OSM Partners Quarterly Bulletin

June 2018

CONTACT US

Declan Murphy
Partner
dmurphy@osmpartners.ie
+ 353 1 691 5902

Richard O'Sullivan
Partner
rosullivan@osmpartners.ie
+ 353 1 691 5901

Claire Colfer
Senior Associate
ccolfer@osmpartners.ie
+ 353 1 691 5915

Andrew Croughan
Senior Associate
acroughan@osmpartners.ie
+ 353 1 691 5904

Raymond Lambe
Senior Associate
rlambe@osmpartners.ie
+ 353 1 691 5926

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Welcome

This briefing covers some of the more relevant case law and legislative updates which have been published since our last briefing. We are more than happy to advise or discuss in greater detail any of these issues which are of particular interest or concern to you or your organisation.

The highlights set out in this review include:

- Attempt to Judicially Review Granting of Order for Possession
- High Court Considers its Obligations Regarding CCMA
- Consideration of Circuit Court Rules on Renewal of Execution Order
- Consideration of Receiver's Power to take Possession
- Attempt to Strike Out Proceedings for Delay Arising from Loan Sale
- Attempt to Subject all Sums Due Mortgage to Doctrine of Consolidation
- Summary Judgment Refused where Execution of Guarantee Disputed
- High Court Considers Applications for Equitable Enforcement Remedies
- Automatic Substitution of Plaintiff Pursuant to the Central Bank Act 1971
- Challenge to Locus Standi of Bank where Bank Executed Declaration of Trust
- Bank's Liability for Failure of Life Cover
- Tenant Seeking to Block Mortgagee taking Possession
- Attempt to Rely on Alleged Oral Term which Contradicted Written Term
- Attempt by Third Party to Invoke Defence on Behalf of Property Owners
- Attempt By Debtors To Rely On Restructure To Defend Proceedings
- A Summary of the Relevant Government Initiatives.

For further information on any of the updates discussed below, or for general advice in relation to matters relevant to your business, contact any of our authors or your usual contact in OSM Partners.

General Commentary

As the cases considered in this bulletin show, attempts by banks, funds and receivers to enforce their security and pursue contractual debts continue to be fiercely resisted by borrowers, tenants and indeed those less directly connected to the primary parties. Whilst some of the defences raised by defendants have been well exercised in earlier cases, this has allowed the courts the opportunity to restate and reaffirm well established principles, such as the extent to which the courts will consider the operation of the CCMA, the principle that an alleged oral agreement cannot contradict an express written agreement and the principle that a tenancy which is in breach of a mortgage cannot bind the mortgagee.

Some of the defences raised have been more technical in nature and have allowed the courts to clarify the effect and interpretation of court rules and legislative provisions including the Circuit Court rules regarding execution orders, the effect on court proceedings of bank business transfers pursuant to the Central Bank Act 1971 and the extent of a bank's obligations to arrange a life policy pursuant to the Consumer Credit Act 1995. In an interesting recent judgment, the High Court has held that a revised repayment structure agreed between parties did not give rise to a binding standstill contract or promissory estoppel.

The coming into effect of the Mediation Act 2017 on the 1st January this year has also imposed an obligation on solicitors to advise prospective plaintiffs of the option of mediation as an alternative to legal proceedings.

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CASE LAW UPDATE

Attempt to Judicially Review Granting of Order for Possession

"Failure to give reasons for rejection of Defendant's arguments not sufficient to warrant quashing of decision where trial Judge could have come to no other conclusion on the point."

In *Karl O'Daly -v- EBS Mortgage Finance and Judge Griffin*[1], Mr. O'Daly sought to overturn the granting of an order for possession against his property by way of judicial review. He made a number of claims in relation to the manner in which the matter had been conducted in the Circuit Court by Judge Griffin.

