Barons Finance Limited. It seems that Barons Finance Limited secured possession and Mr Gopee then somehow let the property in the name of Pangold. Mr Thompson contends that the ‘tenant’ is required to make payment to Mr Gopee personally. It would appear that the right to let the property belongs either to Barons Finance Limited, the company in liquidation, or to Mr Thompson. The Romford County Court has now transferred this case to this Court.
35. I have directed that before the Pangold case is listed for a case management hearing the Claimant must file and serve a witness statement specifying the grounds on which it claims to be entitled to let the property.

Cases against occupiers, tenants and others.

36. It appears that the transferred Romford case may be only one of many county court claims for ‘rent’ of this kind or for other relief relating to one or other aspect of past loans. It is arguable that Mr Gopee and his companies are already obliged to bring these cases in this Court or to transfer in existing cases under the 19 July Order as being “*arising out of or in connection with any loan*”. To avoid further misunderstanding however I will vary the Order to make this clear by adding, after the word “*loan*” “*or any proceeding relating in any way whatsoever to any such*

loan or such property (including without limitation any dealing with or use of such property and whether brought against the borrower, tenant, occupier or anyone else)”.

Mr Konadu

37. On 24 January 2014 I heard an application by Mr Konadu, who was represented by Mr Mark Baumohl of Counsel seeking to set aside a default judgment obtained as long ago as June 2005 and to obtain summary judgment that the claims of Barons Bridging Finance had no prospects of success.

38. The considerations which arose were very similar to those in Makanju where it seemed to me that the factors weighing against granting the application were outweighed by even stronger ones pointing the other way. As I see it the same considerations applied as those referred to in Paragraph 27 of Makanju..

“Finality. The Claimant has argued in other cases that, the legal process having been completed, the interests of finality require the judgment to be left undisturbed. While that is an important principle it seems to me to have little weight in the unusual circumstances of this category of case. This is a category where it appears that defendants who have started at the disadvantage of not receiving information which the law required to be provided at the time of the loan, receiving loans in breach of the legal requirements designed to protect them, from a lender who is unlicensed potentially in breach of the criminal law, are then put through a legal process where the lender does not disclose to the Court matters which any lawyer would feel bound to draw to its attention.” (On reflection I consider that I should not have said ‘ little weight’ but should have emphasised that the strong factors on one side were outweighed by even stronger ones on the other.)

39. At the hearing Mr Gopee raised, and I developed on his behalf, the point that the approach to compliance to time limits has changed since April 2013 as a result of changes to the CPR and guidance from the Court of Appeal, particularly in Mitchell-v-News Group Newspapers [2013]EWCA Civ1537. Mr Baumohl pointed out that Mitchell is a sanctions case but the shift in emphasis in procedural law is clear. I have carefully considered that guidance but am of the view that the circumstance of this cases are so exceptional that justice demands that relief be given.

40. I accordingly granted the application treating it as one for permission to appeal out of time. I also made an ‘Unless’ order allowing the appeal unless by 4pm on 21 February 2014 the Claimants apply setting out grounds why the appeal should not be allowed. If application is made and arguable grounds are put forward the appeal will be listed for hearing. Otherwise the order allowing the appeal will stand. I take this position to save time and costs for all parties. Mr Konadu’s sale of his property has been held up because of the controversy about the validity of the charge obtained by Barons Bridging Finance. Since the case of Makanju no coherent argument has been put forward by Barons Finance or any other Claimant company,

to answer the multiple defences that these loans, all made in similar circumstances and on similar documentation are, at the least, unenforceable. Further as the Claimants in these cases do not pay costs ordered against them the financial risk for Defendant applicants is considerable. Once again I advise Mr Gopee to consider instructing Counsel.

