**IN THE BIRMINGHAM COUNTY COURT** **CLAIM NO: 6BM74906**

**APPEAL Ref: BM70094A**

**BETWEEN :-**

**MR ROBIN CLARKE**

**Appellant**

**and**

# A SMALL SECRETIVE CLIQUE OF TENANTS FALSELY REPRESENTING THEMSELVES AS BEING

**20-20 / "20/20" HOUSING CO-OPERATIVE LIMITED**

**Respondent**

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**SKELETON ARGUMENT (FOR APPEAL)**

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## Introduction / Background

1. This is very very far from being "just another of those claims for possession", even though the lies and evasions of this clique of callous deceiving criminals have made it appear so.

2. Both parties agree:
   - that Mr Clarke became a shareholder of 20-20 in May 1985, before it had any tenancies to live in (unlike all other current members);
   - that (unlike all other current members) Mr Clarke was a member of 20-20 management for five years before becoming a tenant of 20-20, in respect of Flat 1, 9 Augusta Rd which is owned by 20-20;
   - that in 2005, Mr Clarke helped to change the lock of the communal front door of that house; and
   - that 20-20 is a Fully Mutual Housing Co-operative;
   - that 20-20's tenancies are bare contractual with no statutory basis.

3. Beyond that, the parties present sharply discrepant conceptions of this case.

4. [[ Please note in the following the distinction between *inhibiting* abuse and *preventing* access. ]]
Mr Clarke's evidence proves:
   - that the Claimant clique ("20/20") are falsely representing themselves as being 20-20;
   - that they were invalidly elected under an illegitimate regime of secrecy and intimidation, following their illegitimate fundamental perverting of the governance of the organisation;
   - that they imposed that illegitimate regime in order to conceal their campaigns of harassment against several tenants;
   - that this Claim is motivated only by the continuing design of the harassers to obtain Mr Clarke's valuable residence for their own use or that of relatives, friends, or bribing accomplices, just as Flat 3/18 Park Road was criminally obtained for use of Nic Bliss by harassing Mr Talbot into the grave, followed by a similar still-ongoing harassment scheme against Mr Walsh of 1/18;
   - that Mr Clarke has acted entirely honourably at all times;
   - that the Claimant clique deceitfully pretended that he was *preventing* access to Flat 3, so as to give themselves seeming excuse for this possession claim (when in reality a member of the Claimants' committee was at all material times known to have a key to the lock, and indeed they *did* gain access by that means);
   - that Mr Clarke had a duty to deter a further abuse of the re-letting procedure, and therefore in order to *inhibit* the Claimant clique's abuse of Flat 3 he honourably played along with their deceitful pretence that he was *preventing* access (when in reality it was only their own deceit that was "*preventing*" their access);
   - that for various reasons the alleged breaching of the tenancy agreement is a fallacy; not least that it was impossible for Mr Clarke to *prevent* access in the way alleged;
   - that the Claimants do have to prove a ground, but it is logically impossible for them to do so;
   - that the Claimant clique's witness statements can be shown to be self-evidently deceitful.

5. Meanwhile, the Claimant clique ("20/20") are abusing the Members' rent money to employ lawyers they have lied to in order to fool overworked Judges into believing:
   - that their clique are the legitimate management of 20-20 ("20/20");
   - that this Claim is justified because Mr Clarke achieved the impossible and *prevented* access to Flat 3, which would supposedly be a breach of the tenancy agreement;
   - and that they do not have to prove a ground, and so the expiry of the Notice to Quit of itself forces the court to grant posseseion.

**The Grounds for Appeal**

6. The Claimant clique successfully tricked the Court from the outset into misperceiving this as just another case of a genuine RSL confronted with an unworthy tenant fabricating false excuses in his defence, and therefrom assuming that Mr Clarke's arguments could be reasonably dismissed as unsound and unworthy unless starkly obviously otherwise.

7. In the accompanying "Key Commentary" document I explain why the Judge was misled into prejudging the hearing, and thinking along the lines of "It is obvious that the defendant must be wrong; I just have to find some passable reasons for dismissing all his arguments".

8. Mr Clarke's Skeleton Argument presented four independent arguments of defence. As indicated below, no genuine fault was shown in any of those four arguments.

