

JERSEY / JUDGMENT

Bates v Weston

COURT

Appeal against decision of the Royal Court which dismissed Mr

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**Appeal against decision of the Royal Court which dismissed Mr
Weston's application to set aside the registration of an English Judgment**

[2023]JCA141

Court of Appeal

25 July 2023

Before : Mr George Bompas, K.C., President;
Ms Helen Mountfield, K.C., and;
Mr James Wolffe, K.C..
Between
Kenneth William Bates
Judgment Creditor and Respondent
And
Robert Lawrence Weston
Judgment Debtor and Appellant
Advocate F. J. Littler for the Respondent.
The Appellant appeared on his own behalf
assisted by his wife, Mrs Weston.

JUDGMENT

WOLFFE JA: 1. This is the judgment of the Court. 2. This appeal arises in the context of many years of bitter litigation in England & Wales and Jersey between the Appellant and Respondent to this appeal, associated litigants, and companies variously controlled by the Appellant, Respondent and others. The detail of this litigation is not material to this appeal, save as background, but it is helpfully summarised in the judgment of the Royal Court against which we are asked to consider this appeal. 3. In 2010, the Appellant initiated defamation proceedings in the High Court of England & Wales against Leeds United Football Club (“Leeds”) and the Respondent. The case concerned statements made by the Respondent about the Appellant in publications of Leeds. On 11 November 2015 Tugendhat J, struck out the proceedings and ordered the Appellant to pay the costs of Leeds and the Respondent. He issued a judgment (“the English judgment”) in which he ordered the Appellant to make a payment to account of £40,000 in respect

of the Respondent's costs by 9 December 2015. The Appellant's application to the Court of Appeal of England and Wales for leave to appeal Tugendhat J's decisions was refused. 4. On 10 March 2017, on the Respondent's application, the Assistant Judicial Greffier ordered the English judgment to be registered in this jurisdiction for enforcement pursuant to Article 4 of the Judgments (Reciprocal Enforcement) (Jersey) Law, 1960 ("the 1960 Law"). 5. The Appellant then applied to the Royal Court under Article 6 of the 1960 Law to set aside the registration of the English judgment. That Article specifies, in paragraph (1), six grounds (and only six) on which the registration is to be set aside, and a single further ground on which the registration may be set aside. (i) The six mandatory grounds are where (i) the judgment is not a judgment to which the 1960 Law applies or was registered in contravention of the 1960 Law, (ii) the courts of the country of the original court had no jurisdiction in the circumstances of the case, (iii) the judgment debtor did not receive notice of the proceedings before the original court in sufficient time to enable the judgment debtor to defend the proceedings and did not appear, (iv) the judgment was obtained by fraud, (v) the enforcement of the judgment would be contrary to public policy in Jersey, or (vi) the rights under the judgment are not vested in the person by whom the registration was made. (ii) The discretionary ground for setting aside registration arises where the Royal Court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by another court having original jurisdiction in the matter before the date of the judgment in the original court. 6. It follows that to be successful in having the registration of Tugendhat J's judgment of 11 November 2015 set aside, the Appellant would have had to show that at least one of the grounds in the previous paragraph had been made out; otherwise, the Royal Court would have no power to set aside the registration of the judgment. 7. The Royal Court (Commissioner Sir Michael Birt and Jurats Crill and Austin-Vautier) refused the Appellant's application to set aside the registration of the English judgment. The judgment of the Royal Court (Bates v Weston [2023] JRC 032) ("the Set-Aside Judgment") was issued on 17 January 2023. 8. The Appellant has appealed to this Court against the Set-Aside Judgment. For the reasons which we will explain, we dismiss his appeal. The Respondent's preliminary contention 9. The Royal Court allowed and required the Appellant to file a Notice of Appeal by 20 March 2023 or by any later date allowed by a single judge of the Court of Appeal. On 13 March, Bompas JA extended the date for filing the Notice of Appeal to 27 March 2023. The Appellant has filed a document headed "Appellant's Notice of Appeal". This document sets out the orders which the Appellant seeks. It then sets out two Grounds of Appeal.

