



**THE SUPREME COURT**

**DETERMINATION**

**BETWEEN**

**GRANT THORNTON (A FIRM) AND BY ORDER GRANT THORNTON  
CORPORATE FINANCE LIMITED**

**PLAINTIFF**

**AND**

**GERALDINE SCANLAN**

**DEFENDANT**

**Neutral Citation:** [2020] IESCDET 109

**Supreme Court record no:** S:AP:IE:2020:000004 and S:AP:IE:2020:000005

**Court of Appeal record no:** A:AP:IE:2017:000459 and A:AP:IE:2017:000464

**High Court record no:** 2015 No. 9954 P

**Date of Determination:** Monday, 28<sup>th</sup> September 2020

**Composition of Court:** O'Donnell J., MacMenamin J., Charleton J.

**Status:** Approved

**APPLICATION FOR LEAVE TO APPEAL TO WHICH ARTICLE 34.5.3° OF THE  
CONSTITUTION APPLIES**

**RESULT:** The Court does not grant leave to the Defendant to appeal to this Court from the  
Court of Appeal

**REASONS GIVEN:**

**ORDER SOUGHT TO BE APPEALED**

COURT: Court of Appeal
DATE OF JUDGMENT OR RULING: 31 <sup>st</sup> October, 2019
DATE OF ORDERS: 31 <sup>st</sup> October, 2019 (2)
DATE OF PERFECTION OF ORDER: 6 <sup>th</sup> December, 2019
THE APPLICATIONS FOR LEAVE TO APPEAL WERE MADE ON 7 <sup>th</sup> January, 2020 AND WERE NOT IN TIME, BUT THE COURT WILL EXTEND TIME.

### **Considerations**

1. This determination relates to an application for leave to appeal from a decision of the Court of Appeal.
2. The general principles applicable by this Court in determining whether to grant or refuse leave to appeal, having regard to the criteria incorporated into the Constitution, as a result of the 33<sup>rd</sup> Amendment, have now been considered in a large number of determinations, and are fully addressed in both a determination issued by a panel consisting of all of the members of this Court in *B.S. v. Director of Public Prosecutions* [2017] IESC DET 134, and in a unanimous judgment of a full Court delivered by O'Donnell J. in *Price Waterhouse Coopers (A Firm) v. Quinn Insurance Ltd. (Under Administration)* [2017] IESC 73. The additional criteria required to be met in order that a so-called "leapfrog appeal", direct from the High Court to this Court, can be permitted were addressed by a full panel of this Court in *Wansboro v. Director of Public Prosecutions* [2017] IESC DET 115. It follows that it is unnecessary to revisit the new constitutional architecture for the purposes of this determination.

3. Furthermore, the application for leave filed, and the respondent's notice, are published, along with this determination, (subject only to any redaction required by law), and it is therefore unnecessary to set out the position of the parties.

4. In that context, it should be noted the respondent (Grant Thornton) opposes the grant of leave.

### **Decision**

5. In these proceedings, Grant Thornton sought permanent injunctions restraining Ms. Scanlon from disseminating, or making use of, certain confidential information which had been sent to her in error. The firm claimed, *inter alia*, that by refusing to return, (and by disseminating) the confidential information, Ms. Scanlon acted in breach of confidence and in breach of the then applicable Data Protection Acts, 1998 and 2003.

6. As set out, the respondents, Grant Thornton, brought two applications to the High Court. The first was to strike out parts of the defence and counterclaim brought by the applicant (Ms. Scanlon). The second was to strike out Ms. Scanlon's defence and counterclaim. In a third motion, Ms. Scanlon sought twenty separate reliefs, the central one being her application to join the Data Protection Commissioner as a party to the proceedings brought by Grant Thornton against her.

7. The matter was first dealt with, at first instance, by Gilligan J. in the High Court. He delivered judgment and granted orders on the 27<sup>th</sup> July, 2017, and also made a later interlocutory order. The full background to this case is fully described in the judgment of the Court of Appeal herein, ([2019] IECA 275), in paras. 3 to 17. As described by the Court of Appeal, the essence of the application concerns orders made by Gilligan J. on the 27<sup>th</sup> July, 2017, following his written judgment.

8. The background circumstances of the issue now raised by the applicant are set out in the judgment of the Court of Appeal, at the paragraphs now set out.

9. The Court of Appeal dealt with the issues as follows:

- Alleged bias on the part of the High Court judge, (paras. 18 to 37)
- The refusal to join Danske Bank (paras. 38 to 47)
- The application to join the Data Protection Commissioner (paras. 48 to 68)
- The appeal against the order striking out parts of the defence and counterclaim (paras. 69 to 70)

10. This Court has considered the judgment of the Court of Appeal. This Court is of the view that the Court of Appeal was entitled to make the orders made under each of the headings identified. No question of breach of fairness of procedures, or fundamental jurisdiction, is shown. Moreover, the case stands on its own facts. As can be seen from the application for leave, and the response, in reality, no issue of general public importance arises.

11. There are indications that the applicant, Ms. Scanlon, has brought a number of legal proceedings and applications concerning the same, or similar, issues, which could have been brought in one proceeding, or alternatively consolidated in one proceeding. The Court makes no further observation other than that. The issue in the litigation is a private law matter. The application does not show any basis that leave should be granted in the interests of justice. Neither constitutional criterion is satisfied. The Court will not grant leave to appeal.

**AND IT IS HEREBY SO ORDERED ACCORDINGLY.**