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*Judgment: approved by the court for handing down  
(subject to editorial corrections)\**

Delivered: 07/10/2024

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

Between:

MARKETHILL LIVESTOCK AND FARM SALES LTD

Plaintiff/Respondent

and

JOHN ISAAC PATTERSON

First-named Defendant/Appellant

and

JAMES BARCLAY PATTERSON

Second-named Defendant/Appellant

and

RATHFRILAND FARMERS' CO-OPERATIVE SOCIETY LTD

Plaintiff

and

JOHN ISAAC PATTERSON

First-named Defendant/Appellant

and

JAMES BARCLAY PATTERSON

Second-named Defendant/Appellant

COLTON J

*Appearances*

[1] The first-named appellant appeared in person.

[2] Mr Edward Ward sought permission to represent James Barclay Patterson, the second-named appellant and to make representations on his behalf in support of

the appeal. He did so on the basis of a “joint power of attorney deed for James Barclay Patterson.”

[3] I have considered the deed, and I make it clear that this does not in any way convey a right of audience on Mr Ward. That said, I was persuaded to permit Mr Ward to address the court, on an exceptional basis. I did so because of the lengthy history of this litigation and to ensure that I fully understood the case being made on behalf of the appellants. It should not be taken as a precedent.

[4] Mr Michael Tierney instructed by Fisher and Fisher Solicitors appeared on behalf of the plaintiffs/respondents.

### *Introduction*

[5] By these proceedings the appellants appeal decisions of Master Bell dated 8 March 2024.

[6] Each of the Master’s orders was in the following terms:

“UPON APPLICATION of John Patterson for an order pursuant to Order 13 Rule 8 of the Rules of the Court of Judicature (Northern Ireland) 1980;

IT IS ORDERED that the application be dismissed, with the costs of this application to the plaintiff;

AND IT IS ORDERED time to appeal is extended by an additional (five) days.”

[7] The Master’s orders related to applications brought by the appellants to set aside default judgments obtained by Markethill Livestock and Farm Sales Ltd (“Markethill”) and Rathfriland Farmers’ Co-operative Society Ltd (“Rathfriland”).

[8] Both appeals raise identical issues, although they do require separate consideration. I propose to deal with the Markethill case first. It will, however, be clear that there is a degree of overlap between both appeals.

### *The Markethill appeal*

[9] This appeal is the latest in a long series of litigation involving the parties in multiple courts before the Queen’s/King’s Bench Master, the Queen’s/King’s Bench judge, Chancery Master, and the Chancery judge.

[10] At its heart, all this litigation stems from an order made in the then Queen’s Bench Division on 26 June 2013 in favour of Markethill against John Patterson and Barry Patterson.

[11] The background to that order is set out in an affidavit filed in these proceedings by Hampton Hewitt. He is a director of Markethill and is familiar with the background to this dispute. Markethill conducts a business selling/trading livestock between farmers and other businesses.

[12] It is Markethill's case that the defendants against whom judgment was obtained (hereafter "the defendants") are brothers who did business with it since the mid-2000s. They were sheep dealers who purchased sheep from Markethill from time to time. The brothers were John Patterson and James Barclay Patterson (otherwise known as Barry Patterson).

[13] It was Mr Hewitt's understanding that both the defendants were operating their business jointly.

[14] On the majority of occasions that sheep were purchased by them, Mr Hewitt averred that normally John Patterson (the first defendant in the default judgment) would attend with his son, whom he describes as John Patterson junior, and whose full name is John Isaac Patterson. Attending at the premises they would arrive in a haulage lorry with a name plate above the cab that read "Patterson Brothers."

[15] Invoices in relation to purchases were issued to an address at 66 Shinn Road, Newry, which he understood was the "home farm" of the defendants. During the initial period of doing business with the defendants there was no issue in relation to the prompt payment for their purchases. However, from approximately 2010 onwards, he averred that there were issues of payments being late and that follow-up calls had to be made in order to secure payment. Funds were usually transferred via cheques drawn on an account in the names of both of the defendants. His recollection was that Barry Patterson would have signed the cheques more frequently than John Patterson.

[16] As a result of failure to pay monies due and owing to Markethill, it issued a writ of summons endorsed with a statement of claim on 30 July 2012, which was served upon the defendants on 3 September 2012.