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*Defence (a): Human Rights Act*

9. The Judge erred in law in thinking that Mr Clarke's HRA argument was rebutted by the citation of White Book Vol.2, 3A-834 with reference to the *Qazi* and *Donoghue* cases. In reality, in both those cases the possession was justified only because of overriding statute law and a clear necessity satisfying the HRA conditions. Neither of those factors apply in the present case.

10. No genuine fault was shown in Mr Clarke's HRA defence. So the Claim must be dismissed by the Court.

*Defence (b): Invalid election / evasion of accountability*

11. The Judge erred in fact in contending that Mr Clarke had continued to attend the Claimants' meetings and indeed had admitted this. There is no evidence supporting those falsehoods.

12. The Judge erred in fact in implying that Mr Clarke had some power to transform an illegitimate RSL management into a legitimate one, merely by attending some of their meetings.

13. The Judge erred in fact in contending (i) that Mr Clarke had only at the last moment raised the argument of lack of a valid election, and (ii) that he had previously only said that the Claimants had been doing inappropriate things. In reality Mr Clarke's Application had challenged the validity of the election, several months earlier.

14. The Judge therefrom also erred in fact in stating that the Claimants were legitimate and validly elected. And it is anyway logically impossible for such legitimacy or validity to depend on the date at which Mr Clarke later submitted an argument to the court.

15. The Judge erred in fact in the notion that the confidential evidence that was the subject of Mr Clarke's second Application was the audio recordings on CD3. In reality that CD3 was supplied in duplicate with the "Comment on Lynn Mansell Second Statement" so that the Claimants would have a copy, while the real confidential evidence was never filed with the court.

16. The Application to submit confidential evidence was unsoundly refused on the basis of the abovementioned faulty notions. In reality the confidentiality was necessitated and justified by the information being supplied to Mr Clarke in confidentiality in a context of intimidation of other members by the Claimants.

17. No genuine fault was shown in Mr Clarke's illegitimacy argument. So the Claim must be dismissed by the Court.

*Defence (c): Need to prove a ground / impossibility of proof*

18. The Judge erred in law in contending that the correct understanding of the security of tenure was that the grounds did not have to be proved to the court. No fault was shown in the arguments cited in para 30 of the Skeleton (e.g., DA paras 72-74, 76-80, 81-87).

19. The Judge erred in fact in contending that Mr Clarke had prevented access to Flat 3. No fault was shown in the observations of DA para 94(f).

20. The Judge erred in law in making an incorrect inference from the words *"or adjoining property"* in the Tenancy Agreement. In reality those words can be shown to be intended to relate only to *access into the Premises (the Tenant's flat) to carry out works to* adjoining property, not *access to carry out works to* adjoining property per se.

21. No genuine fault was shown in Mr Clarke's proof-of-grounds Defence. So the Claim must be dismissed by the Court.

*Defence (d): Abuse of the Court by gross misrepresentation*

22. The Judge also erred in law in failing to acknowledge that no fault was found in Mr Clarke's heavily-evidenced fourth argument, of gross misrepresentation constituting an abuse of the court contrary to CPR 3.4(2)(b), and that therefore that argument too must remain

standing and requiring the striking out of the Claim by that Rule.

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23. The District Judge therefore erred multiplely in law and fact in dismissing Mr Clarke's Application to Strike Out the Claim.

24. With reference to CPR 52.11(3)(b), there were irregularities which in effect denied a fair hearing, as follows:

(a) The District Judge insisted that there would not be the proper interactive discussion in which Mr Clarke could have challenged false conclusions to demonstrate the soundness of his four independent defence arguments without having to bring this Appeal.

(b) Mr Clarke did not speak at much length. But during Mr Clarke's time to speak, the District Judge repeatedly said "I am conscious of the time, Mr Clarke", thus putting the seriously ill, unexperienced, unrepresented Mr Clarke under an oppression of time. This appears to have been due to a misunderstanding of how Mr Clarke was envisaging to address both applications together before the break.

(c) The District Judge did not allow Mr Clarke to read out any of his documents, insisting that she had already read all of them. And yet various errors or omissions of that reading can be shown. (On this point Mr Clarke acknowledges that the Judge was burdened with a large amount of documentation from himself, which may have appeared to be due to indulgence in prolixity on his part, but in reality it was a reflection of the complexity of the case and genuine volume of evidence.)

(d) No cross-examination of the Claimant clique's deceitful witnesses was allowed.

