



Neutral Citation Number: [2017] EWHC 2789 (Fam)

Case No: ZC15D03263
(and twenty other cases)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8 November 2017

Before :

SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

In the matter of twenty-one irregular divorces

Between :

MARCO LO GRASSO	<u>Applicant</u>
- and -	
SURENDRA NAIK	<u>Respondent</u>
- and -	
KHALIK BHATOO	<u>Third Party</u>

and twenty other petitions

The Respondent appeared in person
Mr Simon Murray (instructed by **the Government Legal Department**) for the Queen's
Proctor

Hearing date: 10 October 2017

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

This judgment was handed down in open court

Sir James Munby, President of the Family Division :

1. I have before me applications by the Queen's Proctor in relation to the 21 petitions listed in the Schedule annexed to this judgment. In the six cases listed in Part A of the Schedule, the matter has not proceeded as far as decree. In the four cases listed in Part B of the Schedule, decree nisi has been pronounced. In the remaining eleven cases listed in Part C of the Schedule, both decree nisi and decree absolute have been pronounced. Twenty are petitions for divorce, one (*Marco Lo Grasso v Surendra Naik*, ZC15D03263), is a petition for dissolution of a civil partnership. For present purposes, nothing turns on this difference. It will be noted from the individual case numbers, where the two-digit number indicates the year in which the petition was issued, that the petitions cover the period from 2006 to 2015.
2. Mr Simon Murray, on behalf of the Queen's Proctor, submits that in each case the court was deceived by fraud – essentially by the use of false addresses, 73 or 75 West End Road, Southall, Middlesex, UB1 1JQ – into accepting that it had jurisdiction to entertain the petition, with the consequence, he further submits, that each of the decrees, whether nisi or absolute, is void, irrespective of whether one or both of the parties has subsequently remarried or even had a child: see *Rapisarda v Colladon*; *Re 180 Irregular Divorces* [2014] EWFC 35, [2015] 1 FLR 597, paras 7, 16, 28, 29(iii), 80-82.
3. The Queen's Proctor alleges, and I find as a fact, that the architect of these frauds, as I find them to be, was one Khalik Bhatoo, a former member of the English Bar. At the relevant times members of his family owned properties at 73 and 75 West End Road. By an order I made on 22 March 2017, Mr Bhatoo was joined as a third party to all of the 21 petitions. It is a matter of public record that Mr Bhatoo was convicted on 28 April 2003 before Kingston Magistrates Court of two offences of dishonesty in relation to obtaining housing and council tax benefits and that on 1 October 2006, following an unsuccessful appeal from the decision of the Tribunal, he was disbarred, after a Disciplinary Tribunal of the Council of the Inns of Court on 23 May 2005 had found him guilty of three offences of professional misconduct.
4. By the order dated 22 March 2017 I gave directions for the filing and service by the Queen's Proctor of his Plea (see below) and made clear that, failing the filing in any petition by the parties of an Answer, "the rule in *Clutterbuck v Clutterbuck and Reynolds (Queen's Proctor Showing Cause)* (1961) 105 SJ 1012 will apply." The order provided that the parties to the various petitions were to be served by post to the addresses, other than 73 and 75 West and Road, set out in a schedule prepared by the Queen's Proctor which had been before me at the hearing and which listed all the addresses at which the parties were believed to live or have lived. I should add that the timetable set out in that order was subsequently modified by a further order I made on 11 July 2017.
5. An annotated version of that schedule, put before me at the final hearing on 10 October 2017 and showing those letters which had been "returned", demonstrates that in most, but not all, of the petitions a letter, not having been "returned", had seemingly been received by at least one of the parties. Be that as it may, no Answer has been received from any of the parties to any of these petitions. Apart from Mr Bhatoo (see below) the only responses of any kind from anybody were (i) from solicitors acting for Mohsin Tola (the Petitioner in *Mohsin Abdul Majid Tola v Maria Maryline Migeon*,

FD13D01422), who contacted the Queen's Proctor after their client had received the Queen's Proctor's Plea but did not, in the event, pursue the matter any further, (ii) from Surendra Naik (the Respondent in *Marco Lo Grasso v Surendra Naik*, ZC15D03263) and (iii) from Asma Bi (the Petitioner in *Asma Kausar v Shahraz Riasat*, BV15D18675).

