Arrow Nominees Inc v Blackledge

[2000] 2 BCLC 167, [2001] BCC 591, (2000) Times, 7 July, [2000] Lexis Citation 2012, [2000] All ER (D) 854

Court: Court of Appeal, Civil Division

Judgment Date: 22/06/2000

Catchwords & Digest

COMPANIES - MEMBER – UNFAIR PREJUDICE TO MEMBER'S INTERESTS – APPLICATION TO STRIKE OUT PETITION BROUGHT UNDER S 459 OF THE COMPANIES ACT 1985 – WHETHER PETITION SHOULD BE STRUCK OUT BECAUSE OF CONDUCT AMOUNTING TO A FRAUD ON THE COURT – WHETHER SIGNIFICANT RISK THAT A FAIR TRIAL COULD NOT TAKE PLACE

Bodycare (Health & Beauty) Ltd (the company), was incorporated under the Companies Act 1985. The shareholders were a British Virgin Islands company, Arrow, as to 24%, LB as to 24%, and as to 52% another company, Blackledge plc, owned by GB and MB. LB was the niece of GB and MB. Arrow was controlled by T, the partner of LB. Arrow and LB presented a petition for relief under s 459 of the 1985 Act. The primary relief sought was an order that Blackledge plc sell its shares to the petitioners at fair value, on the basis of unfair conduct by Blackledge plc, GB and MB in relation to the company. Prior to the trial, GB, MB and Blackledge plc (the Blackledge respondents) applied to strike out the petition on the grounds that T had allegedly disclosed documents which he knew were false, thus rendering a fair trial of the petition impossible. The application was dismissed but with the reservation that if further material emerged at trial showing breaches of T's disclosure obligations, the application could be renewed. At trial the application was renewed by the Blackledge respondents following T's evidence. The judge held that there was a serious risk that documents relating to an alleged agreement (the 1994 agreement) other than the admitted forgeries were also forged by T, and that other relevant documents had been destroyed. The judge however refused to strike out the petition on the basis, inter alia, that there would be no substantial risk to a fair trial of a case which was not based on the forged evidence of the 1994 agreement. The Blackledge respondents appealed.

Held – The appeal would be allowed. It was wrong for the judge to allow the petition to proceed once he had reached the conclusion that there was a substantial risk that the allegations in relation to the disputed terms of the 1994 agreement were incapable of a fair trial. The judge ought to have reached the conclusion that, once the allegations in respect of which there was a substantial risk that T's fraudulent conduct had made a fair trial impossible were put on one side and left out of account, there was no case for relief which remained to be tried. The appeal would also be allowed on a second, additional ground. A party was not to be deprived of his right to a proper trial as a penalty for disobedience of disclosure rules, but where a litigant's conduct put the fairness of the trial in jeopardy, the court was bound to refuse to allow that litigant to take further part in the proceedings and, where appropriate, to determine the proceedings against him. A litigant who had demonstrated that he was determined to pursue proceedings with the object of preventing a fair trial forfeited his right to take part in a trial. His object was inimical to the process which he purported to invoke. Thus, having reached the conclusion that T was persisting in his object of frustrating a fair trial, the judge ought to have concluded that it was not fair to the respondents, or in the interest of justice generally, to allow the trial to continue.

Case History

Arrow Nominees Inc v Blackledge

22/06/2000
CACivD

[2000] 2 BCLC 167, (2000) Times, 7 July, [2000] Lexis Citation 2012, [2000] All ER (D) 854
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Arrow Nominees Inc v Blackledge

02/11/1999
ChD

[2000] 1 BCLC 709, (1999) Times, 8 December, [1999] Lexis Citation 3662, [1999] All ER (D) 1200
Reversing

Cases referring to this case

Pliego and another v Astor Asset Management 3 Ltd and others

13/11/2025
CommlCt

[2025] EWHC 2968 (Comm)
Considered

The Serious Fraud Office and others v Litigation Capital Ltd and others

05/11/2025
CommlCt

[2025] EWHC 2876 (Comm)
Applied

Bailey v Aviva Employment Services Ltd

24/06/2025
EAT

[2025] EAT 109, [2025] IRLR 831, [2025] ICR D45
Considered

Kamphues v Venator Materials UK Ltd

19/03/2025
EAT

[2025] EAT 30
Applied

Ms Nkechi Leeks v University College London Hospitals NHS Foundation Trust

16/08/2024
EAT

[2024] EAT 134, [2025] ICR 87
Considered

Ms Nkechi Leeks v University College London Hospitals NHS Foundation Trust

16/08/2024
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[2024] EAT 134, [2025] ICR 87
Applied

Tinkler v Esken Ltd (formerly Stobart Group Ltd) and others

17/06/2024
ChD

[2024] EWHC 1490 (Ch)
Considered

Mercy Global Consult Ltd (in liquidation) v Adegbuyi-Jackson and others

16/10/2023
ChD

[2023] EWHC 2567 (Ch)

Explained

In Media Trust SPA (a company incorporated under the laws of Italy) as Trustee for the Jacaranda Trust v BGB Weston Limited and others