Ms Manyo-Plange

41. On 9 January 2013 the Court set aside the money judgment and possession order obtained by Barons Finance Limited against Ms Manyo-Plange. At that point the Court was unaware that the company had gone into liquidation. Mr Gopee did not disclose this. Procedurally it was for Barons Finance Limited then to take the case forward for trial but it has not done so because of the stay and also perhaps because of the legal problems the claim faces. At that point nothing was said by Barons Finance or by Mr Gopee about an assignment. Barons Finance has neither complied with the Order of this court nor paid the costs it owes.
42. On 30 October 2013 Barons Bridging Finance 1 Limited wrote to the Defendant claiming that it had written to her on 16 January 2013 giving notice that Barons Bridging Finance had assigned the debt and the charge to it on 17 September 2012 (five days before a winding up was made). The transfer, if it happened, was made after presentation of the petition, to an associate company, for nominal consideration and by an individual who is a director of both companies. On the evidence before me the assignment is invalid on multiple grounds and of no effect. In this, and other cases, where the same pattern has emerged, the effect on a Defendant, who finally believes that litigation is over and his or her home is safe for the time being, must be devastating and the cause of great stress and worry.
43. I will grant an injunction along the lines sought by Counsel for Ms Manyo Plange but have asked her to submit a draft order in the usual way.
44. This is the third separate case I have mentioned in which there is evidence of a Defendant being unjustly alarmed and put to expense by alleged assignments. I consider that other Defendants in a similar position, but unable to afford or to contemplate further litigation, are entitled to protection and I have made an amendment to the Order against Mr Gopee to reflect this.

Office of Fair Trading

45. As the Office of Fair Trading has been involved in the issues raised by these actions and representatives have attended some hearings I sought clarification of what if any steps the OFT was proposing to take. On 3 January 2014 the OFT responded and, having described past action, said this as to the future.

“In addition to liaising closely with the Liquidator, the OFT has been in regular contact with the Insolvency Service, Citizens Advice and the Illegal Money Lending Team (part of

Birmingham Trading Standards). Further, the Land Registry has been informed of the licensing action taken and key legal provisions under the Consumer Credit Act have been explained, following their request. There has been a co-ordination of information between these agencies. In particular, each agency has advised on the powers that they hold and what action, if any, they can take to address Mr Gopee's apparent disregard of the law.

The OFT, upon becoming aware of Mr Gopee's apparent unlicensed credit activities, gave considerable thought to what, if any, further action could be taken. The options available to the OFT include civil proceedings for an injunction under Part 8 of the Enterprise Act 2002 (which could be premised, for example, on the unlicensed trading and possibly on breaches of the Consumer Protection from Unfair Trading Regulations and the Unfair Terms in Consumer Contract Regulations). Alternatively, criminal proceedings for unlicensed trading could, in principle, be instigated. An initial analysis of the further evidence that would have to be obtained, together with the resources that would need to be dedicated to such action, was undertaken. From the OFT's experience of such proceedings, and given the approach of Mr Gopee to litigation generally, it was anticipated that any proceedings could be protracted and might not be resolved for a substantial period. In addition, any action taken had to have regard to the changes that will take place on 1 April 2014 to the regulation of consumer credit. Namely, the assumption of responsibility for consumer credit by the Financial Conduct Authority (all relevant consumer credit activity will constitute regulated activity under the Financial Services and Markets Act 2000).

The OFT continues to keep under review its decision with regard to the potential action that can be taken. In addition, in view of the imminent change of regulator, the FCA is being apprised of the issues in this case. In particular, the Authorisations Department and Unauthorised Business Unit are being briefed about the history and practices of Mr Gopee.

In light of those considerations above, the OFT considered that the best approach, at least at this stage, to addressing Mr Gopee's continued unlicensed credit activity, was to dedicate its resources and the intelligence gathered to the Insolvency Service's investigation. To this end, the OFT is currently processing a formal request from the Insolvency Service for detailed information contained within our files (such a request will enable the OFT to comply with the restrictions on disclosure in Part 9 of the Enterprise Act 2002). Resources

have been dedicated to responding to this request by no later than 16 January 2014.