6. Mr Naik attended in person both the directions hearing on 22 March 2017 and the final hearing on 10 October 2017. As I made clear to him at the hearing on 22 March 2017, repeated in a letter sent to him the following day by the Queen's Proctor, there was no need for him to volunteer any information before he received the Queen's Proctor's Plea. In the event, although he attended the final hearing and addressed me briefly, Mr Naik has at no stage sought to file an Answer or any evidence or to mount any other challenge to the Plea.
7. Mrs Bi has been most helpful, filing a very revealing statement dated 21 September 2017 to which I must return below. Here I merely record that a copy of that statement, *redacted to conceal both her and her husband's addresses*, was sent by the Queen's Proctor to Mr Bhatoo by email on 29 September 2017.
8. Before proceeding further, it is convenient to set out the Queen's Proctor's Plea. It is dated 14 July 2017 and is signed by Mr Murray. It begins as follows:

“THE QUEEN’S PROCTOR intervening in these suits

- (i) requires the Petitioner and/or Respondent in each case to show cause why any decrees of divorce pronounced herein on various dates should not be set aside and the petitions dismissed;
- (ii) requires the Petitioner and/or Respondent to show cause why and how the decrees could be properly made upon proper consideration of the material facts

AND SAYS:

1 The Queen's Proctor is entitled to intervene in divorce proceedings by operation of section 8 of the Matrimonial Causes Act 1973. There is clear authority to the effect that the Queen's Proctor may intervene after a void decree absolute: *Ali Ebrahim v Ali Ebrahim (Queen's Proctor Intervening)* [1983] 1 WLR 1336.

2 The Queen's Proctor seeks an order to set aside any decrees made in any of the petitions listed in the schedule hereto and to dismiss all 21 petitions herein by reason of reliance upon the decision of the then President in the matter of *Moynihan v Moynihan* [1997] 1 FLR 59 at 67, following the decision of Denning LJ (as he then was) in *Lazarus Estates Ltd v Beasley* [1956] 1 QB 702, 712 namely that all the decrees had been obtained by deception must be set aside as a matter of public policy.”

9. The facts relied on by the Queen's Proctor are then set out as follows:

“3 The Queen's Proctor avers that there has been deception in each of the 21 petitions because it appears that Mr Khalik Bhatoo (“the Third Party”) was responsible for making all 21 of the divorce applications and may also have been involved in the signature process of some of the petitions and some of the acknowledgement of services in response to those petitions. The Third Party is a disbarred barrister, who was disbarred by an order of the Council of the Inns of Court which took effect on 1st October 2006. One of the charges for which he was disbarred related to a conviction of fraud against the Third Party in 2003 in which the Third Party had forged a tenancy agreement in order to claim housing benefit.

4 In all the petitions one or other of the parties to the proceedings claimed to be resident at some point at either 73 or 75 West End Road, Southall UB1 1JQ (“the address”). Land Registry records demonstrate that that the register of the title to 73 and 75 West End Road at the material time was in the family name of Bhatoo, as Audrey Ayessiah Bhatoo is the registered owner of 73 West End Road and 75 West End Road is registered in the name of Claire Ayessiah Bhatoo. These persons are believed to be family members and/or connected to the Third Party.

5 Given the timing of the pleaded periods of alleged residency it seems highly unlikely that the claims of the parties in the petitions to reside at the addresses in West End Road can be correct. It would appear therefore that none of the parties to the petitions resided at the address as claimed in the divorce petitions. This contention is supported by information from one of the petitioners herein. On 30 November 2016 Asma Kausar, the petitioner in BV15D18675, made contact by telephone with the Bury St Edmonds County Court. This information was passed to the police and on 2 December 2016 she spoke to DC Tariq Ahmed. Ms Kausar confirmed to DC Ahmed that the Third Party had told her to put down 73/75 West End Road as her address notwithstanding that she did not live there, as he would then be able to deal with the court and paperwork and would not need to keep bothering her.