16/10/2023
KBD

[2023] EWHC 1491 (KB)
Distinguished

Republic of Mozambique v Credit Suisse International and others

03/07/2023
CommlCt

[2023] EWHC 1650 (Comm), [2023] All ER (D) 69 (Jul)
Considered

WWRT Ltd v Tyshchenko and another

24/04/2023
ChD

[2023] EWHC 907 (Ch)
Explained

Excalibur & Keswick Groundworks Ltd v McDonald

17/01/2023
CACivD

[2023] EWCA Civ 18, [2023] 4 All ER 1060, [2023] 1 WLR 2139, [2023] Costs LR 85, [2023] All ER (D) 54 (Jan)
Considered

McDonald v Excalibur & Keswick Groundworks Ltd and another

15/10/2021
CC

[2021] Lexis Citation 244, [2021] All ER (D) 106 (Oct)
Adopted

Ali v Dinc and others

16/11/2020
ChD

[2020] EWHC 3055 (Ch), [2020] All ER (D) 122 (Nov)
Considered

Hughes Jarvis Ltd v Searle

15/01/2019
CACivD

[2019] EWCA Civ 1, [2019] EGLR 13, [2019] All ER (D) 80 (Jan)
Considered

Oysterware Ltd v Intentor Ltd an others

22/03/2018
ChD

[2018] EWHC 611 (Ch), [2018] All ER (D) 46 (Apr)
Considered

Matthews v Collins

04/10/2013
QBD

[2013] EWHC 2952 (QB), [2013] All ER (D) 89 (Oct)
Applied

JSC BTA Bank v Ablyazov

06/11/2012
CACivD

[2012] EWCA Civ 1411, [2013] 2 All ER 515, [2013] 1 WLR 1331, (2013) Times, 08 January, [2012] All ER (D) 66 (Nov)
Applied

Fairclough Homes Ltd v Summers

27/06/2012
SC

[2012] UKSC 26, [2012] 4 All ER 317, [2012] 1 WLR 2004, [2013] 2 LRC 51, (2012) Times, 18 July, [2012] 4 Costs LR 760, [2012] All ER (D) 179 (Jun)
Distinguished

Sharma v Financial Services Authority

07/12/2010
UKUT

[2011] Lexis Citation 13, [2010] Lexis Citation 561, [2011] All ER (D) 135 (Feb)
Considered

Stakefield Ltd, Re; Secretary of State for Business, Enterprise & Regulatory Reform v Doffman

11/10/2010
ChD

[2010] EWHC 2518 (Ch), [2011] 1 BCLC 596, [2011] Bus LR 457, [2010] All ER (D) 94 (Oct)
Considered

Blue Sky One Ltd v Mahan Air; PK Airfinance US Inc v Blue Sky Two Ltd

01/02/2010
CommlCt

[2010] EWHC 128 (Comm), [2010] All ER (D) 25 (Feb)
Considered

Masood v Zahoor

03/07/2009
CACivD

[2009] EWCA Civ 650, [2010] 1 All ER 888, [2010] 1 WLR 746, [2010] Bus LR D12, [2009] All ER (D) 33 (Jul)
Applied

Ul-Haq v Shah

09/06/2009
CACivD

[2009] EWCA Civ 542, [2010] 1 All ER 73, [2010] 1 WLR 616, (2009) Times, 14 July, [2010] 3 Costs LR 336, [2009] All ER (D) 71 (Jun)
Explained

Bailey v Wood

27/02/2009
ChD

[2009] EWHC 363 (Ch), [2009] All ER (D) 60 (Mar)
Applied

Ul-Haq v Shah

31/07/2008

QBD

[2008] EWHC 1896 (QB), [2008] All ER (D) 03 (Aug)
Applied

Masood v Zahoor

14/05/2008
ChD

[2008] EWHC 1034 (Ch), [2008] All ER (D) 170 (May)
Considered

Ridsdill v D Smith & Nephew Medical

17/07/2006
EAT

[2006] All ER (D) 228 (Jul)
Considered

Raja (Representative of the Estate of Mohammed Sabir Raja, decd) v Van Hoogstraten

12/06/2006
ChD

[2006] EWHC 1315 (Ch), [2006] All ER (D) 91 (Jun)
Considered

Madarassy v Nomura International plc

06/04/2006
QBD

[2006] EWHC 748 (QB), [2006] All ER (D) 75 (Apr)
Considered

Barbados Rediffusion Service Ltd v Mirchandani (No 2)

16/03/2006
CCJ

69 WIR 52, [2007] 3 LRC 296
Dicta of Chadwick LJ Applied

Johnson v Perot Systems Europe Ltd

11/11/2005
QBD

[2005] EWHC 2450 (QB), [2005] All ER (D) 150 (Nov)
Applied

Shelly-Morris v Bus Átha Cliath

11/12/2002
IrSC

[2002] IESC 74, [2003] 1 IR 232
Considered

Assuranceforeningen Skuld v The International Oil Pollution Compensation Fund

04/07/2001
CtSess

2001 Scot (D) 15/7
Considered

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