



In the High Court of Justice
High Court Appeal Centre Royal Courts of Justice
Order of Deputy Insolvency and Companies Court Judge Frith dated 21
February 2020
Case number: CR-2020-000129 & CR-2020-000079
Appeal ref: CH-2020-000087 & CH-2020-000088

CH-2020-000087

BETWEEN

Hallam Estates Limited

Claimant and Appellant

and

1. Alison Mooney of Westbury Residential Ltd
2. The Association of Residents in the Grand

Defendants and Respondents

ORDER

Before **the Honourable Mr Justice Zacaroli** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 17th day of April 2020

UPON the appellant's notice filed and dated on 13th March 2020

AND UPON the application for a stay of execution of the order below

IT IS ORDERED THAT:

1. The application for a stay is refused.
2. This Order has been made by the Court under CPR 23.9, as the court has disposed of an application without a hearing and without service. Any party may apply to have this order set aside or varied within 7 days of the date of service upon that party. In particular the Respondent may apply to set aside the order for a stay by applying to the High Court Appeal Office. The application may be made by letter quoting the appeal reference number, with no fee payable.

REASONS

1. These are two related appeals against orders of deputy ICC Judge Frith dated 21 February 2020 in which he refused to set aside statutory demands presented against the Appellant, Hallam Estates Limited. The first statutory demand was presented by Alison Mooney of Westbury Residential Ltd (Ms Mooney). The second statutory demand was presented by The Association of Residents in the Grand (the Association).

2. The statutory demands relate to amounts due to Ms Mooney/the Association pursuant to an order in the Lands Chamber first tier tribunal dated 5 July 2018.
3. This application is purely for a stay of execution of the order pending appeal.
4. The only ground advanced in support of the application for a stay is that if the statutory demand is not set aside that would undermine the viability of the business of the company and the jobs of 50 people or so employed by its tenants and that if the decision is overturned on appeal, the business of the company and that of the tenants would be damaged without good cause.
5. Since the consequence of the order of the ICC judge was merely that the order was not set aside, a stay of execution makes no sense. It would leave the position precisely as it was prior to the making of the order, i.e. with an outstanding statutory demand. It is not possible, through the medium of an application for a stay of execution, to grant the substantive relief which the company sought below but which was refused, namely the setting aside of the statutory demand itself.
6. There is in any event no evidence of the damage that would be caused either to the business of the company or that of its tenants if the statutory demands is not set aside. So far as the company itself is concerned, a statutory demand does not in itself affect the business of the company. It is merely a precursor to a winding-up petition (although not a necessary one, since a winding-up petition can be presented on the grounds of insolvency, for example because a debt that is due and payable remains unpaid without good reason, without the need for a statutory demand). It is possible that the existence of a winding-up petition could cause damage to the company. If so, the proper course would be to make an application in relation to such a petition, if it was presented (for example, to restrain its advertisement, or for relief so as to enable the company to continue trading pending the hearing of the petition). So far as the tenants of the company are concerned, it is simply not understood how the existence of a statutory demand could cause them damage.

Service of Order

The court has sent the electronically sealed order for service via email to ms@grand-uk.com (C/o Micheal Stainer) of The Grand, The Lees, Folkestone, CT20 2XL