6 Further an expert Forensic Document Examiner, Nicola Thomas, has concluded that there is evidence to support the proposition that the Third Party completed and/or signed the forms in these petitions. The Queen's Proctor relies in this regard upon the contents of the witness statement of Nicola Thomas dated 19 April 2017 which is appended to this Plea.

7 It also appears that the Third Party administered the oath and stamped “BHATOO” in three of the cases, ostensibly at “Chancery Chambers, 74 Chancery Lane” and on a date following the Third Party’s disbarment on 1 October 2006. Further police enquiries noted that these chambers no longer exist. The court files for these petitions also contained cheques for court fees connected to the Third Party’s personal account which, according to the expert evidence of Nicola Thomas, were written and signed by the Third Party in three of the cases.”

I should add that the witness statement of Ms Thomas dated 19 April 2017 referred to in paragraph 6 of the Plea has exhibited to it an earlier witness statement by Ms Thomas dated 25 July 2016.

10. The Plea then concluded with these formal averments:

“8 It is therefore averred that any decrees obtained in the petitions herein were obtained by deception and the underlying proceedings were tainted by deception. Accordingly any certificates or decrees thereby obtained should be should be set aside and, in any event, each of the petitions should be dismissed.

9 It is long established in law that a Plea by the Queen’s Proctor seeking to rescind a decree does not require evidence where no answer is made to that plea: *Clutterbuck v Clutterbuck and Reynolds (Queen’s Proctor Showing Cause)* [1961] 105 SJ 1012, following inter alia the cases of *Sheldon v Sheldon (Queen’s Proctor intervening)* (1865) 4 Sw & Tr 75 (English Reports Vol 164) and *Crowden v Crowden (King’s Proctor showing cause)* (1906) 23 TLR 143. These principles were recently re-stated and approved by the President in *Re 180 Italian Divorces, sub nom Rapisarda v Colladon (“Italian divorces case”)* [2014] EWFC 1406; [2015] 1 FLR 584. The Queen’s Proctor will rely upon this principle in relation to any petition where no answer is filed to this plea in accordance with the directions made by the Court.

THE QUEEN’S PROCTOR THEREFORE PRAYS:

(1) That the Petitioners and/or Respondents to the petitions herein show cause why any decrees made should not be set aside and the petitions not dismissed, failing which such decrees should be set aside and the petitions dismissed;

(2) That the court makes other such orders as are appropriate in the circumstances;

(3) That such of the Petitioners and/or Respondents, and/or the Third Party, as the court may think fit, be ordered to pay the costs of the Queen’s Proctor of, and incidental to, this intervention.”

11. Ms Thomas has considerable specialist experience in the scientific examination of questioned documents, including the comparison and identification of handwriting. Her report (which expresses her opinions by reference to an eight-point scale, ‘conclusive’, ‘very strong’, ‘strong’, ‘moderately strong’, ‘moderate’, ‘weak’, ‘inconclusive’ and ‘no support’) has two components to which I need to refer.
12. In relation to what Ms Thomas refers to as “non-signature writing” – that is, writing, other than the signature, on documents filed with the court – her opinion, based on examination of the files in fifteen of these cases, is that:
 - i) there is conclusive support for the proposition that Mr Bhatoo’s is the writing on *both* petitioner and respondent documents in nine cases;
 - ii) there is strong support for the proposition that Mr Bhatoo’s is the writing on *both* petitioner and respondent documents in two cases; and
 - iii) there is moderate support for the proposition that Mr Bhatoo’s is the writing on *both* petitioner and respondent documents in another case.

That evidence, which I have no hesitation in accepting, is striking.

