



Courts and Tribunals Judiciary

06 October 2023

**CORINNA ZU SAYN-WITTGENSTEIN-SAYN -V- JUAN CARLOS ALFONSO
VÍCTOR MARÍA DE BORBÓN Y BORBÓN**

JUDGMENT SUMMARY

Important note for press and public: this summary forms no part of the court's decision. It is provided so as to assist the press and the public to understand what the court decided.

Introduction

1. The Claimant is an international businesswoman. She describes herself as a strategic consultant working with high-net-worth individuals and leading companies around the world. She does so through a portfolio of companies of her own. She is a Danish national and has been a long-term resident of Monaco. She has a home in England.
2. The Defendant was King and head of state of Spain from 1975 until his abdication in favour of his son on 18th June 2014. He retired from public life in 2019. He remains domiciled in Spain, but since August 2020 has been living in Abu Dhabi (UAE).

3. The parties were in an intimate relationship between 2004 and 2009. Their relationship came to public attention in April 2012 in the aftermath of an elephant-hunting trip to Botswana which the Claimant arranged, which both attended, and from which the Defendant returned injured. That trip, its purpose and resourcing, and the parties' relationship, attracted public criticism.
4. The Claimant says she has suffered intrusive, intimidatory and adverse episodes ever since. She connects them with a payment of €65m she says the Defendant made to her soon after the Botswana trip and while he was still convalescing, in June 2012. She says he told her at the time it was an unconditional gift, but has since been putting her under improper pressure to allow him to control or make use of it, and she now suspects its original purpose was ulterior.
5. The Claimant has issued, and pursues, proceedings in the High Court of England and Wales, describing the episodes of which she complains and attributing them to the Defendant. She alleges this to be a course of conduct by him amounting to the tort of unlawful harassment.
6. The Defendant initially challenged the High Court's jurisdiction to try the claim, on grounds that his alleged conduct was subject to state immunity, arising from his past and present constitutional position in Spain. His challenge failed at first instance, but partially succeeded (on grounds of state immunity as a former head of state) in the Court of Appeal, which struck out parts of the claim relating to certain alleged episodes occurring before his abdication.
7. He now asks the Court to strike out (or give summary judgment on) the remainder of the claim, on a range of bases including further jurisdictional grounds, defective pleading and there being no realistic prospect of its success.

8. The Claimant meanwhile seeks permission to amend her claim, including to deal alternatively with the matters struck out by the Court of Appeal, to add further particulars of harassment, and to extend her claimed heads of liability and loss to include personal injury and an enhanced range of financial losses.
9. Both sets of applications were directed to be heard together. Directions were given for each party to provide a skeleton argument in support of their own application, and then to respond to their opponent's skeleton by way of a further skeleton each. That resulted in a total of 374 pages of skeleton argument, in advance of a four-day hearing of legal submissions on the multiple and diverse matters raised by these applications.
10. This is hard-fought litigation. Three years after the claim was issued, it has still only reached the stage at which the material question is how far, if at all, the Defendant can properly be expected to enter a defence to it. Notwithstanding, on this occasion, as at earlier stages of this litigation, the Defendant records his emphatic denial that he engaged in, or directed, any harassment of the Claimant, or conduct which was intended to cause physical or mental or emotional distress to her; he rejects her allegations to the contrary as untrue and inconsistent with previous public statements made by her.

Summary of conclusions

303. My principal conclusion is that the High Court of England and Wales lacks jurisdiction to try this claim. That is because it has not been brought against the Defendant in his country of domicile, as is his default entitlement; and the Claimant has not satisfied me she has a good arguable case that her claim falls within an exception to that default rule.

That in turn is because she has not sufficiently established that the ‘harmful event’ of which she complains – harassment by the Defendant – happened in England.

304. I am not satisfied either that the Defendant has, or should be deemed to have, submitted to the jurisdiction of the High Court by his own conduct of this litigation so far.
305. In the alternative, if I had been able to conclude that the High Court did have jurisdiction over this claim, I would have refused the Claimant’s application to amend her claim. This application was multifaceted; she wished to amend her claim in a number of respects and my reasons for refusing vary correspondingly. They include the inconsistency of her proposals with the decision of the Court of Appeal on the extent of the Defendant’s state immunity from suit; problems with the clarity, accuracy and consistency of the way she wanted to change her case; and the lack of good enough explanations for the timing of the changes she wanted to make. My conclusion in all the circumstances was that the changes did not introduce and express matters on which she would have a real prospect of succeeding at trial.
306. I would also have granted the Defendant’s application to strike out her claim. The claim did not comply with the rules of court applicable to the drafting of a harassment claim. As pleaded, I could not be satisfied that her statement of case disclosed reasonable grounds for bringing her claim as she did.
307. The Claimant has an account she wishes to give of her personal and financial history with the Defendant, and about the harm he has caused her peace of mind and personal wellbeing, and her business, social and family life. I take no view about that account as such. The only question for me has been whether the Claimant can compel the Defendant to give *his* side of the story to the High Court. My conclusion, as things stand, is that she cannot.

