

ENGLAND AND WALES / JUDGMENT

Jin Gumbrell v YPG Pembroke Studios Ltd

Source: caselaw.nationalarchives.gov.uk · Research copy typeset by Esheria. Not court-issued or certified.

Neutral Citation Number: [2026] EWCA Civ 44 Case No: CA-2024-001938 IN THE COURT OF APPEAL (CIVIL DIVISION) ON APPEAL FROM THE COUNTY COURT AT READING His Honour Judge Murch Case No: J7QZ0730 Royal Courts of Justice Strand, London, WC2A 2LL Date: 4 February 2026 Before : LORD JUSTICE BAKER LORD JUSTICE NUGEE and LADY JUSTICE YIP

- ----- Between : JIN GUMBRELL
- and - YPG PEMBROKE STUDIOS LTD The Appellant appeared in person There was no appearance for the Respondent Hearing date: 29 January 2026
- ----- Approved Judgment Claimant/ Appellant Defendant/ Respondent
This judgment was handed down remotely at 10.30am on 4 February 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd Lord Justice Nugee:

Introduction

1. 2. 3. This second appeal from the County Court concerns the question whether the claim of the Appellant, Mrs Jin Gumbrell, has been struck out for failure to comply with an unless order. By Order dated 30 October 2023 DDJ Deborah Davies held that it had been. An appeal by Mrs Gumbrell was dismissed by HHJ Murch by Order dated 5 August
2024. Mrs Gumbrell now appeals to this Court with the permission of Falk LJ. Mrs Gumbrell has acted in person throughout the proceedings, and appeared in person before us, and, as explained below, the Respondent, YPG Pembroke Studios Ltd (“YPG”), was in the event unrepresented. We therefore only heard from Mrs Gumbrell. Although she disclaimed any legal knowledge, she presented her case with both clarity and skill, and we are very grateful to her both for her submissions and for the helpful way in which she had prepared the papers for the hearing. 4. For the reasons given below, I would allow the appeal. Insolvency of YPG 5. The hearing of the appeal was listed for 29 January 2026. Until the day before, we had expected YPG to be represented at the appeal; and a skeleton argument had been filed on its behalf by Mr Abyez Ahmed of London Law Chambers Ltd, who describes himself as a consultant. But on 28 January, the day before the hearing, Mr Ahmed e-mailed the Court to the effect that YPG was insolvent and in winding up, and that instructions were awaited from the Official Receiver; and at 9.48am on 29 January (the day of the hearing) he e-mailed the Court again to the effect that the Official Receiver would not be instructing

him, and withdrawing his previous submissions. At 10.04am a Deputy Official Receiver, Mrs Helen Budden, herself e-mailed the Court confirming that a winding up order was made against YPG on 18 June 2025 and that the Official Receiver was appointed as its liquidator. Mrs Budden drew the Court's attention to s. 130(2) of the Insolvency Act 1986 (see below). She said that the Official Receiver was neutral in the proceedings against YPG, but asked, should the matter require further consideration by the Official Receiver, for an adjournment to enable such consideration to be given. 6. By s. 130(2) of the Insolvency Act 1986: "When a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company or its property, except by leave of the court and subject to such terms as the court may impose." The present appeal is I think plainly a "proceeding ... against the company" and leave is therefore required to proceed with it. 7. We received, in the circumstances I have referred to, no submissions, and were cited no authorities, as to the principles applicable to the grant of leave. But they appear to be well-established. They include at least the following. Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* 8. 9. 10. 11. First, the section confers a broad and unfettered discretion on the Court, which is given a "free hand to do what is right and fair according to the circumstances of each case": see *re Armada Shipping SA* [2011] EWHC 216 (Ch) at [47] per Briggs J, as he then was, and cases there cited. Second, the purposes of this provision (and of s. 285 of the Insolvency Act 1986, the corresponding provision in the case of bankruptcy) are those stated by David Richards LJ (as he then was) in *Mortgage Debenure Ltd (in administration) v Chapman* [2016] EWCA Civ 103, [2016] 1 WLR 3048 at [12] as follows: "In the case of liquidation and bankruptcy, the purpose of these provisions is essentially twofold. First, given that the property of the company or individual stands under the statute to be realised and distributed, subject to any existing interests, among the creditors on a *pari passu* basis, the moratorium prevents any creditor from obtaining priority and thereby undermining the *pari passu* basis of distribution. Secondly, given that both a liquidation and bankruptcy contain provisions for the adjudication of claims by persons claiming to be creditors, the moratorium protects those procedures and prevents unnecessary and potentially expensive litigation." Third, it follows from the second purpose in particular that leave should generally be refused if the issues can conveniently be decided in the liquidation, because it will ordinarily be quicker and less expensive for matters to be determined in the course of the liquidation, and the Court must be very cautious before exposing the liquidators to the burden of coping with difficult and time-consuming litigation: see *Bourne v Charit-Email Technology Partnership LLP* [2009] EWHC 1901 (Ch), [2010] 1 BCLC 210 at [3] per Proudman J, and cases there cited. In the present case however the position seemed to us straightforward. Hearing the appeal would not (whatever its outcome) give Mrs Gumbrell any priority in the liquidation. And only this Court could decide if the judgment under appeal should stand or be reversed. That issue was not one that could ever have been decided in the liquidation. We therefore gave leave for the appeal to proceed.