**Re the Costs**

25. The Order for full Costs of £4360.50 was not reasonable given that Mr Clarke is a chronic invalid dependent on Income Support. There was no discussion of how Mr Clarke was to be expected to pay that amount of more than half his annual income.

**Re the Application to Strike Out the Defence**

26. The Judge erred in law in concluding that the Claimant cliques' Application gave basis for striking out the Defence. In reality it only answered points that were not in the Defence anyway. It made no challenge to the arguments that were actually in the Defence document.

**Re the Counterclaim**

27. The Judge erred in fact in supposing that the in-effect loss of a year of Mr Clarke's life was not a credible notion. She prematurely dismissed this very important question prior to a proper stage of presentation of evidence. Mr Clarke had not yet even filed any witness statement relating to the matter.

28. The Judge erred in fact in contending that the in-effect loss of a year of Mr Clarke's life could not be a foreseeable consequence of harassment. Mr Clarke had already presented preliminary documentary evidence that the Claimants had been well aware beforehand that Mr Clarke was barely coping already. Mr Clarke was envisaging to present significant later evidence and argument on this matter but it was prematurely dismissed.

29. The Judge erred in fact in contending that the various adverse effects of a harassment scheme involving (among other things) allocating Flat 2 to a carefully-malselected chronic alcoholic lifestyle-criminal (etc.) would be of remote causation or not be reasonably foreseeable. In reality there is an exact analogy with launching a missile at Mr Clarke's residence, an example which the Judge accepted would be an instance of direct causation. The Claimant clique personnel include a probation officer, a social worker, and a "community regeneration officer" whose lectures emphasise the primacy of friendly neighbours over all mere material considerations. Such people would understand the causation of this scheme just as clearly as a missile launcher operator would understand their own.

30. The Judge erred in reasoning about the concept of foreseeableness. It is entirely foreseeable that all manner of adverse consequences (unforeseeable only in specifics) are liable to result from launching attacks against vulnerable victims. It is entirely foreseeable that a catastrophic vicious spiral of multiple adversities is liable to be set in train. That the specific details of those adversities are not all foreseeble is besides the point. The causal origin, malign intent and guilt of the initiating parties remains, as does the blamelessness of the victim. It therefore follows that the costs of the consequences would justly be imposed on the harassers.

31. The Judge erred in fact in dismissing the theft as of remote causation. Firstly there are the considerations of the preceding two paragraphs. Secondly, it is not merely foreseeable, but rather to be expected, that an unreformed lifestyle criminal would invite other such untrustworthy persons into the premises and that they would look for opportunities to carry out thefts and other crimes therein.

32. The Judge erred in fact in dismissing as improbable that Mr Clarke would have by 2005 have become a most famous scientist in consequence of the update review of his autism theory. The Judge prematurely dismissed this very important matter before more than a slightest minimal presentation of evidence could take place. The Judge drastically erred in fact in a notion that such a thing could be predicted from formal qualifications (of an individual whose disabilities have posed specific difficulties with examinations and yet who still has two maths A-levels among others). Most electrical technology depends on the ideas of the unqualified Michael Faraday, and the ideas of the unqualified James Watt played a pre-eminent part in the Industrial Revolution that enabled the countless other products of the modern world (cars, phones, trains, lighting, radio, etc, etc). It is only thanks to the "enthusiasms" of unqualified, derided, unrewarded, indeed usually persecuted persons, that we are not all still chewing bones in caves. The name of Roy Meadow stands as a warning against excessive respect for mere qualifications. (There is more about this matter in the "Key Commentary" document.)

33. The Judge erred in fact in dismissing as not reasonably foreseeable the delay to completion and publishing of Mr Clarke's major update review of his autism theory. The Claimants had been repeatedly informed that Mr Clarke was trying to work on this in the months immediately preceding the launching of the harassment scheme. And they knew that he was already barely coping with just surviving. Again this was dismissed before proper presentation of evidence could take place.

34. The Judge erred in fact in dismissing as not reasonably foreseeable the adverse consequences of being forced to delay work on remediation of Mr Clarke's mercury poisoning. The Claimants had been repeatedly informed of this very problem in the months immediately preceding the launching of the harassment scheme.

35. The Judge erred in fact in dismissing as not reasonably foreseeable a loss of earnings due to (i) delay in treating Mr Clarke's mercury poisoning and (ii) the more general paralysis of his activities. Again this was before any proper presentation of evidence could take place.

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