10. Ground 1 in the Notice of Appeal starts by identifying, by reference to a document described as "Statement of Grounds & Skeleton Argument" which was filed before the Royal Court (and which has also been filed with the Court of Appeal for the purposes of this appeal) and a summary list of issues (under headings c1 to c8), the contentions which had been placed before the Royal Court by the Appellant. The Ground goes on to state: "The Appellant recognises that some of the contentions listed above may have been decided reasonably and fairly by the Royal Court. In such event it would be inappropriate for the Appellant to ask the Court of Appeal to review in depth each of these contentions. However time constraints have

prevented the Appellant from identifying which of those contentions the Court of Appeal need not consider. The Appellant intends to complete this exercise during the next stage of this appeal and will accordingly ask to withdraw any contentions considered to have been evaluated fairly and dismissed by the Royal Court. In the meantime the Appellant avers that most of the above-listed contentions c1 to c8 will merit consideration by the Court of Appeal in due course. In the Appellant's submission the Royal Court erred in reaching the conclusion that the Judgment Debtor's application to set aside the March 2017 registration should be dismissed".

11. Ground 2 of the Notice of Appeal states: "The Appellant asks the Court to give earnest consideration to the equitable resolution of this appeal by taking into account the overall background and the totality of the long-running litigation between the Parties, coupled with their relative conduct throughout. So far as the Appellant is concerned this would include the vexatious nature of the litigation instigated by (or under the personal control and direction of) the Judgment Creditor from 2005 to date." The document then contains certain statements about what we will refer to as "the Admatch proceedings", which are part of the history of litigation to which we have referred. In short, these were successful proceedings brought by Leeds against Admatch, a company owned by the Appellant, for pursuit of a debt.
12. The written contentions of Advocate Hoy filed on behalf of the Respondent in response to the Notice of Appeal argue that the document filed by the Appellant "sets out no Grounds of Appeal" and that he is "embarrassed in this appeal as there are no grounds or contentions for [the Respondent] to respond to". It is argued that the Appellant, having recognised that not all of the contentions raised in the Royal Court should be renewed before the Court of Appeal, has not identified those which he does wish to advance before us. The filing of the Skeleton Argument filed before the Royal Court does not, it is argued, satisfy the requirement on the Appellant to file contentions in support of the appeal.
13. We are not prepared to accede to this argument particularly in the context of a Notice of Appeal drafted by a litigant in person. Fairly read, Ground 1 of the Notice of Appeal renews all of the contentions which were argued before the Royal Court. The Appellant indicated in the Notice of Appeal that he anticipated that he would not, in fact, press all of those contentions. He frankly conceded before us that he had been unable to undertake the exercise which he had envisaged in his Notice of Appeal and confirmed that he wished us to consider all of the points which had been put before the Royal Court.
14. It seems to us that the Respondent has been given fair notice that, unless and until the Appellant abandons any of the contentions which are listed in Ground 1, all of them will be renewed before us, and that his case is that the Royal Court erred in every aspect of its analysis of the Set-Aside Judgment. Indeed, Advocate Hoy's written argument commented briefly on the various key conclusions set out by the Royal Court in the Set-Aside Judgment. That said, as Advocate Littler fairly pointed out in her oral argument, we have not had the benefit of any specific criticism by the Appellant of any of the findings of the Royal Court or steps in its reasoning leading to its conclusions.