[17] No appearance having been entered by the defendants; the plaintiff obtained summary judgment on 26 June 2013 for the total amount of £144,292.96. No doubt, partly because of the passage of time, the court may not have seen all documentation relating to this matter between the obtaining of summary judgment until an application brought by the defendants to set aside the judgment on 20 March 2020.

[18] However, based on the papers provided at the hearing, the following key points emerge.

[19] Markethill sought an order charging land against the second defendant/appellant by way of application to the Enforcement of Judgments Office,

on or about 3 October 2013. There was ongoing correspondence with the Enforcement of Judgments Office including representations made on behalf of the second defendant/appellant by a firm of solicitors culminating in a letter of 20 November 2014, in which it was asserted that the second defendant/appellant never had any dealings with the plaintiff, the letter asserted:

“We have today lodged a stay application with the Enforcement of Judgments Office upon the outcome of which we intend to apply to the court to have judgment set aside.”

[20] It is also apparent from the court documentation that Rathfriland had obtained judgment for £79,039.38 against the same defendants in respect of monies due and owing which was also the subject matter of correspondence with the Enforcement of Judgments Office.

[21] The trial bundle in this case includes records of a series of applications brought by both Markethill and Rathfriland of notices of intention to make orders charging land against the second defendant/appellant. Ultimately, it appears that such an order was made in favour of Markethill against the second defendant/appellant on 20 October 2017.

[22] Thereafter, application was made on behalf of the Chief Enforcement Officer for an order under the Crown Proceedings Act 1947 to appoint a receiver.

[23] In the interim, an effort was made by the second defendant/appellant to transfer the lands subject to the charging order of 30 October 2017, which necessitated an objection to that application.

[24] The court’s understanding is that that issue remains unresolved.

[25] Parallel with the application to EJO, Markethill also obtained an order via the EJO, whereby it would be entitled to receive a proportion of monies being paid to the second defendant/appellant via various government subsidy payments. That determination was appealed to the EJO Master based on ill health and an assertion that there had been no contractual relationship between the parties. That appeal was rejected by the Master at a hearing on 22 February 2019.

[26] The above is important background information. The current appeal has its origins in an application brought by the defendants on 3 March 2020, seeking to set aside the judgment of 20 June 2013.

[27] In short form, the application was grounded on an assertion that the second defendant/appellant never had any contractual relationship with either Markethill or Rathfriland and that the judgment had been obtained fraudulently and was wrong “in fact, evidence and in law.” Furthermore, it was asserted that the relevant

contractual relationship was between Markethill and John Isaac Patterson (the first appellant in this appeal) who is a nephew of Barry Patterson and the son of John Patterson (the defendants in the default judgment).

[28] There have been multiple applications since that application. The court understands the burden that is placed on parties that are legally represented when resisting multiple claims brought by litigants in person. That said, the trial bundles prepared on behalf of the plaintiffs/respondents in both of these actions was far from satisfactory. The trial bundles were, in essence, the bundles relied upon to resist the original application to set aside judgment.

[29] Basic documents such as the actual applications under appeal were not included in the trial bundle. Consequently, rather than deal with the matter on the day, the court was obliged to obtain from the office details of all the many applications brought by or on behalf of the defendants/appellants since the original application to determine what actually had to be decided.

[30] From a detailed reading of the files, the key applications and orders are as follows:

- On 9 June 2021 an ex parte application was made by the defendants to remove the set aside applications from the Master's Court to the High Court. This application was dismissed by Mr Justice McAlinden.
- The set aside applications were heard by Master Bell on 10 June 2021, and both applications were dismissed.
- On 3 October 2023, a notice of motion was issued in the name of John Isaac Patterson and James Barclay Patterson, in which they made an application to set aside all orders made by the courts in favour of the plaintiffs/respondents including, in particular, the decision of the Master to dismiss the applications to set aside judgment on 10 June 2021.
- Further, they sought an order "to set down for a full jury trial of my peers under Order 33(4)(i) of the Rules of the Court of Judicature (Northern Ireland) 1980 and for an Order for a Final Judgment to issue, by way of a full plenary trial by way of a jury of my peers under Judicature (Ireland) Act 1877, and as currently operable under section 62 of the Judicature (Northern Ireland) Act 1978, setting aside the following (a) interim orders of the King's Bench High Court at the Royal Courts of Justice, Belfast, Northern Ireland, on the grounds of fraud in the factum, see Statute of Fraud (Ireland) Act 1695."
- The orders challenged included various interlocutory orders made in the context of the previous applications. Further, they sought an order transferring this matter to the King's Bench Commercial Court and sought a Khanna subpoena against various individuals including, a solicitor