We understand that a potential outcome of the Insolvency Service's investigation would be to wind up those companies being investigated and thereafter proceed to disqualify Mr Gopee as a director. It is our experience that this approach is capable of achieving outcomes more quickly in these kinds of circumstances than use of OFT's regulatory powers, but as indicated above, we shall continue to keep the situation under review and in liaison with the FCA as the successor body to the Consumer Credit regime.

Finally, given the OFT's experience of Mr Gopee's disregard of authority, the OFT sees merit in continuing with a multi-agency approach. Hence, in addition to the credit licensing action the OFT has taken, we remain in active consultation with the Insolvency Service, the liquidator of BFL and the Court."

The Bar Pro Bono Unit

46. Given the widespread lack of representation in these cases I contacted the Bar Pro Bono Unit and supplied them with some of the basic Court papers. I saw two representatives of the Unit to inform them neutrally of the issues. I held that conversation in Court so that if necessary a transcript of that discussion can be made available. So far as I am aware the Unit has not responded or assisted any of those involved in Barons transactions.

HM Land Registry

47. On 16 December 2013 the Court received an email from Mrs Millinger the substance of which is as follows;

" Land Registry Croydon Office has today received an application to register the following transactions affecting registered title number SGL387538 (16 Jennings Road, Erith, DA8 2JR), which we felt should be brought to the attention of His Honour Judge Mackie as soon as possible:

· a transfer (in Land Registry form TR2) dated 18 October 2012 made between (1) Ghana Commercial Finance Limited ("Ghana") and (2) Pangold Properties Limited (for a consideration of £1). (The transfer is stated to be made pursuant to the power of sale contained in Ghana's charge dated 5 September 2007 which is protected by means of an agreed notice in the title register of the property.

· a transfer (in Land Registry form TR1) dated 11 December 2013 made between (1) Pangold Properties Limited

and (2) Agni Investments Limited (this company was formerly known as Barons Finance 2 Limited).

- *a legal charge dated 11 December 2013 made between (1) Agni Investments Limited and (2) Moneylink Finance Limited and Reddy Corporation Limited.*

- *an application for the entry of a restriction (in Land Registry form RX1) in favour of Moneylink Finance Limited.*

The applicant named in the accompanying Land Registry form AP1 is Agni Investments Limited. The AP1 states that the application was lodged by D. Gopee of PO Box 5467, Southend on Sea, SS0 9GY.

I have instructed the local office to reject the application. Section 39(1) CCA provides that a person who engages in any activities for which a licence is required when he is not a licensee under a licence covering those activities commits an offence. Section 21(1) states that a licence is required to carry on consumer credit business. "Consumer credit business" is defined in section 189 as "any business being carried on by a person so far as it comprises or relates to: (a) the provision of credit by him, or (b) otherwise his being a creditor, under consumer credit agreements". It would seem – and the OFT confirms that it believes it to be arguable – that the enforcement, in the course of business, by a creditor of securities relating to consumer credit agreements amounts to consumer credit business within the meaning of limb (b), and is therefore a licensable activity. It would follow that enforcing such securities – in particular, exercising the power of sale under a charge – without a licence constitutes an offence.

It may also be unlawful to enforce a security which is legally unenforceable. A regulated agreement is not enforceable by an unlicensed creditor, and nor is a linked security: sections 40 and 113. Even if the regulated agreement is enforceable, a "land mortgage" securing such an agreement is enforceable only on an order of the court: section 126.

It appears that trading without a CCA licence has the consequence that (a) loan agreements and any linked security entered into before 6 April 2007, where the court makes a declaration of unenforceability under section 140 CCA, are rendered void; (b) loan agreements and any linked security dated on or after 6 April 2007 cannot be enforced without an order of the OFT or the court (though the agreement/security continues to exist); (c) unlicensed trading is (and taking enforcement proceedings without a licence may also be) a criminal offence.

It is our understanding that neither Ghana, nor any of Mr. Gopee's companies, hold a Consumer Credit Act 1974 licence and so cannot enforce its charge without a court order. No court order has been lodged with the application, therefore we cannot accept the transfer in form TR2 referred to above.