15. Ground 2 in the Notice of Appeal sets out a contention, to which the Respondent can (and does) address argument, and it is accordingly incorrect to assert that the Ground does not set out a “Ground of Appeal” such as to satisfy the requirements of rule 2 of the Court of Appeal (Civil) Rules 1964. The true question, which it is convenient to address at this point in our judgment, is whether, as a matter of substance, the contention set out in Ground 2 provides a basis for challenging the decision of the Royal Court. We do not consider that it does.
16. It is the responsibility of this Court, as of the Royal Court, to apply the law. As we have explained already, a judgment which has been registered under the 1960 Law may be set aside under Article 6 of the 1960 Law only if one of the grounds set out in that Article is satisfied.
17. Further, this Court may interfere with a decision of the Royal Court only if that Court has gone wrong in some relevant way. It is not open to this Court to engage in an “equitable resolution” of the appeal which is not anchored in the framework of law within which the Court must operate. It can take into account the previous history of the litigations involving the parties and companies associated with them only to the extent that this history is relevant to the application of the relevant legal tests.
18. In oral submissions, the Appellant relied, in support of this Ground on Article 15 of the Court of Appeal (Jersey) Law, 1961 and rules 12(3) and 12(5) of the Court of Appeal (Civil) Rules,
1964. He also referred us to the over-riding objective, set out in Rule 1/6 of the Royal Court Rules 2004.
19. Article 15 of the Court of Appeal (Jersey) Law 1961, provides: “The jurisdiction vested in the Court of Appeal under this Part shall, so far as regards procedure and practice, be exercised in the manner provided by this Law or by rules of court, and, where no special provision is contained in this Law or in rules of court with reference thereto, any such jurisdiction shall be exercised in such manner as the Court of Appeal considers just and convenient.”
20. Rules 12(3) and 12(5) of the Court of Appeal (Civil) Rules, 1964 are in the following terms: “(3) The powers of the Court under the foregoing provisions of this Rule may be exercised notwithstanding that no notice of appeal or respondent’s notice has been given in respect of any particular part of the decision of the court below or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice; and the Court may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.(Emphasis added) ...

- (5) The powers of the court shall not be restricted ... by reason of any interlocutory order from which there is no appeal.” The Appellant particularly founds on the passage in Rule 12(3) which we have emphasised. He relied on Rule 12(5) in particular in the context of a submission that we should revisit an order of the Royal Court of January 2018, in which the Royal Court had amended an order previously made by the Master in relation to disclosure by the Respondent.
21. None of these provisions entitles this Court to engage in a broad equitable assessment of the sort which the Appellant invites us to undertake. Article 15 is concerned with “procedure and practice”; it does not alter the substantive law which we must apply. Rule 12(3) provides the Court with the powers which it needs “to ensure the determination on the merits of the real question in controversy between the parties”. In the present case, the “real question in controversy between the parties” is whether the Royal Court erred, as a matter of law, in dismissing the Appellant’s application to set aside the registration of the English judgment. That question must be determined by applying the relevant law, in particular the terms of the 1960 Law. Rule 12(5) is likewise concerned with the procedural powers which this Court has and does not affect the substantive law which the Court must apply. We will address later in this judgment the contention that we should re-open the issue of disclosure which was determined by the Royal Court in January 2018.
22. Having rejected the Respondent’s preliminary contention we turn to address the substance of the appeal. The legal context
23. Article 4(2) of the 1960 Law provides that, subject to the provisions for setting aside registration, a registered foreign judgment shall for the purpose of execution be of the same force and effect as if the judgment had been a judgment of the Royal Court. Article 6 of the 1960 Law which we have summarised above provides for setting aside the registration of a foreign judgment in the following terms: “(1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment –
- (a) shall be set aside if the Royal Court is satisfied –
- (i) that the judgment is not a judgment to which this Part of this Law applies or was registered in contravention of the foregoing provisions of this Law, (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case, (iii) that the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on the judgment debtor in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable the judgment debtor to defend the proceedings and did not appear, (iv) that the judgment was obtained by fraud,