previously employed by Fisher & Fisher Solicitors (the solicitors for the plaintiffs), Hampton Hewitt, James McCrum (Director of Rathfriland), a legal secretary from Fisher & Fisher Solicitors, another employee of Fisher & Fisher Solicitors, an officer of the Central Office, Master Bell and Michael Tierney, the barrister acting on behalf of the plaintiff in these proceedings.

- Further orders were sought to stay all current applications before the Chancery Court, an order declaring that Fisher & Fisher Solicitors have “entered no evidence of agency”, an order seeking a declaration by way of final trial by jury setting aside all the orders referred to above, a letter for costs to be awarded in favour of the defendants, an order for ordinary and exemplary damages and an order for interest.
- On 9 February 2024, the applications were dismissed by the Master.
- On Wednesday 14 February 2024, the same defendants issued further prolix notices of motion, seeking to set aside “as incuriably null and void from the beginning all orders and judgments made in this matter covering the period from 30 July 2012 to the present day.” The notice was accompanied by criticisms of the Master in respect of his previous determination, allegations of fraud seeking ordinary and exemplary damages and costs against various parties, “unless that the matter be referred to the House of Lords and to the European Court of Human Rights.”
- The applications were dismissed on 8 March 2024 by the Master.
- The Master’s decisions were appealed and heard by this court.

I observe that there were multiple applications for discovery and the like, but the above are the important orders. The appeals heard by this court also concerned applications for discovery against multiple parties.

[31] From the chronology set out above it is significant to note that the defendants/appellants are now described as “John Isaac Patterson” and “James Barclay Patterson.”

[32] There is no dispute that James Barclay Patterson is the Barry Patterson who was named as the second defendant in the original judgment which has been challenged.

[33] John Isaac Patterson was not the first defendant in those proceedings. He is the son of John Patterson, the defendant named in the original proceedings.

[34] In support of the application to set aside the original judgment, it is his case that he was the person who did business with Markethill and not his father. It is

suggested on his behalf that Markethill deliberately sued the father because he was someone who would be a mark for damages.

### *Consideration*

[35] The obvious starting point for consideration of this matter is the delay between the default judgment and the first application to set it aside, approximately seven years. The application which is under appeal was lodged on 14 February 2024, almost 11 years after the original default judgment. No explanation has been provided for this delay. Furthermore, it appears that at least the second defendant was legally represented when Markethill sought to enforce the judgment through the EJO. At no stage during this lengthy and drawn-out procedure was an application made to set aside the original judgment.

[36] The delay in the matter is, of course, compounded by the fact that the Master has on two subsequent occasions refused an application to set aside the judgment. Those orders made by him on 10 June 2021 and 9 February 2024, were not appealed.

[37] A third application was then brought, again dismissed and now appealed.

[38] Delay alone is not necessarily fatal to an application of this kind. However, in the circumstances of an unexplained delay of this nature, together with the fact that this is the third attempt to set aside the judgment it is very difficult for the court to foresee circumstances in which such an application could be granted.

[39] That said, the court is anxious to ensure that it does consider the merits of the application, insofar as it can, to establish whether, in fact, the moving parties in this application can show an arguable defence, or to put it another way, a real triable issue.

[40] Doing the best I can, in seeking to identify the real issues raised by the appellants, their fundamental point is that, in fact, any dealings the plaintiff had with the Patterson family were with John Isaac Patterson, who is now bankrupt. Thus, from the outset it is alleged that the proceedings were invalid and constituted a fraud.

[41] Leaving aside for the moment, the delay in making this case and the fact that it has been rejected by the Master on two separate occasions, the evidence in support of such a claim is unconvincing.

[42] True it is, that much of the documentation concerning the dealings between the parties is no longer available. This, of course, is a consequence of the egregious delay in bringing this application and in making the case in support thereof.