His first claim was that the Court did not have jurisdiction to hear the matter on the grounds that he had cancelled his contract under EU law provisions. Whilst dismissing this as ground of defence rather than a ground for reviewing the decision, Ni Raifeartaigh J. gave a thorough examination of the argument raised before rejecting it. She also dismissed the argument raised that the rateable valuation of the property exceeded the Court's jurisdiction, as the jurisdiction was clearly based on the Land and Conveyancing Law Reform Act 2013. Mr. O'Daly also alleged that there was a breach of natural justice in the conduct of the hearing and that Judge Griffin had demonstrated bias against him.

These arguments were rejected by Ni Raifeartaigh J. citing Mr O'Daly's lack of understanding of Circuit Court procedures and that a finding against him did not suggest bias, rather that his submissions were without merit. Finally, Ni Raifeartaigh J. did concede that Judge Griffin had not given reasons for most of the decisions that he made and in particular his dismissal of the jurisdictional arguments raised at the Circuit Court hearing.

However, Ni Raifeartaigh J. held that having dealt in detail with those arguments in her own judgment, it would be inappropriate to quash Judge Griffin's decision for failure to give reasons and remit it back to the Circuit Court for reasons, where Judge Griffin could have reached no other conclusion on the arguments raised and the exercise would therefore be futile.

High Court Considers its Obligations Regarding CCMA

"The obligation on a court is to ensure that the CCMA has been operated before proceedings are issued, not whether a bank has acted unfairly."

The Appellants in *Permanent TSB -v- Eric Mallon and Sharon Mallon*[2] brought an appeal against an order for possession obtained by Permanent TSB ("PTSB") in the Circuit Court.

The Appellants set out some 26 grounds of appeal all of which were unsuccessful. Whilst most of the grounds were dismissed quite succinctly, the one ground given some consideration was the argument that PTSB had not treated the Appellants fairly in dealing with them under the CCMA.

White J. cited the decision in the Dunne and Dunphy[3] cases when confirming the position that the court's responsibility is to ensure that the Bank engaged by operating the code before proceedings were issued. He held the court had no jurisdiction however to determine whether the Bank acted unfairly by not agreeing an alternative arrangement which was more favourable to the Appellants.

White J. further confirmed that engaging with the Appellants during proceedings and issuing a restructuring offer did not deprive the Bank of the right to bring proceedings.

Consideration of Circuit Court Rules on Renewal of Execution Order

"An Execution Order can be renewed in the Office at any time during currency of judgment."

In *Irish Life & Permanent plc -v- Duffy*[4], an order for possession had been granted by the Circuit Court in 2004. The Bank obtained an execution order in 2005 but took no steps to execute on foot of the execution order.

The execution order was renewed on six subsequent occasions. On each occasion the renewal was subsequent to the expiry of the execution order but in all instances within the 12 year currency of the order for possession. The Bank ultimately took possession of the property in 2014.

The first named Appellant re-entered the property and the Bank sought and were granted an injunction in the Circuit Court restraining him from trespassing on the property. He sought to appeal that order. Both Appellants also issued separate proceedings for damages and an injunction restraining trespass against various parties including the

1. Karl O'Daly -v- EBS Mortgage Finance and Judge Griffin; 24th October 2017; [2017] IEHC 791
2. Permanent TSB plc formerly Irish Life & Permanent plc -v- Eric Mallon and Sharon Mallon; 27th October 2017; [2017] IEHC 837
3. Irish Life & Permanent plc -v- Gemma Dunne and Kevin Dunne & Irish Life & Permanent plc -v- Dylan Dunphy; 15th May 2015; [2015] IESC 46
4. Irish Life and Permanent plc -v- John Duffy and Kathleen Duffy; 8th December 2017; [2017] IEHC 760

County Registrar, the Bank and the auctioneer appointed to sell the property and sought to consolidate those proceedings with the appeal.

Noonan J. considered that the core argument in both sets of proceedings was one net point concerning the interpretation of Order 36 of the Circuit Court Rules. Rule 9 provides that an order of the court is valid for 12 years. It further provides that an execution order can be issued within that period but leave of the court must be obtained if it is sought six years after the original order was granted (which did not apply here). Rule 13 provides that an execution order can be renewed in the office at any time during the currency of the decree or judgment in respect of which it was originally issued.