- (v) that the enforcement of the judgment would be contrary to public policy in Jersey, or (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made;
 - (b) may be set aside if the Royal Court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.”
24. The Judgments (Reciprocal Enforcement) Rules, 1961 (“the 1961 Rules”), made under Article 5 of the 1960 Law, set out the relevant procedural rules. The competing contentions
25. Before the Royal Court, the Appellant relied on Articles 6(1)(a)(iv), (v) and (vi) of the 1960 Law, contending (a) that the English judgment was obtained by fraud, (b) that the enforcement of the English judgment would be contrary to public policy in Jersey, and (c) that the rights under the English judgment are not vested in the Respondent. He further contended: (a) that the registration of the English judgment did not comply with the 1961 Rules; (b) that the procedure followed in respect of registration did not comply with the Human Rights (Jersey) Law 2000; (c) that the 1960 Law is no longer fit for purpose; and (d) that the enforcement of the English judgment would be contrary to “natural justice”. He also advanced an argument that further appeals were possible, including an appeal against the disclosure decision of January 2018. As a fallback position, he sought a stay on enforcement of the registered English judgment.
26. As we have already observed, the Appellant invited us to address each of the arguments which he had advanced before the Royal Court and to determine whether or not the Royal Court had been correct to dismiss his application. He in effect adopted the detailed written statement of his position in the “Statement of Grounds & Skeleton Argument” which had been filed before the Royal Court. For her part, Advocate Littler invited us to dismiss the appeal, on the basis that the Royal Court had issued a comprehensive judgment which dealt soundly with the issues put before it. Factual context
27. The Royal Court proceeded on the basis that, until 20 December 2012, Leeds and its predecessor companies were (with the exception of a short period of administration), beneficially owned either by a consortium led by the Respondent or by a company owned by the Respondent. The Appellant emphasised, in his submissions to us, that the Respondent was, in effect, the controlling mind behind Leeds at the relevant time, in particular in relation to the instruction of litigation.
28. The English defamation proceedings need to be set in the context of the other litigations to which we have already referred. In order to understand the issues in this case, we need to refer, in particular, to the various costs orders made in those litigations.

29. The history of litigation commenced, it would appear, in 2005, when Leeds initiated proceedings in the Royal Court (“the Admatch proceedings”) against The Phone-in Trading Post Limited (t/a Admatch), a company owned by the Appellant. The Admatch proceedings came to an end in May 2011 when a judgment for £190,400 was given in favour of Leeds against Admatch. Admatch was subsequently dissolved.
30. Leeds convened the Appellant in those proceedings, with a view to obtaining a costs order against him personally. On 5 September 2014 the Royal Court ordered that the Appellant pay two thirds of the costs for which Admatch were liable in the Admatch proceedings, subject to certain exceptions and subject to a provision, which we set out, below that no costs order made in the Admatch proceedings was to be enforced without leave of the Court.
31. A costs order was also made against the Appellant in favour of Leeds in respect of proceedings in which the Royal Court found the Appellant in contempt by failing to comply with certain orders made during the Admatch proceedings (“the Jersey contempt proceedings”).
32. Leeds also raised separate proceedings in the Royal Court against the Appellant and another individual (Mr Levi), seeking payment of the £190,400 against them personally (“the Jersey Levi and Weston proceedings”). The Royal Court stayed those proceedings in 2011 on the basis that England & Wales was the more appropriate forum; and the Appellant’s appeal to this Court against the stay was dismissed. Costs orders were made against Leeds in favour of the Appellant in respect of these proceedings.
33. Leeds then raised similar proceedings in England & Wales against the Appellant and Mr Levi (“the English Levi and Weston proceedings”). These came to an end in March 2014 when Leeds failed to comply with an unless order requiring it to provide security for costs, and a costs order was made against Leeds in favour of the Appellant.
34. At the time when the costs order of 5 September 2014 against the Appellant was made in the Admatch proceedings, there were accordingly outstanding costs orders in respect of the Jersey Levi and Weston proceedings and the English Levi and Weston proceedings against Leeds in favour of the Appellant, as well as an outstanding costs order in respect of the Jersey contempt proceedings against the Appellant in favour of Leeds. The English defamation proceedings, which involved both Leeds and the Appellant, as well as the Respondent, were pending.
35. The Act of Court dated 5 September 2014 in the Admatch proceedings contains the following provision (“the Set-off Order”): “(a) no costs order made in the present proceedings shall be enforced without leave of this Court, such leave being unlikely to be granted unless the parties have established the net sum owing as a result of netting off the costs payable as between the Plaintiff and the Party Convened of the following proceedings:

- (i) the present proceedings (Leeds v. Admatch) in the Royal Court; (ii) the Jersey contempt proceedings; (iii) the Jersey Levi and Weston proceedings (Royal Court and Court of Appeal); (iv) the English Levi and Weston proceedings;
 - (v) the English defamation proceedings between Mr Weston and Leeds which are still ongoing. Save that if the Court is satisfied that either party has failed to act with due expedition in seeking to arrive at the net sum owed, the Court will have regard to such conduct and may as a result grant such leave if satisfied that it is appropriate to do so; and
 - (b) there shall be liberty to apply in this respect.”
36. It would appear that when it made the Set-off Order, the Royal Court was not aware of any costs orders in the English defamation proceedings. In fact, as the Royal Court in the present case explains, a costs order had been made in those proceedings in 2012 against the Respondent in favour of the Appellant. This costs order related to an unsuccessful challenge to service which had been dealt with by Master McCloud and on appeal by Tugendhat J. The order: (i) required the Respondent to pay the costs of his appeal to Tugendhat J which were summarily assessed at £20,000; (ii) required the Respondent to pay half the costs of the hearing before the Master, such costs to be subject to detailed assessment if not agreed, and in the meantime to pay £10,000 as an interim payment. The order required the Respondent to pay the aggregate sum of £30,000 within fourteen days.
37. The Royal Court concluded that this sum had been paid. This is a finding of fact with which this Court may only interfere if there was no basis in the evidence for the finding or if the Royal Court has gone plainly wrong in its legal approach. The Royal Court explains in detail the basis for its finding, and it is a finding which the Court was clearly entitled to make. We see no ascertainable error of law in this judgment. The exchange between the parties’ respective solicitors described in paragraph 125 of the Royal Court’s judgment justifies the conclusion that payment of £30,000 was made in satisfaction of Tugendhat J’s order (albeit that the sum was paid by Leeds) on 11 April 2012. The obligation to pay that sum had accordingly been extinguished long before the Royal Court’s order of 5 September 2014. So far as the material before us discloses, no steps have been taken by either party, notwithstanding the passage of over ten years, to seek to have the costs of the proceedings before Master McCloud assessed. Discussion of the Appeal
38. In his submissions before us, the Appellant criticised the Respondent’s conduct of the various litigations to which we have referred. He commented on Tugendhat J’s decision to strike out the English defamation proceedings, with which he clearly disagrees, and on the way in which his application for leave to appeal that decision had been dealt with. But, as Advocate Littler submitted, in considering this appeal, it is not open to us to go behind that judgment except to the extent that this is permitted in the proper application of the legal provisions of the 1960 Law. The fact is that Tugendhat J made an order against the Appellant requiring him to pay £40,000; and the Appellant’s application for leave to appeal that judgment was refused. The registration of that judgment in Jersey, and the determination of

the present application to set aside that registration, are matters which fall to be dealt with in accordance with the terms of the 1960 Law.

39. The Royal Court's Set-aside Judgment deals comprehensively with the Appellant's arguments. We agree with the conclusions and reasoning of the Royal Court, and can explain our own reasons on the main point relatively briefly.
- (i) Public Policy
40. The Appellant contends that it would be contrary to public policy for the English judgment to be "given precedence over" the Set-off Order made in the Royal Court. This argument presupposes that the registration of the English judgment for enforcement would be inconsistent with the Set-off Order. There is, though, no inconsistency between the two orders.
41. The Set-off Order was intended to, and could only, regulate the enforcement of costs orders made in the Admatch proceedings. This is evident from the preamble to the Set-off Order, which refers to the enforcement of costs orders "in the present proceedings" (i.e. the Admatch proceedings). Further, the Set-off Order was concerned only with the net position as between Leeds and Mr Weston. That is also evident from the preamble to the Set-off Order, which refers to the "netting off the costs payable as between the Plaintiff [i.e. Leeds] and the Party Convened [i.e. Mr Weston]".
42. It follows that the Set-off Order is not concerned with awards of costs between the Respondent and the Appellant. We recognise that the Set-off Order refers specifically to the defamation action, to which the Respondent was a party as well as Leeds. Nevertheless, it is clear that the order was concerned only with any award of costs "as between the Plaintiff [i.e. Leeds] and the Party Convened [i.e. the Appellant]" in the defamation action, and, accordingly, that any costs order made in the English defamation proceedings in favour of or against the Respondent would not fall to be brought into account in the netting-off exercise envisaged in the Set-off Order.
43. In argument before us, the Appellant emphasised that it was the Respondent who was behind the Admatch proceedings, and indeed the subsequent litigations brought by Leeds. But it is trite that a corporate entity, such as Leeds, has legal personality which is separate from that of its shareholders and directors. The legal position is that it was Leeds (and not the Respondent) which pursued those actions, and which is subject to the costs orders in favour of the Appellant as a result. As the Royal Court pointed out, there has been no third party costs order against the Respondent requiring him to bear any costs liability incurred by Leeds; his position is accordingly quite different in law from that of the Appellant, who is subject to the costs order pronounced against him personally in the Admatch proceedings on 5 September 2014 because he was formally convened to those proceedings. (ii) Fraud