In addition, we are concerned that that the transfer in form TR2 by Ghana may be in breach of the spirit of the restraint order made by His Honour Judge Mackie on 19 July 2013, which prevents Mr. Gopee and other named companies from "bring[ing] or continu[ing] any legal proceeding in any County Court to recover money due or to seek possession of any property arising out of or in connection with any loan...". We acknowledge that, strictly speaking, the order does not prevent a transfer in exercise of the power of sale or other disposition as these are not a "legal proceeding".

Strike out of all cases not transferred to this Court

48. On 19 December 2013 I sent a message to Mr Gopee which again referred to the absence of the list required by Paragraph 3 the 19 July Order. That note referred to a hearing on 13 December when I had asked him why he appeared to be in breach of the Order. He told me that he considers that the word "existing" means "active" or "current" and that he is only obliged to transfer and list those cases where there is activity. I had told Mr Gopee that he was wrong about that but that since his mistake may have been genuine I would write to clarify the position. I stated that Mr Gopee had been required (and, if I was wrong about that, was now required) to seek the transfer, and to list, not only those cases which are active but all cases, including those where there is a judgment, which may be the subject of any application or enforcement in future.
49. The note continued: *"5. I further propose to order that all actions within Paragraph 1 of the Order, not detailed in a list as required by Paragraph 3 of the Order and submitted to this Court by close of business on Friday 17th January 2014, be struck out and that any and all judgments in those actions be set aside pending further order of this Court. Before making that order I give Mr Ghopee the opportunity to make written representations to the Court by Wednesday 8th January and, if he so wishes, to make oral representations, himself or through Counsel at some time to be fixed in the week commencing Monday 6th January. I propose to take this step because it is essential that all 'Barons' cases be dealt with in one place, that the Court to be able to exercise its case management powers, that Mr Ghopee be required to comply with orders of the Court and that there be adequate protection for the Defendants, many of whom appear to be unrepresented and particularly vulnerable and at least some of whom have suffered prejudice by abuse of the Court process."*
50. On 10 January 2014 I extended Mr Gopee's time for making written representations until 20 January and said that I would hear any oral representations on 24 January. Mr Gopee submitted written representations on 20 January suggesting that the Court was exceeding its jurisdiction, using its case management powers incorrectly and prejudging the cases thereby breaking the Human Rights Act. Mr Gopee also

pointed out that he could not control defendants who might revive a dead case. In oral submissions on 24 January Mr Gopee said that there was a very great number of cases and he needed more time. When asked how many cases there were Mr Gopee thought that there might be 200. I emphasised to Mr Gopee that I was not concerned with any cases which were finished and where there was no real prospect of any further application being made. I also extended time for compliance until 28 February 2014.

Reasons for making the proposed order

51. I remain of the view that I should make the Order to enable these cases to be managed properly. All the cases need to be in the same place and Mr Gopee has to respect and comply with Court orders. Mr Gopee has not complied with the 19 July Order and without a real sanction I do not believe that he ever will. There are further considerations.
52. First Mr Gopee asserts that I am prejudiced. I can understand why he has that impression but consider that he is mistaken. In Makanju I identified between paragraphs 14 and 22 a series of reasons apparently applicable in all these cases why the borrower had real prospects of showing that the lenders and their assignees could not recover the loans or enforce their security. At no point since I gave that judgment have the lenders shown any coherent reason why those provisional conclusions are not correct. There is at present no reason to believe that any of the loans which are or will be the subject of litigation are valid or enforceable, at least without leave from the OFT or the Court, or that the charges obtained and registered are valid either. Linked to this is the lack of any sign of any of the Claimants actively pursuing any of these claims on their merits or even suggesting that they have a prospect of success. Their position has simply been that existing judgments should not be disturbed. In the absence of further relevant evidence or legal argument, I have consistently taken the same view of the merits of these cases. In fact I look at each case on its merits and if there are grounds on which these loans can be shown to be lawful I am keen to learn what they are. I do not therefore consider that this objection to the Court having full knowledge or control of these cases is valid. Mr Gopee and his companies have a right to apply for permission to appeal which they exercise.
53. Secondly Mr Gopee has abused the legal process. He has used his position as a quasi litigant in person to fail to disclose important information about the legality of transactions he seeks to enforce, and of past decisions of the courts about them. If he had made proper disclosure it is unlikely that he would have obtained many of the judgments in the County Courts. He has abused the legal process in the other ways I have explained. I also have no reason to doubt what the Liquidator's solicitors have said about Mr Gopee's failure to disclose the litigation to their client.
54. Thirdly Mr Gopee has been relying on assignments to bring claims and secure charges in the names of companies other than Barons Finance Limited. Some assignments were, according to their face, entered into some time ago but the dates of some of these are challenged. Other assignments are dated very recently and obviously open to potential challenge by the Liquidator. The assignments, even if valid, may mislead other courts alert to the name of Barons but not to those of the

