

IN THE COURT OF APPEAL, CIVIL DIVISION

REF: **A3/2017/2879**



**BANK OF SCOTLAND PLC -v- (1) PAUL MICHAELS
(2) CHARLOTTE SARAH MICHAELS**

ORDER made by the The Honourable Lord Justice Newey

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal against the Order made by HH Judge Raeside QC, sitting as a Judge of the High Court, on 4 October 2017

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

Permission to appeal (and applications for stay and to rely on new evidence) refused

Reasons

An appeal would have no real prospect of success. The Appellants could not hope to persuade the Court to impugn the Judge's findings of fact, especially since they were made with the benefit of having seen the witnesses, and there is no significant flaw in the Judge's legal analysis either. Nor again is there any good reason to suppose that the Judge's conclusions are open to challenge on the basis of procedural impropriety. The grounds of appeal seek to raise points with regard to production of original documents, payment of a Court fee, transfer to the Chancery Division and the execution of the mortgage, but these matters, as well as being largely technical, do not appear to have featured in any important way in the pleadings or at the trial. As regards the new evidence on which the Appellants wish to rely, there is no reason to think that it could not have been adduced in time for the trial but, in any case, it is no importance to the issues.

Information for or directions to the parties

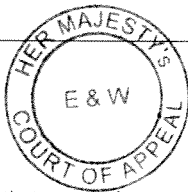
This case falls within the Court of Appeal Mediation Scheme automatic pilot categories*. Yes No

Recommended for mediation Yes No

If not, please give reason:

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment)
- b) any expedition



Signed: *Ang Newey*
Date: 27 October 2017

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

By the Court

DATED 27TH OCTOBER 2017
IN THE COURT OF APPEAL

ORDER

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