12. We did not regard it as necessary to adjourn the hearing. The appeal had been fixed for some time. Mrs Budden's letter was received less than half an hour before the hearing was due to start, and by then Mrs Gumbrell had already travelled to London for the hearing. In those circumstances we would in any event have required some substantial reason for granting a last-minute adjournment. But in fact Mrs Budden only sought an adjournment "should the matter require further consideration" by the Official Receiver. The liquidation has been on foot for over 7 months, which one would have thought ample time for the Official Receiver both to ascertain what proceedings were being pursued against YPG and to decide whether to take active steps to oppose the appeal; and given that the Official Receiver's stated position was one of neutrality we took the view that the matter did not require further consideration and that no useful purpose would be served by an adjournment which would simply inconvenience Mrs Gumbrell and no doubt cause extra cost to be incurred. We therefore proceeded to hear the appeal on its merits. Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* The proceedings in the County Court
13. Mrs Gumbrell commenced her claim against YPG in the County Court by completing an Online Money Claim Form, which was issued in the County Court Business Centre ("CCBC") in Northampton on 21 January 2022. In a witness statement filed in this Court in support of an application for relief from sanctions if necessary, she explains that she researched online as to how to make a claim and discovered that the first step was to make a claim online. The online form includes a box for Particulars of Claim, but this is limited to 1080 characters. Mrs Gumbrell completed it as follows: "Claimant bought flat 403 of Pembroke Studios from defendant for £69,950. It's stipulated in the contract Seller shall pay the Buyer rental income sum 8% of the Purchase Price per annum for five years from the date of Lease on 1st January, 1st April, 1st July and 1st October. The completion date is 26 Oct 2017. Claimant received the last rent payment on 8 Oct 2019. After chasing payments multiple times, defendant claimed £100,000 was spent on cladding improvement in
2019. On 9 May 2019, government published names of building owners and developers who have funded the remediation of buildings and there were no names of defendant. July 2019 the ministry released the Cladding Remediation Fund for building above 18m which Pembroke is. It's also operated as a hotel with good comments on booking.com all the way through bar 2 lockdowns. Claimant claims the overdue 9 payments £11466 plus interest £919.8 to 1 Jan 2022 under the County Courts Act 1984 at the rate of 8 per cent a year. The total is £12385.8". The form also contains a statement of truth in the following form: "The Claimant believes that the facts stated in this claim form are true and I am duly authorised by the claimant to sign this statement Signed JIN GUMBRELL (Claimant)" There is no facility for attaching documents to the online form. Mrs Gumbrell says in her witness statement that she assumed that the form was to alert the defendant to pay up, and that if it did not, or the claim was disputed, then further steps and evidence would follow. 14. There has been no suggestion that the Claim Form was not duly served on YPG. YPG filed an acknowledgment of service on 1 February 2022, and a Defence on 22 February 2022. This Defence was quite

short, as follows: “The Claimant has no management agreement with the Defendant, their agreement is with Perennial Management Ltd, any action to recover monies in relation to the Management Agreement should be taken against the aforementioned company. Attached are copies of the rental income statements for Q1-Q4 2018 Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd 15. 16. 17. 18. and Q1-Q3 2019 raised by Perennial Management Ltd confirming all payments have been made by the same.” That was followed by a statement of truth signed by Mr Sze Ming Yeung, and an address for service at 14 Columbus Quay in Liverpool. There were 7 attachments, all in similar form. Taking the earliest as an example, it is headed Perennial Management Ltd (“Perennial”) with an address at Unit 1F, 2nd Floor, Columbus Quay, but also has a box with “YPG” in it at the top left. The document takes the form of a Statement of Account, with a Statement Date of 26 March 2018 and a Payment Date of 1 April 2018, addressed to Bill and Jin Gumbrell. The account is headed with the address of Pembroke Studios in Liverpool and gives a unit number of 402 (corrected in the other statements to 403); it shows a Rent Payment of £1,399 for the quarter 1 January to 31 March 2018, from which is deducted Ground Rent of £125, and a net remittance to Mrs Gumbrell’s bank account of £1,274. The other statements show similar remittances of £1,274 per quarter, the last being a statement with a Statement Date of 24 September 2019 and a Payment Date of 1 October 2019. Simply by comparing Mrs Gumbrell’s Particulars of Claim on the Claim Form with the Defence and its attachments, it is not difficult to identify what the ambit of the dispute was. Mrs Gumbrell claimed that she was entitled under a sale contract with YPG to quarterly payments of rental income from YPG; that the last such payment she had received was on 8 October 2019; and that there were 9 payments outstanding totalling £11,466. That equates to £1,274 per quarter which cannot immediately be reconciled with the statement that the rental income was calculated at 8% per annum on the Purchase Price of £69,950 (which would equate to £5,596 per year, or £1,399 per quarter), but once one looks at the statements of account attached to the Defence the apparent discrepancy disappears, being explained by the deduction of £125 per quarter for ground rent. Taking the Defence and its attachments together, it can be seen that there was no substantive dispute (i) that quarterly payments in respect of rent had been made to Mrs Gumbrell for Unit 403; (ii) that each payment was exactly £1,274; and (iii) that the last payment was made in October 2019. It is not expressly admitted in the Defence that there were 9 payments outstanding, but it is not denied either. The substantive defence is simply that Mrs Gumbrell has sued the wrong company and should have sued Perennial. The fact however that YPG could produce copy statements of account from Perennial, that these, although headed with Perennial’s name, also bore a box marked YPG, and that the address given for Perennial was very similar to that of YPG would all tend to suggest that the companies were connected. As Mrs Gumbrell says in her witness statement, the issue in dispute was therefore simply who was under an obligation in the relevant contract to pay rent; neither party argued about the total of the claim or the cause of action. She added that a copy of the relevant contract would be sufficient to determine the outcome of the claim. That seems to me a perfectly reasonable analysis of the position as it stood after service of the Claim Form and Defence. 19. Both

