

John Glare v Clydesdale Bank Plc, 21 May 2024

Case Ref No: CA55-23

Date of Hearing: 21st May 2024

Division and Senators: First; Lord President, Lord Boyd of Duncansby, Lady Wise

Livestreamed Hearing?: Yes No

Agents and Counsel (*if known*):

Tariq; Advocate – BTO Solicitors

Dean of Faculty: Horn – DLA Piper

Link to Judgment Reclaimed / Appealed (*if available*):

Glare v Clydesdale Bank Plc [2023] CSOH 67 – [Scotcourts](#); [BAILII](#)

Glare v Clydesdale Bank Plc [2015] CSOH 184 – [Scotcourts](#); [BAILII](#)

Case Description:

In 2013, the pursuer raised a commercial action for damages on the basis that the defenders had mis-sold him a Tailored Business Loan of £3.95 million in February 2008. The TBL was a fixed interest loan charged at 7.8% per annum with a 25 year term, secured over the pursuer's business property, Chantmarle Manor, in Dorset, from which he ran a Christian conference centre and wedding business. The defenders terminated the TBL due to non-repayment. Break costs of £712,931 were applied, these being the costs of unwinding the defenders' financial hedges against interest rate risk over the term of the loan. The pursuer was made bankrupt and Chantmarle was sold. The defenders accepted the TBL was mis-sold but disputed quantum and causation. The pursuer asserted that in the absence of and instead of the TBL he would have been

advanced a variable interest rate loan; his business would not have failed; he would not be made bankrupt and would have retained Chantmarle. The matter went to a nine day proof before Lord Doherty in 2015 who held that the pursuer was not entitled to damages as he had failed to prove that, had he not been offered the loan, he would have sought and obtained a variable interest rate loan and his business would not have failed. By interlocutor of 26 January 2016 the defenders were assoilzied with expenses.

The present action is for reduction of Lord Doherty's decree of 26 January 2016. The pursuer alleges that the defenders obtained success in the 2013 action by suborning their witness Douglas Campbell to give untruthful evidence on how the break costs were calculated. The pursuer contends the witness deliberately concealed the true position on how the break costs were calculated; had the pursuer known the true position his alternative scenario would have been different; instead of persisting with the Chantmarle business, he would have sold Chantmarle and re-established a residential property business. The respondents moved for dismissal on the basis the action was fundamentally irrelevant, because the pursuer did not offer to prove that the allegedly untrue evidence had any causal effect on Lord Doherty's decision. In terms of his opinion and interlocutor of 6 October 2023 the Commercial Judge (Lord Braid) held that the pursuer's case amounted to no more than an assertion that if he had known something which he could have found out earlier, he would have conducted his case differently, and in the absence of a plea of *res noviter*, and of any relevant averments supporting reduction, the action was bound to fail. The Commercial Judge dismissed the action, reserving expenses.

The pursuer now seeks review of the Commercial Judge's interlocutor of 6 October 2023.