Noonan J. held that it was clear that the execution order can be renewed at any time within the 12 year currency of the original judgment and did not require an application to court where the original execution order had been issued within six years. He further held that there was no requirement that the application for renewal of the execution order be made whilst the execution order was still in force as the rules clearly stated it could be renewed "at any time".

The Appellants argued it should be interpreted in the same way as the equivalent rule in the Superior Court Rules which would have required the Bank to apply to court for renewal of the execution order once it had expired. Noonan J. held that such an interpretation would have the effect of entirely changing the clear meaning of Rule 13.

Noonan J. therefore dismissed the appeal against the injunction against the first named Appellant and rejected the motion to consolidate the Circuit Court proceedings with the Appellant's High Court proceedings.

Consideration of Receiver's Power to take Possession

"Balance of convenience rested with staying receivership until receiver could prove entitlement to be appointed and the extent of his powers."

In the case of *McGarry -v- O'Brien*[5], the Defendant had been appointed as receiver by Havbell DAC over two properties owned by the Plaintiffs. The Plaintiffs sought an interlocutory injunction restraining the Receiver from dealing with the properties. The Plaintiffs argued that the Receiver lacked the power to take possession of the property and also lacked the power of sale.

The Receiver argued that he had an implied power to take possession as it would otherwise undermine his ability to perform his duties as Receiver of the income, rents and profits. He also argued that he had a power to prepare the property for sale before Havbell DAC stepped in as mortgage in possession to complete the sale.

Having considered the relevant contractual and legislative provisions, Stewart J. concluded that the receiver had a power of possession for the purposes of receiving rent and profits and the power to take proceedings to recover possession of property held under any tenancy. In the absence of any express provisions to the contrary, Stewart J. did not consider that it automatically followed that the receiver had the power to simply seize possession without recourse to the courts. In the circumstances she held that there was a fair question to be tried as to the precise powers vested in the Receiver.

Stewart J. further considered that there was a fair question to be tried on the validity of the appointment. The appointment was made by a director of Havbell DAC, relying on a power of attorney which itself was stated to have been granted in the context of a master and servicing agreement between Havbell DAC and Lapithus Management S.a.r.l. As the master and servicing agreement was not before the court, Stewart J. could not determine whether it enabled the particular director to appoint the Defendant as Receiver. She further held that he could not rely on his position as director of Havbell DAC to unilaterally appoint a receiver without reference to the rest of the board of directors.

In granting the injunctive relief sought, Stewart J. held that the balance of convenience lay in favour of staying the receivership until such time as the Defendant could establish the director's entitlement to appoint the Defendant as Receiver and the Defendant's entitlement to take possession of the property as such.

Attempt to Strike Out Proceedings for Delay Arising from Loan Sale

"Delay of two years in prosecuting proceedings arising from sale of loan inordinate and inexcusable but balance of justice did not require dismissal."

In the case of *Promontoria (Aran) Limited -v- O'Connor*[6], Ulster Bank had issued proceedings for summary judgment. During the course of those proceedings, the subject loan was sold to Promontoria (Aran) Limited. This led to a two year lapse in the proceedings. In considering the Defendants' application to strike out the proceedings for want of prosecution, Barrett J. held that this delay was inordinate and inexcusable given that the transfer involved "well-resourced, well-advised financial service entities". Whilst sympathising with the Defendants, Barrett J. ultimately held that this was not a case where the balance of justice required that the Plaintiff's claim be dismissed.

5. James McGarry and Louise McGarry -v- Tom O'Brien; 12th December 2017; [2017] IEHC 740
6. Promontoria (Aran) Limited -v- Patrick (otherwise Paddy) O'Connor and David O'Connor; 21st December 2017; [2017] IEHC 780

He did express the view that the Plaintiff was in "yellow card" territory and made an order for costs against the Plaintiff and expressed the view that the proceedings should be case managed going forward.