[43] Both Markethill and Rathfriland assert that their dealings were with the defendants John Patterson (that is John Patterson Snr) and Barry Patterson

(John Patterson Senior's brother). Thus, it appears that two separate businesses concluded that their dealings were with the brothers who were the subject matter of the default judgments.

[44] I have no reason to doubt, nor is there any contrary evidence, to the fact that the lorry used to transport the sheep purchased from the plaintiff carried the name of "Patterson Brothers" above the cab.

[45] Furthermore, Mr Hewitt has exhibited cheques used to pay for sheep sold by Markethill that were drawn on accounts in the name of both of the defendants, JB Patterson and Barry Patterson. The cheques exhibited by Mr Hewitt show cheques written by both John Patterson and Barry Patterson. Cheques signed by Barry Patterson include amounts for £3,821, £6,898.50, £16,465, £24,337.50 and £16,975. Cheques signed by John Patterson include amounts for £19,126.60, £11,078, £8,858, £11,754.90, £10,358 and £13,528.

[46] Both signatures appear on the face of it to be identical to the signatures in support of the original application to set aside this judgment which was brought in the name of the second defendant/appellant.

[47] These cheques made out to the plaintiff represent corroboration that the original defendants were in business together. They also confirm trading between the plaintiff and the defendants in 2010. I have also been shown the signatures of the original defendants on Wills made by them. They also correspond with the signatures on the cheques written by them referred in the previous paragraph.

[48] I note that the signatures of John Patterson and JB Patterson vary significantly from the signature of John Isaac Patterson on the court documents served with this application.

[49] This is an effective rebuttal against the assertion now made that there was no relationship between the plaintiff and the original defendants in the action. All of this confirms, in the court's view, the affidavit evidence of Mr Hewitt that he was dealing with John Patterson and John B Patterson and was receiving significant cheques as payment for sheep sold by him.

[50] I accept that John Isaac Patterson (John Patterson Jnr) has also traded in sheep as is evidenced by some documentation produced from other lamb processors, including O'Kane & Son Livestock Market in Draperstown, and Kildare Chilling Co.

[51] I have also received a copy of a statement made in relation to an allegation of handling stolen goods, namely sheep, reported by John Patterson on 9 July 2013. This relates to sheep owned by John Isaac Patterson. He complains that the solicitor who has acted for both plaintiffs in these proceedings acted on his behalf in relation to a claim relating to the stolen sheep. He argues that this demonstrates a clear



conflict of interest and, more importantly, that he carried on a business as a sheep trader.

[52] Of course, this does not mean that he was the one who traded with the plaintiffs. The proposed defendant in that action was not one of the plaintiffs.

[53] Importantly, on 6 July 2016, a “certified promissory note” in the amount of £147,405.56 was served on the plaintiff’s solicitors under the heading “Notice to agent is notice to principal; notice to principal is notice to agent.” It contained the following text:

“Dear Mr Mark Kincaid

This is a LEGAL NOTICE and not a letter.

Regarding promissory notes 121179 and 121180, received by you and receipted 3 May 2016 as payment for the outstanding amounts. This payment being an acceptable specie of payment under the Bills of Exchange Act 1882, however, should you not accept this form of payment, then please return the promissory note, along with a full written explanation of why your organisation is exempt from the legislation as outlined above, *or* why the commercial instrument is unacceptable.

Please note -

If you do not return the promissory note, then we are in agreement that the bill has been *paid in full*.

If you do *return the promissory note*, but *without* a legitimate written explanation, as to why your organisation is exempt from the legislation outlined above *or* why the commercial instrument is unacceptable; then we are in agreement that you have turned down my legal payment and, therefore, my account balance is now zero.

Please confirm my account balance is now zero.

**If you do not understand this, please take legal advice.**

I trust that this is to your satisfaction and that no further claims remain against John and Barry Patterson. That yours, without dishonour, ill-will or formality. All rights reserved. Non-assumption.

Errors and omissions accepted.”

[54] The address given on behalf of “John and Barry of the family: Patterson” is c/o 66 Shinn Road, Newry, which it will be recalled was the home farm address as understood by Mr Hewitt.

[55] The certified promissory note has been signed by John Patterson and the signature accords with that on the cheques and Wills to which I have referred.

[56] This promissory note, albeit a legal nonsense, hardly fits with the defence now being put forward as a basis for setting aside the original judgment.