13. In relation to the signatures on documents filed with the court, her opinion, based on examination of the files in these fifteen cases, is that there is moderate support for the proposition that Mr Bhatoo completed signatures of the petitioner in eight cases and of the respondent in two other cases. Otherwise, there is either no support for the proposition that he completed such signatures or her findings are inconclusive. Again, I have no hesitation in accepting that evidence. It suggests that Mr Bhatoo was guilty of forgery.
14. Mrs Bi’s statement makes a number of assertions. For present purposes what is important is her evidence that, in the course of a telephone conversation with Mr Bhatoo, she informed him of her address (which was *not* either 73 or 75 West End Road). Examination of the court file shows that her address on the petition was stated to be 73 West End Road. Her statement continues:

“The signature on the Divorce Petition does not appear to be my signature. I do not recall signing it. I always sign in capital letters and the Divorce Petition is signed in lowercase. I attach a copy of my passport ... and my Photocard Driving Licence ... to confirm my signature.”

One does not need to be an expert to see that the signature on the Divorce Petition looks nothing like the signatures on the passport and Driving Licence or, for that matter, the signature to Mrs Bi’s statement. So in this case the Petitioner gave a false address for the petitioner and the signature on the Petition was forged.

15. Shortly before the hearing, the court received the following three documents:
 - i) on 4 October 2017, an undated statement of Sonia Shaikh, a relative of Mrs Bi; attached to that statement is a copy of Mrs Bi’s statement which, according to

Ms Shaikh, was given to her by Mrs Bi, but it appears in fact to be a copy of the *redacted* statement sent by the Queen’s Proctor to Mr Bhatoo;

- ii) on 6 October 2017, an undated statement of Mr Bhatoo, referring to what was described as “the statement of Mr Patel of today’s date [sic]”; and
 - iii) also on 6 October 2017, an unsigned document described as “Skeleton Arguments [sic] by a former lawyer working at West End Road Office” who is not identified in the document but is, I assume, the Mr Patel referred to in Mr Bhatoo’s statement.
16. It is common ground between Mrs Bi and her relative, Ms Shaikh, that both played some part in connection with Mrs Bi’s divorce petition, though there is much conflict between the two accounts. Ms Shakh’s statement includes the assertion “There has been no third party involved in this matter neither the alleged person of Khalick Bhatoo [sic].” This assertion is demonstrably untrue, for the relevant court file contains a copy of a cheque for the court fee of £410 drawn on an account in the name of Mr Bhatoo in relation to which, in the opinion of Ms Thomas, there is conclusive support for the proposition that the cheque was written out by Mr Bhatoo. Interestingly, Ms Shaikh’s statement also includes the assertion that “We use the address in Southall because she does not want her former husband to know her where about [sic].” Even if this is true (and it conflicts starkly with Mrs Bi’s account) it cannot avail. There are other processes available to those who legitimately wish to conceal their address from the respondent and giving a false address on the face of the petition is not one of them. Even if the motivation for this was as Ms Shaikh asserts, the fact is that the petition told a lie.
17. Mr Bhatoo in his statement merely says “I confirm that I have read the statement of Mr Patel of today’s date and concur with the contents therein.” So it is to the latter document that I turn.
18. Mr Patel’s so-called Skeleton Argument is a curious document, containing much bluster and irrelevance which there is no need for me to explore. The importance of the document is as much for what it does *not* say as for what it does, in circumstances where, as the document itself makes clear, the author has read and is seeking to respond to the Queen’s Proctor’s Plea. The document does not even attempt to engage in any detailed way with the expert evidence of Ms Thomas. Of critical importance, the document does not seek to assert that any of the relevant petitioners and respondents in fact lived at either 73 or 75 West End Road or to controvert the Queen’s Proctor’s case that none of them ever did. On the contrary, the assertion is repeatedly made in effect that this is neither here nor there:

“There is nothing in the law, act and rules in which a party is restricted to use a provided address as many times as he would like to file a petition of divorce.

