



JUDICIARY OF
ENGLAND AND WALES

KB-2024-000753

Felipe Massa

v

(1) Formula One Management Limited

(2) Bernard Charles Ecclestone

(3) Fédération Internationale de L'Automobile

Press Summary

Note: This summary is provided to assist in understanding the decision of the Court. It does not form part of the decision or the reasons for the decision. The only authoritative document is the full judgment of the Court, which will be published on the National Archives (<https://caselaw.nationalarchives.gov.uk/>).

Mr Justice Jay, sitting in the King's Bench Division of the High Court, today handed down judgment in a strike-out and reverse summary judgment application brought by Formula One Management Limited ("FOM") Bernie Ecclestone ("Mr Ecclestone"), and Fédération Internationale de L'Automobile ("the FIA") (collectively, "the Defendants") against Felipe Massa ("Mr Massa").

Background

References in square brackets are to paragraphs in the judgment. Mr Massa brought claims in breach of contract, tort, conspiracy and inducement of breach of contract against, variously, some or all of the Defendants [38]. The breach of contract and tort claims are governed by French law; the conspiracy and inducement of breach of contract claims by English law.

Mr Massa claims he was unfairly denied the 2008 F1 World Drivers' Championship after Nelson Piquet Jr intentionally crashed in Singapore to benefit teammate Fernando Alonso. Mr Massa was leading before the crash but finished the race in 13th place. Lewis Hamilton ultimately won the championship that year by just one point after an extremely closely fought Grand Prix at Interlagos, Brazil. There were suspicions about the crash from the outset but the FIA carried out no investigation before Lewis Hamilton was crowned World Champion in December 2008 [1418].

The FIA did investigate the circumstances surrounding the crash in the summer of 2009, after Nelson Piquet Jr, having been sacked by Renault, gave a sworn witness statement admitting what happened [23]. The FIA, through the World Motor Sporting Council ("the WMSC") issued sanctions against Renault and two senior members of the Renault team, but Fernando Alonso was exonerated [25-29]. The result of the 2008 Singapore Grand Prix was not altered. Mr Massa did not take legal action at the time.

The circumstances surrounding the crash were debated at the time and thereafter in biographies, ghosted autobiographies, press articles and interviews.

In February or March 2023 Bernie Ecclestone gave an interview to a German journalist. In it he claimed that he and Max Mosley, then FIA president, were made aware of the deliberate nature of the crash shortly after it happened. Mr Mosley's information came from Nelson Piquet Sr who knew all the circumstances. According to Mr Ecclestone, he and Mr Mosley agreed to keep everything under wraps to save the sport from scandal. Mr Ecclestone said that had to use "every last power of persuasion" to keep Nelson Piquet Sr quiet. Mr Ecclestone also claimed that had the matter been properly investigated in 2008, the results of the Singapore Grand Prix would probably have been annulled and Mr Massa would have been world champion [33].

Consequently, in March 2024 Mr Massa issued proceedings in the High Court seeking declaratory relief along the lines that had FIA investigated the matter in 2008 he would have won the Drivers' Championship. He also claims damages in the region of £64M.

The nature of the applications brought by the Defendants for summary disposal of Mr Massa's claims without a full trial means that the Court had to proceed on the basis that the facts alleged by Mr Massa are true. The Defendants do not in any event dispute many of the facts relied on by Mr Massa. Mr Ecclestone has no recollection of the interview published in March 2023. At trial he will dispute that the 2023 interview as published is accurate – both in terms of what Mr Ecclestone said to the interviewer, and as a true record of what happened between him and Mr Mosley in late 2008.

Furthermore, the role of the Court on the Defendants' applications is not to decide the issues definitively. It is limited to assessing whether Mr Massa's claims have a real prospect of success.

Issues

The Defendants sought to strike out Mr Massa's claims and/or obtain reverse summary judgment, for four reasons:

1. The Contract Ground – the breach of contract and breach of duty claims are unsustainable because the duties relied upon do not exist and/or did not create rights enforceable by Mr Massa [43].
2. The Time Limit Ground – any cause of Mr Massa's alleged losses was his own failure to appeal the WMSC decision following the FIA's investigation in September 2009 [44].
3. The Limitation Ground – all claims are time-barred [45].
4. The Declarations Ground – the Court would never grant the declarations sought [46].