Attempt to Subject all Sums Due Mortgage to Doctrine of Consolidation

"Mortgagors could not invoke doctrine of consolidation to prevent Bank relying on valid cross-security comprised in an 'all sums due' mortgage."

In *AIB Mortgage Bank -v- Laurence O'Toole and James O'Toole*[7]*,* the Court of Appeal heard an appeal by the borrowers from the decision of the High Court on a preliminary issue. The net issue arising was whether the Bank could be forced to comply with the strict requirements of the equitable doctrine of consolidation (which requirements they could not meet in this case), or whether it was entitled to rely on the express contractual provisions of the loan documentation and mortgage deeds which created a cross security in respect of any and all liabilities.

The Court of Appeal dismissed the appeal, agreeing with the High Court that the Bank was entitled to rely on the very clear 'all sums due' provisions in the mortgages and that the various properties comprised in the first mortgage deed were a valid cross-security in respect of liabilities arising from subsequent borrowings. In such circumstances the equitable doctrine of consolidation did not apply and could not be forced on the Bank by the borrowers.

Summary Judgment Refused where Execution of Guarantee Disputed

"A guarantor may not be successfully sued summarily on a guarantee purportedly signed when the guarantor was out of the country and witnessed by a person he claims to have never met."

In *AIB -v- Seamus O'Keeffe*[8]*,* the Bank sought summary judgment on foot of a continuing guarantee. The alleged guarantor however produced credit card statements indicating that on the date the guarantee was allegedly executed, he was in fact out of the country.

He further claimed to have never met the purported witness to the guarantee. In transferring the matter for plenary hearing, Barrett J. held that there were clear conflicts of facts surrounding the execution of the guarantee and the case was one which patently could not be fairly dealt with by summary application.

High Court Considers Applications for Equitable Enforcement Remedies

"Settlement monies held pursuant to an undertaking on agreed terms could not be subject to equitable remedies."

In *AIB -v- McGuigan*[9], Barrett J. considered the nature of two equitable remedies which the Bank sought to rely on to satisfy a consent judgment it had previously obtained against the Defendants. The Defendants, together with their company PTM (Castleblayney) Limited (who were not a party to these proceedings) had obtained settlement monies in certain other litigation.

The bulk of these monies were held by their solicitor who undertook to hold same to the Bank's order until such time as an agreement was reached regarding the disposal of the settlement monies. The undertaking was given on the basis of an irrevocable authority and was not limited in time. Settlement negotiations broke down and the Bank obtained a conditional garnishee order which they sought in this case to convert to an order absolute.

In refusing to make the conditional order absolute, Barrett J. noted that the company had an interest in the monies held but were not a party to the proceedings and therefore had not been heard. Equally, where monies were held in the solicitors' client account, an order could not be made against a joint account where one of the account holders (i.e. one of the clients) was not a judgment debtor. Finally, as the monies were held on the basis that they would only be released on the reaching of an agreement, they could not be considered as a debt payable to the judgment debtors which could be the subject of a garnishee order.

For similar reasons Barrett J. refused the Bank's application for the appointment of a receiver by way of equitable execution over those monies, noting also that the Bank had freely bound itself into the arrangement that the solicitors would continue to hold the monies, therefore there was no wrong to be remedied and given the nature of the undertaking there was nothing for the receiver to receive.

Barrett J. then considered the Bank's application for the appointment of a receiver by way of equitable execution over the proceeds of sale of apartment in Croatia, owned by two of the Defendants and their wives. Barrett J. noted that the Bank had not provide evidence to satisfy the requirement that any legal methods of execution available to them had been exhausted or would be ineffective and further noted that the co-owners of the apartments were not judgment debtors and not party to the proceedings.

7. AIB Mortgage Bank -v- Laurence O'Toole and James O'Toole; 29th January 2018; [2018] IECA 6
8. Allied Irish Banks plc -v- Seamus O'Keeffe, Junior; 5th February 2018; [IEHC] 71
9. Allied Irish Banks plc -v- Paul McGuigan, Thomas McGuigan and Michael McGuigan; 14th February 2018; [2018 [IEHC] 67

Notwithstanding, Barrett J. noted that nothing had been paid since judgment was obtained and the sale proceeds were highly susceptible to dissipation. In those circumstances he granted an order subject to various conditions including in particular that the Bank pay 50% of the proceeds of sale of the properties to the relevant co-owners.