44. In order to establish this ground for setting aside the registration, the Appellant would require to establish that the English judgment was “obtained by fraud”. It would be necessary to establish both the existence of a fraud and to show that the English judgment was obtained by that fraud. We agree with the Royal Court that non-disclosure of material information, if dishonest, can amount to fraud for these purposes. The Appellant contends that the Respondent did not draw the Set-off Order to the attention of Tugendhat J, and that this was dishonest.
45. Since there was, for the reasons we have explained, no conflict between the Set-off order and the English judgment, we do not consider that the argument that there was material non-disclosure to Tugendhat J, let alone that any non-disclosure was dishonest, gets off the ground. Nor can we conclude that any non-disclosure of the Set-off Order had any operative effect on the English judgment. As the Royal Court observed, it appears that Tugendhat J was aware of the 5 September 2014 order and, indeed of the Set-off Order. Even if he was not aware specifically of the Set-off Order we could not conclude that awareness on his part of the Set-off Order would have affected the terms of the English judgment.
46. The Royal Court has considered the other matters which the Appellant advances under this head, and we can detect no error in that Court’s reasoning. (iii) The rights are not vested in the Respondent
47. The Appellant contends that the rights under the English judgment are, in truth, vested in Leeds and not in the Respondent. He contends that Leeds had agreed to fund, and were in fact funding, the litigation, and that in substance therefore it is Leeds which will have the benefit of the costs order. In our judgment, the Appellant has failed to acknowledge two important points.
48. First, there is a difference between the Respondent’s primary liability to pay the costs of the lawyers who represented him in the English proceedings and anyone who may, if required, indemnify him against that liability. The fact that there may be some other person ‘standing behind’ the Respondent, whether that be Leeds, an insurer or anyone else, does not remove the Respondent’s own liability to meet his lawyers’ bills.
49. Secondly, the question which we must address is whether the rights in the English judgment are vested in the Respondent – i.e. whether it is the Respondent who is the judgment creditor. That question is not affected by the existence of an obligation which the judgment creditor may have to pay any sums recovered under the judgment to someone else. Thus, if the judgment creditor has been indemnified against his legal costs by a third party, such as an insurer, the litigant may be obliged to reimburse that third party from any sums recovered under the costs judgment. That does not affect the conclusion that the rights in the judgment are vested in the judgment creditor.

