



Press Summary

20 November 2024

Kireeva (Appellant) v Bedzhamov (Respondent)

[2024] UKSC 39

On appeal from [2022] EWCA Civ 35

Justices: Lord Reed (President), Lord Lloyd-Jones, Lord Briggs, Lady Rose and Lord Richards

Background to the Appeal

It is a long established principle in England and Wales that questions as regards rights to and interests in land and other immovable property are governed by the law of the country in which the property is situated. This is known as “the immovables rule”. The issue in this appeal is the effect, if any, of the immovables rule on the claim of a trustee in bankruptcy appointed in a foreign bankruptcy to immovable property situated in England.

The issue arose in relation to a property in London owned by the Respondent, Mr Bedzhamov (the “**Property**”). Mr Bedzhamov is a Russian citizen who left Russia in 2015 and has not lived there since then. In 2018, a Russian court declared Mr Bedzhamov bankrupt and appointed the Appellant, Ms Kireeva, as the trustee of his bankruptcy estate.

As a matter of Russian law, the Property forms part of Mr Bedzhamov’s bankruptcy estate and Ms Kireeva is under a duty to take control of and sell the Property. The issue for decision was whether, as matter of English law, the immovables rule prevented Ms Kireeva from claiming the Property and from obtaining assistance from the English court to do so.

As well as seeking recognition of her right to take control of the Property, Ms Kireeva also applied to set aside a previous court order made as part of separate legal proceedings that had allowed Mr Bedzhamov to charge his interest in the Property in favour of his solicitors (the “**Set Aside Application**”).

The High Court held that, by reason of the immovables rule, English law did not recognise Ms Kireeva as having any claim to the Property. The High Court also dismissed Ms Kireeva’s Set Aside Application. The Court of Appeal by a majority upheld the High Court’s decision. Ms Kireeva was granted permission to appeal to the Supreme Court on both these points.

Judgment

The Supreme Court unanimously dismisses the appeal. It holds that the immovables rule prevents Ms Kireeva from having any claim to the Property and that the common law does not provide any assistance in these circumstances. The position is different in those cases where legislation provides for assistance to be given by the court (see below). The reasons for the decision are given in a joint judgment by Lord Lloyd-Jones and Lord Richards, with whom the other Justices agree.

Reasons for the Judgment

Lord Lloyd-Jones and Lord Richards begin by providing a background to the history and application of the immovables rule, confirming that a foreign court does not have the power to make orders in respect of land in England and that rights relating to such land are governed exclusively by English law [25-36].

There are two statutory exceptions to the immovables rule which are potentially relevant. The first exception is found in section 426 of the Insolvency Act 1986 [49-54] which applies where the foreign bankruptcy is taking place in a “relevant country or territory” (principally, Commonwealth countries). The second arises under the Cross-Border Insolvency Regulations 2006 which applies to any bankruptcy taking place in the bankrupt’s “centre of main interests” [55-61]. However, it was common ground that neither of the two statutory exceptions applied in this case. The Respondent’s centre of main interests had not been in Russia since he left that country in 2015, and Russia is not a “relevant country” for the purposes of section 426 of the Insolvency Act 1986 [62].

Counsel for Ms Kireeva argued that the court was entitled at common law to assist a foreign trustee to take control of any interests of the bankrupt in land situated in England [63]. The court had power to appoint a receiver of the Property, who could sell the Property and remit the sale proceeds to her for distribution in accordance with Russian bankruptcy law [64]. It was submitted that the immovables rule did not operate to place an English immovable beyond the reach of the foreign bankruptcy [67].

The Supreme Court finds that Ms Kireeva’s argument is fundamentally at odds with the immovables rule. English common law does not recognise the Property as being part of the assets that are within the scope of Mr Bedzhamov’s bankruptcy in Russia, and neither of the two statutory exceptions applies [69].

Ms Kireeva relied on the principle of modified universalism and the understanding that a court has a common law power to recognise and grant assistance to foreign insolvency proceedings so far as it properly can [84-86]. However, the Supreme Court finds that this principle is necessarily subject to local English law and its application in these circumstances is therefore limited by the immovables rule [87-88]. The Supreme Court also rejects two alternative arguments advanced by Ms Kireeva; first, that, once sold, the proceeds of sale of the Property would fall within Mr Bedzhamov’s bankruptcy estate, and, second, that the court could appoint a receiver of the rents and profits of the Property [89-100].

The Supreme Court concludes that the common law does not enable English courts to provide assistance to a foreign trustee in bankruptcy by appointing a receiver with a power of sale over immovable property located in England [101]. Any further modification of the immovables rule so as to enable the English courts to do this must be a matter for Parliament and not for the courts [102-111].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)