parties then completed directions questionnaires, Mrs Gumbrell on 23 March and YPG on 25 March. In Mrs Gumbrell's, she said that she would prefer the case to Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd be heard at Reading County Court; and in answer to the question "What directions are proposed for disclosure?" listed, among other items, (1) the sale and purchase contract of Flat 403 between YPG and herself and (2) a Letting and Management Agreement between Yu Management Ltd and herself. 20. The case was duly transferred to the County Court at Reading. There on 13 May 2022 DJ Sophie Harrison made an Order which recited that it was made on transfer-in from the CCBC, that it was made without notice, that she had considered the statements of case and directions questionnaire, and that she had allocated the claim to the fast track. The substantive order was in this form: "1. The Claimant must file and serve particulars of claim complying with CPR 16 by 4:00pm on 10th June 2022 and in particular attaching a copy of the contract and identifying with reference to the contract the sums due and not paid.

2. In default, claim struck-out.
3. On receipt, file to be re-referred for directions."
21. Mrs Gumbrell set about complying with that Order. She sent to the Court by Royal Mail special delivery a package of material, which was received by the Court on 8 June 2022. The package consisted of a number of documents. She wrote the case number (J7QZ0730) on each document. The documents included the following: (1) (2) (3) (4) (5) (6) An authority signed by her on 9 September 2016 which authorised her solicitors, Messrs Lee & Kan, to sign and exchange contracts for the purchase of Unit 403, Pembroke House. The first page of a retainer letter from Messrs Lee & Kan dated 15 August 2016 thanking her for instructing them to act in the purchase. A one-page sheet ("the one-page sheet") prepared by Mrs Gumbrell explaining the sums due (see below). A copy (unsigned) of the Sale and Purchase Contract for Flat 403, Pembroke Studios, between YPG and herself. A completion statement from YPG's solicitors with a completion date of 26 October 2017. A copy (also unsigned) of a Letting and Management Agreement between Yu Management Ltd and herself. 22. The one-page sheet at (3) which she prepared was as follows: "As per Sale and Purchase Contract of Studio Flat 403 Pembroke Studios Between YPG Pembroke Studios Limited And Jin Gumbrell. 1.6 Ground Rent: £500 per annum 1.9 Purchase price: £69,950 1.14 Rental Income: £5,596 per annum Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd 8.3 8.4 8% of the Purchase Price per annum rental income sum for five (5) years from the date of the Lease, rental income sum shall be paid to the Buyer on the following rent payment dates: 1st January, 1st April, 1st July and 1st October each year. Buyers agreed to pay the ground rent. -----> £69950 x 8% = £ 5596 £ 5596 ÷ 4 = £ 1399 £500 ÷ 4 = £ 125 Quarterly rental income: £1399 - £125 = £1274 As the claim was issued on 21/01/2022, the interest is calculated to 1st January 2022 rent payment date only. Until now it has passed the 1 st April 2022 rent payment date." That was followed by a table, showing the "Rent payment due date", the "Amount due by contract", the "Days overdue (calculated to 1 Jan

2022)” and the “Interest accrued to 1 Jan 2022 at the rate of 8% per year”. The first two rows for example were as follows: 01/01/20 £1,274.00 01/04/20 £1,274.00 639 £204.40 £178.92 There were 9 such rows up to and including 1 January 2022; the table then totalled the 9 rent payments as £11,466, and totalled the interest up to that date as £919.80.

