

THE HIGH COURT

[2005 No. 1367 P]

BETWEEN

GEORGE REDMOND

PLAINTIFF

AND

MR. JUSTICE FEARGUS FLOOD (THE FORMER SOLE MEMBER OF THE TRIBUNAL OF INQUIRY INTO CERTAIN PLANNING MATTERS AND PAYMENTS), HIS HONOUR JUDGE ALAN MAHON, HER HONOUR JUDGE MARY FAHERTY AND HIS HONOUR JUDGE GERALD KEYES (THE MEMBERS OF THE TRIBUNAL OF INQUIRY INTO CERTAIN PLANNING MATTERS AND PAYMENTS), IRELAND AND THE ATTORNEY GENERAL

DEFENDANTS

RULING of Mr. Justice Gilligan delivered on the 31st day of July, 2012

1. This is an application to speak to the order as perfected herein arising from the court's judgment as delivered on the 28th March, 2012, in the above entitled proceedings. I have considered the letter from Keith Walsh Solicitors of 19th July, 2012, setting out the plaintiffs view and the letter in reply thereto of the 23rd July, 2012, from Susan Gilvary Solicitor to the Tribunal of Inquiry into certain planning matters and payments.
2. There is an appeal and cross appeal pending in the Supreme Court. The judgment herein was delivered on the 28th March, 2012, subsequently approved, and the order was drawn on the 1st May, 2012, and perfected on the 29th May, 2012. No perceived difficulty was brought at any stage by either party to the attention of the court or the registrar until the last few days.
3. The court considers it appropriate in the circumstances bearing in mind the submissions of both parties simply to state as follows. It does appear to be clear that the judgment breaks down the two central issues that were contended for. The first, as set out in para. 30 of the judgment, dealing with an attempt to quash the order for costs made by the Tribunal based on a finding, inter alia, of hindering and obstructing the Tribunal and the second, being an attack on the substantive findings of the Tribunal based on a failure of fair procedures and constitutional justice, a matter which was referred to by the Supreme Court in *Murphy v. Flood*. The issue as to costs is dealt with extensively in para. 67 of the judgment and, as is set out in para. 68 of the judgment, the court came to a view that the balance of justice in the particular and special circumstances of this case and having taken into account the judgment of the Supreme Court in *Murphy v. Flood*, which this Court is bound to follow and does follow that the balance of justice favours the plaintiff and leads the court to the conclusion that the motion to dismiss the costs aspect of the plaintiff's claim fails.
4. The court then goes on to deal at para. 69 with the second aspect which is referred to as the substantive findings of the Tribunal and at para. 76 a clear distinction is drawn between the two aspects with the court indicating the second issue, unlike the costs issue, has not been determined previously by this Court or on appeal by the Supreme Court.
5. Further, it will be noted that para. 79 of the judgment specifically states that the appropriate order is that the court declines to dismiss so much of the plaintiff's claim as relates to the costs issue, and dismisses the balance of the plaintiffs claim relating to the substantive findings as made in the second and third interim reports.
6. It does not appear that the order as drawn up and perfected, which was done without any consultation with the trial judge, adequately reflects the view of the court as set out in para. 79 of the judgment.
7. Accordingly, the view of the court is that the judgment as handed down draws a clear distinction between the two central issues. In the circumstances pertaining the court does not propose to amend the order as perfected.