Automatic Substitution of Plaintiff Pursuant to the Central Bank Act 1971

"Where transfer of business of one bank to another occurs, the Act has the effect of automatically substituting the new bank in any subsisting proceedings to which the original bank is party."

In one of a number of judgments delivered in a long running series of litigation the Defendant/Appellant in this strand of the proceedings[10] sought to argue that a judgment obtained against him was *inter alia* invalid as no application was brought to substitute Ulster Bank Ireland Limited in place of First Active plc., subsequent to the transfer of business from the latter to the former. In considering the provisions of the Central Bank Act 1971 under which the transfer of business was effected, McKechnie J. held that section 41 of that Act automatically effected the substitution of title in the proceedings and no court application was required to regularise the position.

Challenge to Locus Standi of Bank where Bank Executed Declaration of Trust

"The Bank was the correct Plaintiff in proceedings where loan sold to third party but legal title retained by Bank who executed a declaration of trust."

The case of *Ulster Bank DAC -v- Liam Mulvaney*[11], involved proceedings seeking summary judgment against the Defendant for a sum in excess of €7million. In an extremely brief judgment rejecting the Defendant's application to have the matter dealt with by way of plenary hearing, Twomey J. noted that the Defendant made a number of claims which were either not credible, mere bald assertions, incorrect or did not make sense.

Specific reference was made only to one of those arguments where the Defendant argued that as the Bank had sold his loan to Promontoria, the Bank did not have locus standi to pursue him. This argument was rejected as the documentation in support of the claim clearly showed that Ulster Bank had executed a Declaration of Trust in favour of Promontoria and therefore there was no bar to the Bank taking the proceedings.

Bank's Liability for Failure of Life Cover

"Failure of life cover due to non-payment of premium by the borrower not a breach of Bank's obligation to arrange life policy."

In a challenge to the Circuit Court's refusal to allow a review of an order for possession against him, the appellant in *Kearney -v- Permanent TSB*[12] raised an issue regarding the failure of the life insurance cover in circumstances where his wife had passed away.

The Bank had arranged a life policy for the borrowers through New Ireland however the premium was not paid by the borrowers with the result that the cover did not come into force. There was therefore no policy in effect when Mr. Kearney's wife passed away.

Neither the Bank nor the borrowers appear to have been notified of the failure of the life cover by New Ireland. Mr. Kearney contended that as no coverage came into force, this was a breach of the Bank's obligation under the Consumer Credit Act 1995 to arrange a life policy.

Barret J disagreed holding that the Bank had indeed arranged a life policy as they were obliged to do but this obligation did not require them to ensure that the coverage came into effect.

Tenant Seeking to Block Mortgagee taking Possession

"Tenancy in breach of express terms of a mortgage not binding on chargeholder; purported tenant therefore a trespasser on the property."

In an application for an interlocutory injunction[13], Costello J. considered the validity of a purported tenancy of a property which the Plaintiff, as mortgagee, sought to take into possession. The borrower had voluntarily surrendered the property back to PTSB which subsequently sold the loan and interest in the property to the Plaintiff.

The property had been let to the Defendant without the knowledge of PTSB, in breach of the borrower's covenants under the loan offer and the mortgage deed. PTSB only became aware of the existence of the tenancy when the borrower was surrendering the property.