... all these decrees have been made legally by a court of justice and cannot set aside [sic] only because the same address was used to file the petitions.

It is submitted that there is nothing in the law that prevent [sic] any person to file divorce petitions using the same addresses.”

19. In my judgment, Mr Murray has proved his case in relation to each of these twenty-one petitions. In each case, as he submits, the underlying proceedings were tainted by deception in relation to the address of either the petitioner or the respondent, and the decrees, where decrees have been granted, were obtained by deception. Accordingly, I made an order at the conclusion of the final hearing on 10 October 2017 that:
- i) the petitions listed in Part A of the Schedule are dismissed;
 - ii) in relation to the petitions listed in Part B of the Schedule, all decrees nisi and certificates are set aside and the petitions are dismissed;
 - iii) in relation to the petitions listed in Part C of the Schedule, all decrees absolute, decrees nisi and certificates are set aside and the petitions are dismissed.
20. That order also provided, pursuant to section 8 of the Matrimonial Causes Act 1973, that Mr Bhatoo pay the Queen’s Proctor’s costs in all the petitions on the indemnity basis. I directed that there be a summary assessment, which I reserved to the President of the Family Division. I gave the following directions:
- i) The Queen's Proctor was to file and serve on Mr Bhatoo a statement of costs for summary assessment by 22 October 2017.
 - ii) Mr Bhatoo might file and serve any objections relating to any items in the summary statement no later than 4pm on 13 November 2017.
 - iii) The Queen’s Proctor’s costs would be summarily assessed without a hearing and the Queen’s Proctor and Mr Bhatoo notified of the outcome by order.
 - iv) The costs are to be paid within 21 days of service of the order.

My order also provided that there should otherwise be no orders for costs as between the parties to any of the petitions.

21. I should add that at the beginning of the final hearing I had made a direction in accordance with Section 1(4) of the Judicial Proceedings (Regulation of Reports) Act 1926 that the matters in these proceedings may be reported: see *Rapisarda v Colladon* [2014] EWFC 1406, [2015] 1 FLR 584, paras 41-43.

22. **The Schedule**

Part A

Marco Lo Grasso v Surendra Naik (ZC15D03263)

Husainbhai Mulla v Mashudabanu Akhalek Saiyed
(UB11D00142)

Mohmadmubarak Mohmadhanif Motarwala v Belinda Marie Law (ZC14D01450)

Asma Kausar v Shahraz Riasat (BV15D18675)

Mubarak Iqubal Chhabu v Dimpel Pravin Patel (BV15D18664)

Gnomble Yves Lago v Seny Lydie Keleba (BV15D18650)

Part B

Nabila Dagreb v Inmran Khairbali Qureshi (ZC15D03187)

Aissata Maiga v Teddy Alain Sytadin (UB07D00408)

Felicite Yolou Logbo v Arsene Goze (UB08D00405)

Vivekkumar Harshadbhai Patel v Laetita Caroline Rebecca Benot (UB11D00479)

Part C

Vasimbhai Yakubbhai Shaikh v Foulimatta Sangarae (ZC14D04077)

Zuber Ismaili Jada v Anna Danuta Lewandowska (FD13D01289)

Amina Banu Mulla v Ayub Gulam Mohamed Mulla (UB10D02113)

Husainbhai Mulla v Krutikumari Parmar (ZC14D01841)

Vivekkumar Harshadbhai Patel v Laetitia Caroline Rebecca Benot (ZC14D00100)

Sonia Razzaq v Aamir Bashir (ZC14D00099)

Dawood Shueb Mapara v Rachel Besse (FD13D05322)

Mohsin Abdul Majid Tola v Maria Maryline Migeon (FD13D01422)

Mamada Raffic Domah v Katherine Mary Willis (UB07D00108)

Alexandra Irene Violo v Olutoye Ajibola Oladigbolu (UB08D00442)

Hasmita Trivedi v Patrick Robert Roache (UB06D00126)