assignees. Action under the assignments, whether by litigation or registration, is particularly distressing to the parties affected.

55. Fourthly there are more general concerns about the propriety of the Barons companies as the Tribunal decision referred to in Makanju explains. There is also now an investigation of various Barons companies being conducted under Section 447 of the Companies Act 1985.
56. Fifthly the Defendants and potential Defendants are vulnerable for the reasons I have given and in some cases at risk of losing their homes.
57. I will therefore order that any claim in any County Court which falls within the terms of my Order of 19 July, as amended, which has not been notified to this Court by close of business on Friday 28 February 2014 will be struck out, or on that date, transferred to this Court and struck out. Any future claim within the terms of the Order of 19 July not brought in this Court will be on issue be transferred to this Court and struck out. Any applications for relief will be heard in this Court, not the County Court.

Listing of hearings and procedural matters

58. At the hearing on 24 January one of the Defendants referred to the long time it takes for a hearing to be arranged, apparently under the impression that the Court decides when to convene a hearing. It is for the parties to apply for a hearing and this will be listed urgently if necessary. Last autumn one of these cases was heard on an hour's notice.
59. The Court will not make orders, except in a case of urgency, unless the other party has received notice of the application, has been served with the evidence and has had time to answer it. Failure to comply with these elementary requirements of justice leads to adjournment, delay and waste of costs.
60. Parties are reminded that in the High Court they are responsible for drawing up and serving orders. If I make an order in court it must then be drawn up, approved, stamped and served by the party who obtains it.
61. Orders for costs are generally made only against parties to the case. That is why I have generally declined to make orders against Mr Gopee personally. He is rarely named as a party to the case. Any party applying for costs to be paid by Mr Gopee personally must make this clear in advance of the hearing and comply with CPR48.2, which deals with costs against non-parties.
62. In these cases the court has taking the unusual step of making an order of its own motion. I very much hope that Mr Gopee will comply with the order that I have made. If however any party claims that there has been non compliance he or she should make an application. It is not the role of the Court to police compliance with its orders. The Court will not, except in a very clear case, act itself to deal with an alleged breach of an order.

63. It is important to bear in mind the limited role of the Court. The Court is concerned with managing and deciding the claims brought in and transferred to it, and to some extent with the claims to be brought in future. More general questions of enforcement are for the agencies entrusted with that task.

Orders and judgment.

64. The amended Order against Mr Gopee has been issued. This judgment also refers to orders in individual cases that I agreed to make at the hearing on 24 January but which I said I would communicate to the parties in writing. It is for those parties to draw up draft orders to give effect to my directions and to submit them for approval.
65. Copies of this draft judgment, which remains confidential until handed down, and of the amended Order against Mr Gopee and his companies will be sent by the Court to Mr Gopee, to all solicitors and Counsel who appear to be acting, to litigants in person who are actively engaged in these cases, to HM Land Registry and to the OFT. This is a draft judgment. Any suggested corrections of the usual kind should reach the Court by noon on Monday 3 February. The judgment will be handed down Wednesday 5 February. No attendance from any party is required.