The Plaintiff sought to enter into possession of the property but was refused access by the Defendant. The Defendant maintained that she had an entitlement to remain in the property pursuant to her tenancy agreement. The Plaintiff contended that the tenancy was invalid as it was entered into without the consent of the prior mortgagee. The

10. First Active plc -v- Brian Cunningham; 22nd February 2018; [2018] IESC 11
11. Ulster Bank Ireland Designated Activity Company -v- Liam Mulvaney; 7th March 2018; [2018] IEHC 105
12. Stephen Kearney -v- Permanent TSB plc formerly Irish Life & Permanent plc; 7th March 2018; [2018] IEHC 159
13. Havbell Designated Activity Company -v- Maria (otherwise Mariah) Isabel Dias (otherwise Harvey); 20th March 2018; [2018] IEHC 175

Plaintiff then sought urgent inspection facilities as it had fire safety concerns in relation to the property which was being used for short term rentals through Airbnb.

When the Defendant refused their request for an urgent inspection the Plaintiff initiated High Court proceedings seeking an order for inspection of the premises and an order restraining the continued trespass by the Defendant. Costello J. held that the tenancy agreement was not binding on the Plaintiff as it was an express term of the mortgage that the consent of the mortgagee be obtained and the Defendant was unable to prove that consent was given.

Alternative grounds of defence including an equitable interest in the property on the basis of renovations the Defendant had carried out and an option to purchase agreed with the borrower were dismissed. Costello J. found that the Defendant was a trespasser on the property and that the Plaintiff was entitled to possession of the property.

Attempt to Rely on Alleged Oral Term which Contradicted Written Term

"An alleged oral agreement could not be relied on to contradict the terms of a written agreement."

In *Promontoria (Arrow) Limited -v- Mallon and Shanahan*[14], the second named Defendant sought to resist summary judgment and to have a matter transferred to plenary hearing. He contended that notwithstanding the clear terms of the letter of loan offer and two subsequent amendments thereof, he had verbally agreed a non-recourse or limited recourse condition.

McGovern J. took the view that not only did the argument lack credibility, it would be a breach of the parol evidence rule if oral evidence was admitted to contradict the terms of a written agreement between the parties. This principle was also relied on in a judgment delivered on the same day by the Court of Appeal in two related cases[15] where the Defendants sought to rely on oral evidence of a limited recourse agreement notwithstanding that the loan offers did not support this view.

Attempt by Third Party to Invoke Defence on Behalf of Property Owners

"A Defendant to an injunction application could not invoke arguments by way of defence on behalf of the other defendants."

In *KBC -v- Smith, Hussey, Gilroy and unknown persons*[16], KBC had obtained an order for possession of property owned by the first named Defendant. The sheriff took possession of the property although he encountered resistance from the first and second named Defendants and their son. Later that evening a large group of individuals, including the third named Defendant attended at the property and were successful in retaking possession of it.

The Bank then successfully sought injunctions to force those in occupation of the property to deliver up possession and restrain them from further trespass on the property and those injunctions were granted by Baker J. in the High Court.

The first named Defendant did not seek to defend the injunction application and it was noted that he had neither defended nor appealed the original Circuit Court proceedings. The third named Defendant then sought a stay on the High Court orders and submitted that he had arguable grounds of appeal.

Whilst in her decision refusing the stay, Irvine J. noted that Mr. Gilroy was entitled to defend the injunction granted against him, she found that his arguments amounted to a defence or appeal of the original Circuit Court possession proceedings to which he was not a party and which he had no entitlement to assert on behalf of the owner of the property.

Attempt by Debtors to Rely on Restructure to Defend Proceedings

"Tenancy in breach of express terms of a mortgage not binding on chargeholder; purported tenant therefore a trespasser on the property."

IIn the recent case of *Clones Credit Union Limited -v- Strain Lynch and others*[17], the Credit Union sought summary judgment against the first two Defendants on foot of a credit agreement for just over €212k. The Defendants sought to have the matter sent forward for plenary hearing.

They contended that whilst they did not dispute the total debt due, they had at all times adhered to a revised repayment structure they had entered into in 2012. They argued that this revised repayment structure gave rise to a binding standstill contract whereby the Credit Union would not issue proceedings for so long as the Defendants adhered to the revised repayments.