23. Mrs Gumbrell explained in her witness statement that since the Court system had kept the submitted Claim Form with her statement of truth and signature, she only posted to the Court “the supplemental parts of content unidentified in the Claim Form with the copies of contracts etc.” 24. She also sent a package of documents by first class post to YPG. We were not given the precise date of posting but Mrs Gumbrell’s evidence was that this was at the end of May 2022. We have not seen anything that takes issue with that. The package was the same as that sent to the Court except that in this case Mrs Gumbrell added a concise statement of the nature of her case. We do not have a copy of this as served but she explained to us that it was in precisely the same form as a later version signed and dated 31 July 2022 which we do have a copy of. This reads as follows: “Statement of Claimant Claimant bought flat 403 of Pembroke Studios from defendant for £69,950. It’s stipulated in the contract Seller shall pay the Buyer rental income sum 8% of the Purchase Price per annum for five years from the date of Lease on 1st January, 1st April, 1st July and 1st October. The completion date is 26 Oct 2017. Claimant received the last rent Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd payment on 8 Oct 2019. Claimant claims the overdue 9 payments £11466 plus interest £919.8 to 1 Jan 2022 under the County Courts Act 1984 at the rate of 8 per cent a year. The amount claimed is £12385.8. The court fee for it is £ 619.25. The trial fee of £ 545 will be due on 17 November 2022. This statement is true to the best of my knowledge and belief and I make it knowing, that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.” Mrs Gumbrell told us that she signed and dated this when she served it at the end of May. 25. The next thing that happened was that DJ Harrison made another Order. This is dated 13 June 2022 and begins with the following recital: “On 13 June 2022, District Judge Harrison sitting at the County Court at Reading [address] considered the statements of case and directions questionnaires filed and allocated the claim to the Fast Track.” The substance of the Order allocated the claim to the Fast Track, and gave directions for trial including directions as to disclosure, witness statements, oral evidence, pre- trial check lists, listing and trial bundles. The direction as to listing provided for a listing window between 14 November and 2 December 2022 and an estimated length of trial of 3 hours. 26. The final paragraph (paragraph 8) provided as follows: “Because this Order has been made without a hearing, the parties have the right to apply to have the order set aside, varied or stayed. A party making such an application must send or deliver the application to the court (together with any appropriate fee or application for help with fees) to arrive within seven days of service of this Order.” 27. 28. No application was made under paragraph 8. Both parties proceeded to prepare for trial. On 13 June 2022 the Court sent the parties a pre-trial checklist with a notice requiring it to be returned by 30 September 2022. On 22 June 2022 the Court sent the parties a Notice of Trial Date, notifying

them the trial would take place at the County Court at Reading on 15 December 2022 with a time estimate of 3 hours. On 6 July 2022 Mrs Gumbrell served a List of Documents. On 4 August 2022 YPG served a witness statement made by Mr Yeung. On 5 August 2022 Mrs Gumbrell e-mailed to YPG a copy of her statement (in the form set out at paragraph 24 above), this time signed and dated 31 July 2022. On 11 August 2022 YPG served its List of Documents. On 4 October 2022 YPG, which had until then been acting without legal representation, instructed a firm of solicitors called Bexley Beaumont Ltd. Mr Phil Sheard, a partner in the firm, e-mailed Mrs Gumbrell explaining that he had been instructed and setting out why her claim was bound to fail as the company liable was Perennial not YPG; he offered her £500 in full and final settlement, which Mrs Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* 29. 30. 31. 32. Gumbrell did not accept. One of the directions made by DJ Harrison in her Order of 13 June 2022 had been for the trial bundle to include a case summary and chronology. On 19 November 2022 Mrs Gumbrell e-mailed Mr Sheard with her case summary and chronology to include in the trial bundle, it having apparently been agreed that he would put the bundle together. In her case summary, she summarised the course of the proceedings, and noted that YPG's defence was that YPG was only liable to pay the quarterly rental payments if a letting and management agreement had been made with YPG. But this was never offered to her. She concluded that the contract was deceptive and fraudulent and said that she wanted permission to amend her claim to void the sale and purchase contract and claim damages in tort. She quantified her claim as £69,950 with interest at 8% from 10 November 2017, which she calculated amounted in total to £98,466.60 (up to 15 December 2022, the anticipated trial date); and added "Claimant will transfer ownership of 403 Pembroke Studios back to defendant in due course". On 8 December 2022 Mr Sheard filed the trial bundle with the Court, together with the parties' respective case summaries. On 13 December 2022 Mr Heard made Mrs Gumbrell an offer to settle the case on payment of £79,322.17. This was calculated in the same way as Mrs Gumbrell's suggested claim, namely at £69,950 plus interest to 15 December 2022, but using a rate of 5% instead of 8%, and also deducting the rental payments she had received. The terms included a term that "Upon receipt of payment the leasehold title to Apartment 403, Pembroke Studios will be transferred to our client." At that stage everything was in place for the trial to take place on 15 December 2022. But on 13 December the Court e-mailed the parties to alert them to a possibility that the case would be stood out, and on 14 December it was indeed stood out for lack of judicial availability. On 3 February 2023 the Court sent a new Notice of Trial Date, this time for 4 May 2023. On 8 March 2023 Mr Heard sent Mrs Gumbrell another offer to settle. This took the form of a letter making a Part 36 offer of £99,615.60. It was in the normal form for a Part 36 offer to settle a simple money claim: it offered the sum in full and final settlement of her claim; it provided for YPG to pay Mrs Gumbrell's costs in addition in accordance with CPR r 36.13 if the offer were accepted within 21 days; if however the offer were not accepted and she failed to do better at trial YPG intended to claim costs from the expiry of the 21 days under CPR r 36.17. 33. The Part 36 letter itself did not contain any further conditions or any reference to Mrs Gumbrell transferring the flat back to YPG. But in the covering e-mail, Mr Heard said: "In the event

you choose to accept the offer we propose that the parties enter into the attached Tomlin Order to conclude the current Court proceedings and the attached Settlement Deed.” We have not seen the terms of the Tomlin Order or Settlement Deed.

