



**IN THE COURT OF PROTECTION
IN THE MATTER OF THE MENTAL CAPACITY ACT 2005**

Case No: 10370284

[2016] EWCOP 11

Royal Courts of Justice

22 February 2016

Before:

THE HONOURABLE MR JUSTICE PETER JACKSON

**IN THE MATTER OF
MRS ANN CLARKE**

JUDGMENT
(Approved for Publication)

This judgment consists of 11 paragraphs. Pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken and copies of this version as handed down may be treated as authentic.

Mr Justice Peter Jackson:

1. In 2012, I gave three judgments in this matter. They can be found on the Bailii website under these references:

[Clarke, Re \[2012\] EWCOP 2256](#) (31 July 2012)

[Clarke, Re \[2012\] EWCOP 2714](#) (9 October 2012)

[Clarke, Re \[2012\] EWCOP 2947](#) (24 October 2012)

2. A written application has now been made by Mr Michael Clarke on 3 September 2015 to vary the order of 9 October 2012 so as to allow the sale of Mrs Clarke's Blackpool property. There has also been a request by Ms Angela Wilde and Mr Kevin Clarke for access to the property in order to inspect and maintain it, but no application has been issued, despite time being allowed. The application and request are both opposed.
3. I gave directions in November for the filing of concise statements. Before that, Mr Michael Clarke had lodged over 200 pages of almost entirely irrelevant documents, illustrating his entrenched conspiracy theories. Shorter statements have now been filed by him and by the other children.
4. Since 2012, there have been a number of developments. Mr Clarke, who had said he wanted to live in England, has instead kept his mother in Spain, also taking her to Thailand between September 2015 and February 2016, before returning her to Spain. All this has been against the wishes of Mrs Clarke's other children.
5. In January 2013, Mr Michael Clarke was sentenced to 3 months imprisonment for contempt of court in respect of orders made in 2012 in civil proceedings. He has not returned to the United Kingdom to serve his sentence or purge his contempt.
6. In March 2015, a limited civil restraint order was made to prevent Mr Michael Clarke making any further applications in the civil proceedings.
7. Mrs Clarke's situation is worrying. She is now aged 75 and in poor health. Her Blackpool property is in a deteriorating state.
8. When I gave judgment on 9 October 2012, it was against a background where Mr Michael Clarke wanted the home to be kept for his mother's occupation, while the other siblings wanted it to be sold to provide for her income needs. In deciding that the property should be kept for Mrs Clarke to live in, I said (at paragraph 37) that an application could be made for it to be sold if her way of life was deteriorating unacceptably as a result of inadequate income.

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9. Unfortunately, Mr Michael Clarke's actions and his incoherent and abusive manner make it impossible to assess what is best for Mrs Clarke. All that can be said is that it is unlikely to be in her best interests to be kept out of her native country. If the property was sold, the proceeds would be spent in whatever way Mr Michael Clarke chose, unless they were tied up in some way. Given that he has shown himself to be incapable of cooperating at any level, I can find no basis for granting his application.
10. Likewise, I dismiss the request made by Ms Wilde and Mr Kevin Clarke to have access to Mrs Clarke's Blackpool property. On a practical level, I have some sympathy with the proposal, but given the level of antagonism within the family and the fact that Mr Michael Clarke effectively has Mrs Clarke under his control, the benefits to be gained from what would otherwise be a sensible step are outweighed by the likely difficulties of enforcement.
11. Mr Michael Clarke's application will therefore be dismissed. If any family member was to put forward a reliable plan that allowed money to be raised on or from the property and released at a steady rate for Mrs Clarke's benefit, I would be prepared to consider it. But as matters stand, the existing orders will remain in place.
