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Financial Remedies Case Law Update

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This was an unusual application in which HHJ Farquhar found that the applicant Husband Mr McGregor had been involved in the fabrication of the respondent Wife Ms Smith's Acknowledgment of Service within divorce proceedings.

The court was also tasked with determining whether the court had jurisdiction to hear the matter where the Wife was domiciled in Australia and the Husband now purported to be domiciled in Bali, Indonesia.

[McGregor v Smith (Domicile/Misuse of Divorce Portal) [2026] EWFC 128 (B)]

Background

The applicant Husband ("H") filed an application for divorce on 17 February 2025 stating that the courts of England and Wales have jurisdiction because he "is domiciled in England and Wales". Prior to this, H had filed 3 previous divorce applications stating that he was domiciled in this jurisdiction. This remained his position until a hearing on 15 January 2026 when H stated that he was domiciled in Bali, Indonesia and as such this court did not have jurisdiction.

The respondent Wife ("W") argued that H was domiciled within this jurisdiction and his reason for disputing the matter at the stage he did was to avoid scrutinisation of his fraudulent attempts to procure a divorce without her knowledge.

Divorce Applications

First Application

The first application was filed by H on 19 September 2021. H was living in Dubai at that time and provided an address for service on W in Dubai. H's evidence to the court was that he was advised he could provide a random address for service.

H stated in that application that he was domiciled in England and Wales and accepted that he lied within said application as the address he used was that of the FMH, which had been sold.

H made an application for deemed service stating:

"My wife is intentionally trying to frustrate the process by avoiding service of the divorce petition… My wife is not cooperating and has confirmed verbally she will not respond to the divorce petition nor any attempts to further the divorce process. She will not give written proof of this."

H accepted that he had not spoken to W nor had he served her.

Second Application

The second application was filed by H on 31 March 2022. H was not represented within those proceedings. He again stated that he was domiciled in England and Wales. In this application he gave W's address for service as a different address in Dubai. In oral evidence, H admitted that it used to be the address of his friend Mr Haydar who had provided a statement within the present proceedings.

He again accepted that service had not taken place despite him filling an application for deemed service stating:

"My wife has verbally advised me that she will not act on, or respond to the divorce petition, so as to frustrate the process. She will not confirm this in writing despite my request for the same."

H accepted that he had deliberately lied.

A letter was sent by HMCTS which made clear that the address for service must be one at which W could receive post. H lied again in response to this stating that in Dubai the postal service only delivers to PO Box numbers, giving the business address of Mr Haydar.

Having discovered that he could not make a second divorce application whilst the first was live, he sought to withdraw the first, again giving the company address of Mr Haydar for service.

Third Application

The third application was filed by H on 4 October 2022 which he said he cannot recall. H's position on domicile was the same, he again gave the company address of Mr Haydar for service, and he made an application for deemed service stating:

"I am aware that my wife has received the divorce papers but is choosing not to respond to them. Communication between myself and my wife has broken down irrevocably, and she will not respond to the papers. This can be evidenced by the attached email correspondence." He later adds within the application that "In the attached emails, the respondent acknowledges receipt of the papers but states, "Yes, I got them and I've seen what you wrote about me. I have no intention of responding and no interest in what you want me to do." To this end I seek deemed service, to enable me to proceed with the divorce."

H attached an email trail from an address ending "69@hotmail.com" which he purported to be from W.

In oral evidence H accepted that he had lied when he said he had no knowledge of that email address but denied that he set it up.

Present Application

The fourth and present application was made by H on 9 February 2025 and the "69@hotmail.com" email address was given for service.

On 25 February 2025, H sent a letter to W to which W responded with her "111 Gmail" address. A chasing email and WhatsApp message were sent with no response which led to W contacting HMCTS and discovering the live divorce application. W stated that she had no knowledge of the proceedings prior to this point.

On 3 April 2025, H emailed W the following questions:

- *a. "Do you agree that we divorce on the grounds of "Marriage has broken down irretrievably"?*
- *b. Do you agree that I file for divorce as the applicant with you as the respondent?*
- *c. Do you agree there is no financial settlement for either party from the other party?"*

Acknowledgement of Service

On 15 May 2025, a purported Acknowledgement of Service was provided electronically including a signature from W. That document was set aside on the basis that it was not sent by W, but fraudulently via H, which he accepted.

Mr Haydar in a witness statement to the court claimed that he submitted the Acknowledgment of Service via the "69@hotmail.com" email address entirely of his own accord. The court did not place significant weight on this statement on the basis that Mr Haydar did not attend the hearing to give oral evidence.

The court found that H must have been involved in the creation of the "69@hotmail.com" email address and entered into a charade of email correspondence which he attached to his application for deemed service. It was further found that H either created the account himself or instructed someone else to do so and that this was in keeping with his desire to obtain a divorce without the knowledge of W.

Domicile

Given the findings and admissions of dishonesty on the part of H, the court gave themselves a Lucas Direction, which was especially relevant in the consideration of the issue of domicile.

The Law

- The court referred to the following law in regard to domicile:
- s(5)(2) of the Domicile and Matrimonial Proceedings Act 1973
- the Rules set out in Dicey, Morris and Collins on the Conflict of Laws in *Raman v Kist-Ramana [2025] EWCA Civ 102*
- *Divall v Divall [2014] EWHC 95*
- *Agulian v Cyganik [2006] EWCA Civ 129*
- *Barlow Clowes v Henwood [2008] EWCA civ 577*

Issue

H stated that he was born in the UK and lived here until he commenced working in the UAE in 1992 until 1997. He returned to living in the UK until relocating to the UAE again in 2013 for work, where he continues to work. H purchased 2 properties in the UK in 2016 and 2017 which he states are investment properties that he has been trying to sell since 2024.

H claimed that he formed an irrevocable intention to settle in Indonesia in early 2022, which is around the time of his second divorce application, in which he stated he was domiciled in the UK. He claimed that Bali would be he permanent and final home, relying on the following:

- H purchased 3 properties in Bali in February 2022 and a fourth in November 2022
- H set up a business and both personal and business bank accounts
- H purchased land to build his own property
- **H intends to retire to that property in September 2026**
- **That property is not rented out**
- H has been registered for tax purposed in Bali since April 2023
- H has obtained *'the most permanent residential status that was permissible'* in Indonesia which should lead to him obtaining permanent residency and an Indonesian passport in 10 years
- H registered his last will and testament in Indonesia

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Further:

- H has not lived in the UK since 2013
- H is attempting to sell his UK properties
- H only spent 13 days in the UK in the last 3 years
- H's adult daughters moved to the UAE

Decision

The court found on the evidence that H's property in Bali for his use is not rented out. However, H had not proved an intention to retire in September 2026.

H accepts that his Domicile of Origin is the UK, and that he has only spent 25-26 days of annual leave in each of the last few years in Bali.

On the basis that Domicile of Choice *"requires physical presence, although it need not be long, plus an intention to remain permanently or indefinitely",* the court could not find that, at the time of making this application in February 2025, H was domiciled in Bali. Further, the court was not satisfied that Bali will be his chief residence or residence at all at any time in the foreseeable future, nor does he have the right to permanently remain there.

Therefore, the court was not convinced that H dislodged the *"notoriously adhesive"* nature of Domicile of Origin and his application to dismiss his own application for divorce on grounds of lack of jurisdiction was dismissed.

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