34. Mrs Gumbrell accepted the Part 36 offer. We have not seen her acceptance, but on 13 Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* March 2023, Mr Heard e-mailed her: “Thank you for confirming the offer is accepted. I will confirm when my client has placed us in funds. Please sign and return the Settlement Agreement and Tomlin Order so we can ensure that the property transfer is recorded properly and the current proceedings stayed.” 35. On 19 April 2023 DDJ Alderwick made an Order. This recited that there had been e-mail correspondence from Mrs Gumbrell, and that it appeared that a Part 36 offer had been made on 8 March 2023 and accepted on 13 March 2023, and that the agreed sum had not been paid. The substantive part of the Order then provided: “WITHOUT NOTICE AND OF THE COURT’S OWN INITIATIVE
1. Judgment for the Claimant in the sum of £99,165.60 to be paid on or before 4 pm on 3 May 2023.
 2. The Defendant shall pay the Claimant’s costs to be assessed if not agreed.
 3. This order has been made by the court of its own initiative under CPR 3.3. Any party may apply to have it set aside, varied or stayed within 7 days of the date the order is served on that party.” 36. 37. 38. On 28 April 2023 YPG applied to set aside that Order. YPG was by then represented by London Law Chambers, and the application was supported by a witness statement of Mr Ahmed. His contention was that Mrs Gumbrell had failed to serve Particulars of Claim as ordered by DJ Harrison on 13 May 2022, with the result that the claim had been struck out on 10 June 2022. 4 May 2023 was the date for which the trial had been re-fixed. Neither party appeared. DDJ Helen Pagett made an Order reciting that neither had attended or given any reason to the Court, and ordering both parties to write to the Court by 26 May 2023 explaining their non-attendance. On 10 May 2023 Mrs Gumbrell e-mailed the Court explaining that she had received the judgment dated 20 April 2023 (DDJ Alderwick’s Order) and could see no basis for YPG’s application to set it aside so she could not reasonably foresee that there would still be a trial on 4 May 2023 to attend. She also confirmed that she had posted all the documents required by DJ Harrison’s Order to the Court on 7 June 2022, and had also sent them by first class post to YPG.
39. Mr Ahmed wrote to the Court on behalf of YPG explaining that his understanding was that once the case had been determined by an Order of the Court the trial date would be vacated. He confirmed that he wished YPG’s application to be heard and proposed directions to enable it to be determined whether the documents sent to the Court by Mrs Gumbrell were in accordance with DJ Harrison’s Order, and whether they had been duly served. He continued: “If the court finds that the documents were served and were compliant Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* with the Order of DJ Harrison, then court proceeds to determine if the Part 36 offer was itself part of

an larger offer the acceptance of which requires the Claimant to transfer the subject property to the Defendant or if the offer was a valid offer.” Judgment of DDJ Davies 40. YPG’s application was heard by DDJ Deborah Davies on 30 October 2023. She gave an oral judgment in which she agreed with YPG. She held that the documents filed by Mrs Gumbrell with the Court on 8 June 2022 did not amount to Particulars of Claim. They were not what the Court wanted, which was a specific document setting out with clarity the nature of her case and identifying by reference to the contract the sums due and not paid (judgment at [2]). She therefore found that Mrs Gumbrell had not filed Particulars of Claim (judgment at [3]). It followed that she had not served them either: “Paperwork was sent by first class post, but it did not include the absolutely key particulars of claim.” (judgment at [5]). It also followed that the claim had ceased to exist by virtue of the unless order, and hence that there was no Part 36 offer capable of acceptance (judgment at [6]). The application therefore succeeded because the case had already been struck out for failure to comply with the unless order (judgment at [8]). 41. By her Order dated 30 October 2023 she therefore set aside the Order of DDJ Alderwick dated 19 April 2023 entering judgment for Mrs Gumbrell; declared that the claim stood struck out from 10 June 2022; ordered Mrs Gumbrell to pay YPG’s costs; and refused leave to appeal. Judgment of HHJ Murch