[57] As part of the evidence in support of the applications to set aside the default judgments, the appellants referred to the fact that John Patterson, whom they say is John Isaac Patterson or John Patterson Jnr, issued a petition for bankruptcy. It is not clear from the papers when precisely this occurred. The defendants have produced a letter from McShane Solicitors dated 25 May 2021, in which they have sent photocopies of requested papers in relation to that issue. Those papers include a list of unsecured creditors in which the monies due under this default judgments are referred to as amounts owing. Other material in the papers suggest that Mr John Patterson was in bankruptcy on 11 May 2018. In any event, it is suggested on behalf of John Isaac Patterson, that this demonstrates that he was the person who owed this money and not the defendants against whom default judgment has been obtained. Evidently, this is a self-serving document. It is a mirror image of the argument made on behalf of the appellants against the plaintiffs, in that the defendants put forward someone who is bankrupt as the person to whom the monies are allegedly owed. Furthermore, there is no suggestion that either Markethill or Rathfriland ever accepted that John Isaac Patterson was an unsecured creditor in respect of the monies which are the subject matter of these applications. In the court’s view the petition is simply an attempt to evade the consequences of the default judgments obtained in June 2013.

### *The Rathfriland appeal*

[58] This appeal raises similar issues to that of the Markethill appeal.

[59] The plaintiff/respondent relies on the affidavit of Mr McCrum who is a director of Rathfriland.

[60] He avers that the primary business of Rathfriland concerns facilitating the selling of livestock between local farmers and businesses. It has been in existence for at least 33 years.

[61] He avers that Rathfriland dealt with the brothers, John Patterson and Barry Patterson, since approximately 2006. They were sheep dealers who purchased sheep from time to time.

[62] He avers that on the majority of occasions when sheep were purchased by the defendants it would have been the first defendant John Patterson and/or his son John Patterson Jnr – (John Isaac Patterson) who would have attended to do so. The second defendant also appeared at the premises from time to time. They arrived in a haulage lorry with a name plate above the cab that read “Patterson Brothers.”

[63] In his affidavit he avers that due to the passage of time there is limited paperwork available, but he does refer to examples of invoices that were issued to the original defendants. The court has examined those invoices, and it is noted that they were issued to both brothers, namely the original defendants in the action.

[64] The invoices were issued to an address of 66 Shinn Road, Newry, which he understood was the home farm of the defendants.

[65] The legal proceedings in this case took a similar course to that in the case of Markethill.

[66] Default was judgment obtained by Rathfriland on 4 March 2013 for £79,039.38.

[67] Thereafter, the matter was referred to the EJO. Matters took a similar course to the case involving Markethill before the original application to set aside the default judgment was brought on 3 March 2020.

[68] The application was brought on the basis that the second defendant was not a party to any agreement with Rathfriland.

[69] As was the case in the Markethill case, Rathfriland in this action also received a certified promissory note in similar terms as the one described above save that the amount was for £79,039.38. It was signed by John Patterson.

[70] I have also seen two cheques dated 24 October 2010 and 6 March 2012 for £18,214 and £7,083 respectively paid to Rathfriland and signed by Barry Patterson.

[71] The signature on the affidavit of John Isaac Patterson in these proceedings does not match the signature on the cheques written to both Markethill and Rathfriland when signed by “John Patterson.” Nor does it match the promissory note served on both parties by John Patterson.

[72] The account exhibited in the affidavits on behalf of both plaintiffs/respondents clearly is a business account used by both defendants against whom judgment was obtained in this matter as long ago as 2013 for the livestock they had purchased. This is strong rebuttal evidence against the assertion now being made that there was no relationship between the plaintiff and both defendants.

## *Conclusion*

[73] From the above it will be seen that:

- (a) The appeals in these cases seek to set aside a judgment made on 26 June 2013, a delay of almost 11 years. This is an egregious delay.
- (b) On two separate occasions the court has already refused applications to set aside the original judgment – 10 June 2021 and 9 February 2024.
- (c) The evidence does not support the case being made on behalf of the appellants that the plaintiffs/respondents in this application did not have a contractual relationship with the defendants against whom default judgment was obtained.

[74] Accordingly, the appeals against the orders of the Master dated 8 March 2024 are dismissed. All ancillary applications for discovery are also dismissed.