50. We are satisfied on the evidence referred to in the Set-aside Judgment, that the Respondent did indeed have a legal liability to meet his own lawyer's bills for defending the English proceedings. The decision of the Royal Court sets out in some detail information which had been produced by the Respondent following the order for disclosure made in 2018. This included the letter of engagement between the Respondent and his solicitors as well as certain other correspondence and invoices.
51. As we have already noted, at the oral hearing of the appeal, the Appellant invited us, under reference to Rule 12(5) of the Court of Appeal (Civil) Rules 1964, to revisit the decision of the Royal Court of January 2018, which restricted the previous disclosure order which had been made by the Master. We decline to re-open this decision or to order further disclosure. The information before us is sufficient to enable us to address the point which the Appellant makes.
52. The Royal Court proceeded on the basis, favourable to the Appellant's argument, that after the sale of Leeds in 2012, at least until a date in 2015, Leeds agreed to be responsible for the payment of any costs incurred by the Respondent in relation to the English defamation proceedings and to indemnify him against those costs. We are content to proceed on the same basis. We agree with the Royal Court that it does not establish a ground for setting aside the judgment.
53. The statutory ground for setting aside a judgment is that "the rights under the judgment are not vested in the person by whom the application for registration was made". In the present case, the rights under the English judgment vest in the Respondent, and it is he who may enforce the judgment, even if he may be under a separate obligation to pass any recovery which he may make under the judgment on to Leeds if the costs in question were in fact borne by Leeds. (iv) Non-compliance with the Judgments (Reciprocal Enforcement) Rules 1961
54. Article 4 of the 1960 Law entitles the "judgment creditor" (a term defined in Article 2 of the Law) to apply for registration under the Law. The 1960 Law also refers, for example at Article 6(1)(a)(iii), to the "judgment debtor" (a term which is also defined in Article 2). Unsurprisingly, these terms are also used in the 1961 Rules. So, for example rule 7 provides that an order giving leave to register a judgment is to be drawn up by or on behalf of the "judgment creditor".
55. The Appellant's contention under this head is that in the application for registration, the current Respondent was described as the "Plaintiff" and the current Appellant as the "Defendant", whereas they should have been referred to as "Judgment Creditor" and "Judgment Debtor" respectively. This point has no merit. The identity of the parties was plain, and they are as a matter of fact, respectively, the judgment creditor and the judgment debtor. That they were not specifically designated as such, but as "Plaintiff" and "Defendant" does not, so far as we can identify, breach any specific requirement of the 1960 Law or of the 1961 Rules. Even if there were to be such a requirement (for example, if there were to have

been a prescribed form which used the language of “Judgment Creditor” and “Judgment Debtor”), the nature of the requirement and its breach would not be such as to affect the validity of the registration or to provide a basis for setting the registration aside.

- (v) Breach of the Human Rights (Jersey) Law 2000
56. The Appellant relies on Article 6 of the European Convention on Human Rights. He contends that if he had been given an opportunity to make submissions before the English judgment was registered, he would have advised the Assistant Judicial Greffier that registration would be inconsistent with the Set-off Order. He also argues that the underlying proceedings were unfair, in that Tugendhat J was not told of the Set-off Order.
57. The procedure which has been followed does not, in our view, involve any breach of Article 6. We do not need to address whether or not, and if so in what circumstances, it might be open to a judgment debtor to seek to rely on alleged unfairness in the procedure by which a foreign judgment was obtained when seeking to set aside the registration of that judgment, since we have been given no reason to consider that the proceedings before Tugendhat J involved any procedural unfairness. We have already explained our views in relation to the relevance of the Set-off Order in the context of Tugendhat J’s decision. Further, whilst the Appellant did not have an opportunity to make submissions to the Assistant Judicial Greffier before the English judgment was registered, he has applied for the registration to be set aside and, in that application has advanced the very point which he would have wished to make to the Assistant Judicial Greffier. (vi) The 1960 Law is no longer fit for purpose
58. The Appellant contends that the 1960 Law is no longer fit for purpose, in the context of modern means of communication and should have been amended to provide for the attendance of the judgment debtor before the judgment is registered. As we have emphasised earlier in this judgment, it is our responsibility to apply the law as it is. A contention that the 1960 Law is not fit for purpose is a political one, not a legal one, and therefore not one upon which we can properly adjudicate. (vii) Enforcement of the English judgment would be contrary to natural justice
59. The Appellant does not appear to argue under this head that the English judgment was obtained through a breach of natural justice in the usual sense in which that phrase is used to refer to serious procedural impropriety. We have seen no basis for considering that such a contention could be made. Rather, he argues that registration of the Jersey judgment would be contrary to “natural justice” “when taking into account all the circumstances of the multiplicity of litigation between the parties during the past sixteen years and the need to achieve some reciprocal balance following the non-party costs order made against [the Appellant] in September 2014”, and relies on a number of specific points in further support of this contention.
60. As we have already observed, it is the function of the Royal Court and this Court to apply the law, including the law made by the States. In the context of an application to set aside the registration for enforcement of a foreign judgment, that means that we require to address