42. Mrs Gumbrell sought to appeal. Permission to appeal was granted by HHJ Murch, limited to the single question whether DDJ Davies was wrong to conclude that Mrs Gumbrell had not complied with the Order made on 13 May 2022 by DJ Harrison. 43. The appeal was heard by HHJ Murch on 5 August 2024. He gave an oral judgment dismissing the appeal. It is apparent that he had considerable sympathy for Mrs Gumbrell as a litigant in person, but he held that DDJ Davies had not erred. His reasoning can be seen from a short passage in his judgment at [25]-[26]. Mrs Gumbrell had submitted that the combination of the online claim form and the one- page sheet she included in the papers sent to the Court (see paragraph 22 above) amounted to Particulars of Claim within CPR Part 16. HHJ Murch however said: “25. I am afraid I cannot accept that that is sufficient. I cannot conclude that the document which was filed on 8 June contained a concise statement of facts, setting out what it was the appellant said was the basis of the claim. Judge Harrison required the claimant (the appellant before me) to file and serve a particulars of claim which is a freestanding document that sets out the concise statement of facts. It is a freestanding document that sets out the clauses of the contract upon which reliance is placed and why it was said that there had been a breach of those terms giving rise to a loss and any quantification of that loss. Judgment Approved by the Court for handing down. Gumbrell v YPG Pembroke Studios Ltd
26. I accept that doing the best she could, that Mrs Gumbrell, in her documents, made reference to a series of contractual provisions which she says are relevant to the cause of action that she says she has. There is not though a concise statement of facts setting out what it is that has gone wrong and what it is that the appellant says the respondent fails to do. This is something of a borderline case because the appellant did what she could to supplement, in her mind, the failing of the online procedure to enable her to set out in more detail what it was that she says has gone wrong.” 44. He also pointed out that the one-page sheet did not

contain a statement of truth. There may have been a statement of truth on the Claim Form but DJ Harrison required there to be a “freestanding document which, in its own right, complied with the requirements of the civil procedure rules” (judgment at [28]). 45. By his Order dated 5 August 2024 he therefore dismissed the appeal. Appeal to Court of Appeal

46. Mrs Gumbrell now appeals to this Court, with the permission of Falk LJ, on the ground that DDJ Davies and HHJ Murch were wrong to find that there had been non-compliance with the Order of DJ Harrison dated 13 May 2022. Did Mrs Gumbrell comply with the Order? 47. The first question raised by Mrs Gumbrell’s appeal is what the Order of 13 May 2022 required her to do. I have set it out above (see paragraph 20) but repeat it here for convenience: “The Claimant must file and serve particulars of claim complying with CPR 16 by 4:00pm on 10th June 2022 and in particular attaching a copy of the contract and identifying with reference to the contract the sums due and not paid.” 48. It is not difficult to see why both DDJ Davies and HHJ Murch thought that what this required was a fresh free-standing document of the type familiar to lawyers. But Mrs Gumbrell, although a highly intelligent woman who has done her very best to follow the rules, did not understand it that way. She had already filed and served the Claim Form, which contained a box marked Particulars of Claim which she had filled in with a concise statement of her case. She therefore thought that what she had to do to comply was supply the missing information identified by DJ Harrison. That consisted of two things: a copy of the contract relied on, and something identifying with reference to the contract the sums due and not paid. She did send both those things to the Court in the package of documents received on 8 June 2022, which included not only a copy of the contract but the one-page sheet she prepared cross-referencing her claim to the clauses of the contract and listing each outstanding payment. 49. HHJ Murch said that the one-page sheet, although it made reference to a series of contractual provisions, did not contain a concise statement of facts setting out what it was that had gone wrong and that YPG had failed to do (judgment at [26]). But if one Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* reads the one-page sheet with the Particulars of Claim in the Claim Form, then I do not think there is the difficulty that he identified. The essential allegations in a claim for money due under a contract can I think be summarised as follows: (i) the contract; (ii) the provision of the contract under which payment fell due; (iii) the amount of the payment; (iv) the date when it fell due; and (v) the fact that the defendant has not paid. The Particulars of Claim on the Claim Form identify the contract (namely a contract between Mrs Gumbrell and YPG for the purchase of flat 403 Pembroke Studios). They also identify that quarterly payments were due from YPG for 5 years from the date of completion and give the dates of payment. They also state that 9 such payments are outstanding. That I think satisfies (i), (iv) and (v) of the requirements. As to (iii) the amount of the payment, the Particulars of Claim do not identify the amount of each payment but they do identify the total as £11,466 from which one could calculate that each payment, at any rate if equal, would be £1,274. The main thing missing therefore was (ii) the identification of the relevant provisions of the contract. This is what Mrs Gumbrell’s one-page sheet supplies. It identifies the contract as the Sale and Purchase Contract, a copy of