In dismissing this argument, Barrett J. cited the principle that in the absence of consideration from a borrower (as was the case here), a bare agreement by a lender to forbear does not give rise to a contract. The Defendants' argument that this revised repayment structure resulted in the Credit Union being estopped from issuing proceedings was also rejected as Barrett J. noted that not only was there no suggestion they had altered their positions to their detriment (as required

14. Promontoria (Arrow) Limited -v- Cathal Mallon and Michael Shanahan; 22nd March 2018; [2018] IEHC 145
15. AIB -v- Laurence O'Toole, Donal O'Toole and James O'Toole; AIB Mortgage Bank -v- Laurence O'Toole, Donal O'Toole and James O'Toole; 22nd March 2018; [2018] IECA 93
16. KBC Bank Ireland plc -v- Gordon Smith, Linda Hussey, Ben Gilroy and unknown persons occupying the premises at Chieftans Way, 37 Hamlet Avenue, Balbriggan, Co. Dublin; 23rd March 2018; [2018] IECA 90
17. Clones Credit Union Limited -v- Liam Strain, Peter Lynch, John Prunty and Barry Murphy; 4th May 2018; [2018] IEHC 241

by the doctrine of promissory estoppel), they had if anything altered their position for the better.

In concluding that the Defendants had failed to meet the low threshold for plenary hearing, Barrett J. held that it was very clear that the Defendants had no case and they had failed to disclose any arguable defence.

LEGISLATIVE AND GOVERNMENT DEVELOPMENTS

Mediation Act 2017[18]

This Act, which came into force on the 1st January 2018, applies to almost all forms of civil litigation. The Act requires that solicitors take various steps before the issuing of proceedings on behalf of a client. These steps include advising the client to consider mediation as an alternative means of resolving the dispute which is to be subject of the proposed proceedings and to outline the advantages and benefits of mediation.

The solicitor must file a statutory declaration when issuing proceedings confirming that they have advised their client in accordance with the provisions of the Act. If the statutory declaration is not lodged with the originating proceedings, the court is obliged to adjourn the proceedings to enable the solicitor to comply with the provisions of the Act.

Rules of the Superior Courts (Service) 2017[19]

A Statutory Instrument published late last year, this permits service of a summons on a defendant by way of registered post. Whereas this mode of service has been in place for some time in the lower courts it represents a new and welcome departure for the superior courts.

Practice Directions CA07 and HC77

Our previous briefing highlighted cases where litigants were being assisted by *"McKenzie friends"*. As a tightening up of the practice regarding the involvement of McKenzie friends two identical practice directions have been issued in respect of the High Court and Court of Appeal prohibiting former solicitors or barristers who have been struck off or disbarred for misconduct, from acting as McKenzie friends in either court.

Consumer Protection (Regulation of Credit Servicing Firms) (Amendment) Bill 2018

This Bill seeks to extend regulation from the existing credit servicers and debt management firms to also include credit agreement owners. Under this proposed Bill a credit agreement owner would have to apply for authorisation to the Central Bank to carry on the business of a credit agreement owner. The credit agreement owner would be subject to the same regulations including the CCMA. On the sale of a loan it is proposed that the borrower would be provided with information on the sale of the loan including the terms on which it was sold and whether it was sold at a discount. This Bill has been referred to the Select Committee on Finance, Public Expenditure and Reform.

Rebuilding Ireland Action Plan for Housing and Homelessness[20]

This action plan launched in July 2016 has seen further development in its aims.

Rebuilding Ireland Home Loan – operational from the 1st February 2018 through all local authorities, this is open to eligible first time buyers looking to buy or build their own home. The maximum loan to value is 90% and the maximum values of the properties are capped at €350,000.00 in Cork, Dublin, Galway, Kildare, Louth, Meath and Wicklow and €250,000.00 in the rest of the country.

18. Act Number 27 of 2017
19. S.I. No. 475 of 2017
20. www.rebuildingireland.ie

OSM Partners,
87 Harcourt Street,
Dublin 2, Ireland

Phone: + 353 691 5900
Email: info@osmpartners.ie

www.osmpartners.ie