the statutory tests set out in Article 6 of the 1960 Law. It is not open to us to exercise a broad equitable jurisdiction, as the Appellant seems to be inviting us to do. Insofar as the Appellant makes a number of specific points under this head, it suffices for us to say that we can detect no flaw in the Royal Court's consideration of those issues. Further appeals possible

61. As we have observed, before the Royal Court the Appellant stated that he wished to appeal the January 2018 disclosure judgment to which we have referred, albeit that he had not done so. He also stated that he was taking advice on whether he could apply to the European Court of Human Rights in relation to the way the English courts had dealt with the defamation proceedings. We can detect no error in the way in which the Royal Court dealt with those points. Should enforcement of the registered judgment be stayed?
62. Article 4(2)(c) of the 1960 Law makes clear that the Royal Court has the same control over the execution of a registered judgment as it would have if the judgment were a judgment of the Royal Court itself. The Appellant argues that if the English judgment is not set aside, its enforcement should be stayed until: (i) costs have been taxed and netted off in accordance with the Set-off Order; and (ii) he has taxed the Monaco costs in the English defamation proceedings.
63. The Royal Court rejected the Appellant's application for a stay. This was a discretionary decision with which we could interfere only if the Royal Court's reasons for its decision were flawed or the decision was plainly wrong. We can detect no error in the Royal Court's reasoning, and the decision to refuse a stay was clearly one which was open to the Royal Court. Indeed, we consider that the Royal Court was right to refuse a stay.
64. The English judgment gives rise to a judgment debt currently due by the Appellant to the Respondent. There are, on the material before us, no outstanding debts currently due by the Respondent to the Appellant. As we have explained, the Set-off Order is concerned only with costs liabilities as between Leeds and the Appellant. It does not provide a basis for staying enforcement of a debt due by the Appellant to the Respondent.
65. The Appellant has taken no steps to seek to have the costs of the proceedings before Master McCloud assessed. We proceed on the assumption that he could still do so, notwithstanding the very lengthy passage of time, and, if those costs should exceed the amount already paid to the Appellant by the Respondent, recover the excess. But the possibility that the Appellant might take such steps, and that this might potentially give rise to a further liability on the part of the Respondent to the Appellant, is not a good reason for staying enforcement of the judgment debt now immediately due and payable by the Appellant to the Respondent. The hearing of the appeal
66. In making his oral submissions to us at the hearing of his appeal on Monday, 24 July 2023, the Appellant read from a script which he offered to provide to us at the conclusion of the hearing. In this he gave, among other things, a description of his and his wife's medical conditions, history of his dealings with the Respondent in particular in a litigious context,

and an outline of his own career. When we rose we explained that we would consider our judgment and invited the Appellant to send us a copy of the script while at the same time sending a copy to Advocate Littler. We confirmed that we should have the script by no later than 6pm on 24 July 2023 to assist us in checking our notes of what had been told to us.

67. In the event the document was not sent to the Greffier until just before midnight and did not reach us until the following morning. Notwithstanding the late production of this document, we have been able to take account of its terms – which reflect the oral submissions, to which we had carefully listened and which we had noted – when finalising this judgment, which we issued at 2 pm on 25 July 2023.

Conclusion

68. For all of these reasons, we dismiss the appeal. Authorities Judgments (Reciprocal Enforcement) (Jersey) Law, 1960 Bates v Weston [2023] JRC 032. Court of Appeal (Civil) Rules 1964 Court of Appeal (Jersey) Law, 1961. Royal Court Rules 2004. Judgments (Reciprocal Enforcement) Rules, 1961. Human Rights (Jersey) Law 2000

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Prepared on 25 October 2026 · Esheria