which is also enclosed. It identifies the relevant clauses under which payment arises, namely clauses 8.3 and 8.4. The precise terms of those clauses can be seen from the copy contract. It identifies the amount of each quarterly rental payment as £1,274 and provides a detailed calculation as to how that sum is arrived at. It sets out in a table each one of the outstanding 9 rental payments and when the same fell due. As Falk LJ said when granting permission to appeal, it is “not obvious what critical information is missing from the documentation filed, read with the Claim Form”. I think Mrs Gumbrell was justified in thinking that she had done what DJ Harrison had required her to do in not only supplying a copy of the contract but also in identifying with reference to the contract the sums due and not paid. So if one can read the one-page sheet together with the Particulars of Claim included on the Claim Form, then I think that taken together they do provide “a concise statement of the facts on which the claimant relies” which is the essential requirement in CPR Part 16 for Particulars of Claim: see CPR r 16.4(1)(a). The next question therefore is whether the two documents can be read together, or whether, as HHJ Murch held, what DJ Harrison’s Order required was a fresh free- standing document to be filed which could stand on its own as Particulars of Claim. On this I think one can say that the Order is not entirely clear. It is well established that unless orders should make it quite clear what the party to whom they are addressed has to do, precisely because the sanction (in this case the striking out of the claim) takes effect automatically. Thus for example in *Abalian v Innous* [1936] 2 All ER 834 at 838 Greene LJ said this: “Speaking for myself, I think that any order dealing with the dismissal of an action unless something is done should be absolutely and perfectly precise in its terms. The dismissal of an action at an interlocutory stage is a very serious matter and may well work serious injustice. If an order is to be made in the form that, unless one party or another party does something, the action will be dismissed, it is imperative that the thing to be done in order to avoid dismissal of the 50. 51. 52. 53. Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* action should be specified in the clearest and most precise language, so that it may be possible for the party on whom the necessity of doing the act lies—which would normally be the plaintiff—to be in no doubt whatsoever as to the steps which he is to take if he is to avoid his action being dismissed.” 54. Although a decision under the previous rules (the RSC), there is no reason to think that the same is not equally true today under the CPR: see, for example, *Devoy-Williams v Hugh Cartwright & Amin* [2008] EWHC 2815 (Ch) at [8] per Falk J. I think this is particularly the case now that so many litigants, especially in the County Court, represent themselves. What may be clear enough to an experienced lawyer may be very far from clear to a litigant in person, even one who reads the rules as diligently as Mrs Gumbrell did. In the present case I consider that DJ Harrison’s Order of 13 May 2022 did not specify what Mrs Gumbrell needed to do “in the clearest and most precise language” so as to leave her “in no doubt whatsoever as to the steps” she was to take. I think it was entirely understandable that she should interpret the Order as requiring her to supplement her existing Particulars of Claim on the Claim Form with the specific matters referred to in the Order, namely a copy of the contract and something identifying with reference to the contract the sums due and not paid. I do not think she can be criticised for not reading it as requiring her to produce an

entirely fresh document repeating what she had already said in the Claim Form.

55. Was she nevertheless in default because that was what the Order required on its true interpretation? Here I think that it is very relevant that the Order provided in paragraph 3 that “On receipt, file to be re-referred for directions”; that the file was duly referred back to DJ Harrison on receipt of Mrs Gumbrell’s package of documents; and that DJ Harrison then made her Order of 13 June 2022 giving directions for trial (see paragraph 25 above). DJ Harrison is a very experienced District Judge and she could not have given such directions for trial if she had thought that her own Order of 13 May 2022 had not been complied with, and so she must have been satisfied that there had been sufficient compliance. The purpose of requiring Particulars of Claim is to identify the matters relied on by the claimant and she must have accepted that Mrs Gumbrell had done that sufficiently. And it may be noted that her directions included a direction that the case be listed with a time estimate of 3 hours, which suggests that she was satisfied that the matters requiring to be determined at trial had been sufficiently identified. The Court thereafter treated the claim as still on foot, sending the parties a Notice requiring completion of pre-trial checklists and a Notice of Trial Date in June 2022, and re-fixing the trial for May 2023 when it was stood out (see paragraphs 27 and 31 above). Where the Court makes an Order of its own initiative requiring some step to be taken, the party concerned purports to comply with it, and the Court itself concludes that there has been sufficient compliance, I think the circumstances would have to be fairly unusual before one should conclude that there had been insufficient compliance after all.
56. This is particularly so because DJ Harrison in her Order of 13 June 2022 provided that any party could apply to set aside or vary it by applying within 7 days (see paragraph 8 of the Order, set out at paragraph 26 above). That gave YPG an opportunity to argue that there had not in fact been sufficient compliance if it took the view that the Order of 13 May 2022 required Mrs Gumbrell to have done more than she had. But Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* 57. 58. 59. not only did YPG not do that, it itself continued to prepare for trial, serving a witness statement and a List of Documents. That continued after Mr Heard had been instructed; he doubtless reviewed the file when instructed but nevertheless proceeded with preparations, compiling the trial bundle, and making offers to settle, culminating in the Part 36 offer, all of which proceeded on the assumption that the case was still on foot. It was not until 28 April 2023 that Mr Ahmed first contended on behalf of YPG that Mrs Gumbrell had failed to comply with the Order of 13 May 2022 with the result that the claim had long before been struck out. In those circumstances I have reached the conclusion that Mrs Gumbrell was not in material breach of DJ Harrison’s Order of 13 May 2022. The Order was not so precisely worded as to leave her in no doubt what she had to do; she complied with it as she understood it to be by filing the particular documents specified in the Order to supplement the existing Particulars of Claim on the Claim Form; if one reads those documents with the existing Particulars of Claim in the Claim Form, they do contain a concise statement of the facts on which Mrs Gumbrell relied; DJ Harrison accepted that there had been sufficient compliance and gave directions for trial; and YPG did not take the opportunity that it was given to challenge that conclusion.

