

THE HIGH COURT

JUDICIAL REVIEW

Record No 639 JR 2004

Between

TREVOR ROGERS, JASON ROGERS AND BARNMAC CONTRACTING LTD

APPLICANTS

AND

**GEORGE MALONEY, THE DIRECTOR OF CORPORATE ENFORCEMENT, THE COMMISSIONER OF AN GARDA SÍOCHÁNA, THE
DIRECTOR OF PUBLIC PROSECUTIONS AND DISTRICT JUDGE GEOFFREY BROWNE**

RESPONDENTS

Judgment delivered by the Honourable Mr Justice O’Leary on the 21st day of December 2005

1. These proceedings arise in respect of issues raised as result of the actions of the respondents in the related matter *Paul Rogers Patrick Rogers and Barnroe Ltd v. George Maloney and others Record no 638JR/2004*. In each case the respondents are identical while the applicants are a different company occupying the same/or adjacent premises with connected directors.

2. The issues arise in respect of the same series of events in so far as both actions are based on the circumstances surrounding the issuing and execution of a search warrant in the related case.

3. This matter was not opened to the court but in so far as the court can ascertain from the related proceedings and the pleadings herein the complaint of the applicants centres on the validity of the search warrant in the related matter, the seizure of records and other material the property of the third named applicant rather than Barnroe Ltd the company at the centre of the search undertaken.

4. In so far as the claims for certiorari, prohibitions, declarations or mandamus are concerned the court does not perceive (or was it suggested by any party to the court) that any such order is required in these proceedings.

5. It is clear that the substantive matters remaining at issue relate to damages. These cannot be decided in the course of a judicial review as the issues relating to the alleged illegal seizure of documents and equipment are matters which require oral evidence at plenary hearing. Further no assistance has been given to the court as to what loss (if any) was suffered by the applicants.

6. In the circumstances the matter will be remitted to plenary hearing. The proceedings can be progressed by either party issuing a motion for directions in the Master’s Court or the High Court as appropriate.