Judgment

The issues raised by the parties are complex, and this summary cannot begin to do justice to them. Attention is drawn to the full terms of the judgment itself.

In the main, the High Court rejects the strike-out and/or reverse summary judgment applications [221]. However, the breach of contract claim against the FIA fails [143] and is time-barred [190]. Declaratory relief is refused [219]. The tortious breach of duty claim against the FIA governed by French law is subject to review [144].

Reasons for the Judgment

The Contract Ground

Mr Justice Jay accepted that Mr Massa has a real prospect at trial of persuading the Court that the FIA had a power, and arguably a duty in

these circumstances, to investigate serious wrongdoing based on its role as guardian of the sport and various provisions in the FIA Sporting Code. This duty was arguably triggered in the circumstances of this case because in late 2008 the FIA, through Mr Mosley, was in possession of information which had not entered the public domain [96130].

However, this duty was owed to FIA Members, not Mr Massa personally [143]. Therefore, his breach of contract claim failed. The High Court's analysis of this aspect of the Contract Ground entailed a detailed review of complex provisions of French law.

The separate tort claim under French law against the FIA barely survives. The judge expressed serious doubts and directed Mr Massa to either "abandon that claim now" or obtain further expert advice [223].

The Court held that Mr Massa has a real prospect of success on the two English-law tort claims. The inducement of breach and conspiracy claims survive because they do not require Mr Massa to have a directly enforceable contractual right [143].

The Time Limit Ground

The judge was not persuaded by the Defendants arguments in relation to this ground and rejected them swiftly [146].

The Limitation Ground

All of Mr Massa's claims are statute-barred under the general provisions of s. 2 of the Limitation Act 1980 (providing for a limitation period of six years beginning with the accrual of the right of action) unless he is able to bring his case within the special provisions of s. 32. In outline, these provisions extend the limitation period in cases of deliberate concealment. However, time starts running from the moment a claimant discovered or ought by the exercise of reasonable diligence have discovered the essential facts.

The Court held that the "pure contract" claim and the French-law tort claims are time-barred [187-189]. This was because a reasonable person in Mr Massa's position would have known from the terms of the WMSC report itself that the crash had not been investigated by the FIA in late 2008.

The judge found that the conspiracy and inducement claims are not out of time because Mr Massa would have a real prospect at trial of showing that he lacked essential facts to bring the claims until Mr Ecclestone's 2023 interview. While a reasonable person in Mr Massa's position knew of the failure to investigate following the publication of the WMSC decision in September 2009, inferring a conspiracy to cover up the truth on the part of Messrs Ecclestone and Mosley was very far from clear, not least because the WMSC report was inconsistent with such a conspiracy. Furthermore, there was no or insufficient information to trigger Mr Massa's duty to exercise reasonable diligence under s. 32 of the Limitation Act 1980. The interview allowed him to "join up the dots" and bring the claims [186-208].

The Declarations Ground

The Court refused declaratory relief. The declarations sought come too close to impinging on the sovereign right of the FIA to govern its affairs and lack "practical utility" [209-219]. Mr Massa's remedy is limited to a claim in damages.

Future Litigation

The judge warned that any future litigation would not necessarily be "plain sailing" [150]. Mr Massa would need to overcome various obstacles on causation [147-149]. If successful, Mr Massa could in principle recover damages for lost career opportunities, but the court cannot be asked to rewrite the outcome of the 2008 Drivers' World Championship.

Costs and Permission to Appeal to the Court of Appeal

The judge will determine these applications, if brought, following further written submissions.

The full text of the judgment is available on the Judiciary website (judiciary.gov.uk) and, within a few hours of hand-down, on the websites of Bailii (bailii.org) and the National Archive (<https://caselaw.nationalarchives.gov.uk/>).