In all the circumstances I would hold that there was sufficient compliance with the Order such that the claim was not struck out. This makes it unnecessary to consider another point which is whether it was in any event open to YPG to take the point many months later and in circumstances where both the Court and the parties had continued to act as if the claim was still on foot. This was a question which was raised by Falk LJ when granting permission. I accept that, although DJ Harrison's Order of 13 May 2022 did not use the word "unless", the effect of paragraph 2 ("In default, claim struck out") was that it took effect as an unless order. I also accept that it is well established that where there has been a breach of an unless order, the sanction specified in the order takes effect automatically on breach (subject to the power of the Court to grant relief from sanctions): see *Marcan Shipping (London) Ltd v Kefalas* [2007] EWCA Civ 463 at [11]-[34] per Moore-Bick LJ where he traced the history back to *Whistler v Hancock* (1878) 3 QBD 83, and held that the principle continues to apply under the CPR. But, as the facts of the present case show, it seems profoundly unsatisfactory that the Court and the parties can treat a claim as being on foot for many months, preparing for trial and negotiating for settlement, only for one party to turn around and contend that the claim had actually ceased to exist almost a year before. I think it doubtful whether that really would have been open to YPG in the circumstances. But for the reasons I have given it is not necessary to decide the point, as I have held that there was sufficient compliance by Mrs Gumbrell with the Order of 13 May 2022. Nor is it necessary to decide whether the one-page sheet could have been regarded as sufficient to stand as Particulars of Claim on its own. Even without reading it with the Claim Form, I think it well arguable that it does enough to identify what Mrs Gumbrell's claim is. HHJ Murch thought that it did not because it did not identify what had gone wrong and what YPG was said to have failed to do. But it is tolerably clear that what Mrs Gumbrell was alleging was the breach by YPG of its obligation in clause 8.4 of the contract to make payments to her as set out in the table, and I think this was probably sufficient. HHJ Murch also considered that it was fatal that the one-page sheet was not verified by a statement of truth. But that may not be Judgment Approved by the Court for handing down. *Gumbrell v YPG Pembroke Studios Ltd* 60. 61. 62. right. While it is true that Particulars of Claim do require to be verified by a statement of truth (CPR r 22.1(1)(a)), CPR r 22.2(1)(a) provides that if a party fails to verify their statement of case by a statement of truth, the statement of case remains effective unless struck out. We heard no argument on the point but it is possible in the circumstances that a failure to include a statement of truth on the one-page sheet would not have been as fatal as HHJ Murch thought. But in the light of the conclusion I have come to that the one-page sheet can be read with the Particulars of Claim on the Claim Form (which are duly verified by a statement of truth), it is not necessary to pursue this point. For the reasons I have given I would therefore allow the appeal and set aside the Order of DDJ Davies of 30 October 2023 insofar as it declared that the claim stood struck out from 10 June 2022, and ordered Mrs Gumbrell to pay YPG's costs. There remains a question as to whether the judgment entered for Mrs Gumbrell by DDJ Alderwick's Order of 19 April 2023 should be reinstated, or whether the case should be remitted to the County Court for further consideration. Mrs Gumbrell's contention is that the judgment should be reinstated. Mr Heard made an offer to settle by way of Part 36 offer; that was expressed as a

simple settlement of the claim for the total sum of £99,615.60; she accepted it; and hence judgment was rightly entered for that sum. On the other hand Mr Ahmed undoubtedly did at one stage raise the question whether, even if the claim had not been struck out, the Part 36 offer was itself part of a larger offer, the acceptance of which required Mrs Gumbrell to transfer the flat to YPG (see paragraph 39 above). Mrs Gumbrell accepted before us that she had said that if she received the sum offered she would transfer the leasehold of flat 403 back to YPG; but she made it clear that as far as she was concerned it was “not part of the deal”. There would seem to be some force in her contentions, given that the Part 36 offer itself was not expressed to be conditional, to which can be added the fact that YPG never filed a Respondent’s notice seeking to uphold the Order below on alternative grounds. But I can see that there might be arguments to the contrary.

63. We have not really heard any submissions on the point. I think the most appropriate way forward in the circumstances is to give both the Official Receiver as liquidator of YPG and Mrs Gumbrell an opportunity to file brief written submissions as to whether the judgment entered by DDJ Alderwick should be reinstated, or whether the case should be remitted to the County Court for further consideration, following which the Court should decide what order to make, if possible without a further hearing. Lady Justice Yip: 64. I agree. Lord Justice Baker: 65. I also agree. 16

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF’s page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://caselaw.nationalarchives.gov.uk/ewca/civ/2026/44>

CASE PAGE <https://chat.esheria.ai/case-law/england-and-wales/UnlessOrders-court-unknown--6a3ea5083b1caa912980459b>

Prepared on 27 October 2026 · Esheria