

Advocacy Competition 2019

(New Applicants)

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Backstop Bank V. Theresa Adams & Boris Coleman

Following a difficult divorce from her husband of 15 years, Theresa became the sole owner of 1 Barnier Row, their former marital home. Theresa's step-son Boris, a newly qualified accountant, had accrued a significant gambling debt. In order to save money, he decided to move in with his step-mother on the 12th September 2017. Following an advertisement he saw on the side of a bus, Boris decided that a good way to clear his debt would be to take out a loan from Backstop Bank.

In order for Backstop Bank to authorise the loan to Boris it needed to be secured. Boris persuaded Theresa to secure a loan against the property, which he said was in the sum of £30,000, and promised that it would be repaid within a month. Unbeknownst to Theresa, the value of the loan was actually £109,300. Trusting Boris, on the 2nd March 2018, Theresa completed the TR1, transferring 1 Barnier Row into their joint names. Subsequently, on the 9th March 2018, Boris completed the application on their behalf and Theresa signed the application and mortgage deed without reading the full terms and conditions.

Following Boris and Theresa's application, Backstop Bank referred the matter to their legal team for consideration and sent correspondence to Theresa and Boris, advising them to take independent legal advice. The mortgage was completed on the 15th April 2018 and the sum of £109,300 was advanced into the sole bank account of Boris.

Following a failure to repay the loan, the Bank issued possession proceedings on 26th September 2018 against both Boris and Theresa as joint defendants. At the first hearing on the 5th November 2018, DJ Calais found that there had been undue influence between Theresa and Boris because of their familial connection, and that the Bank had been put on notice and had failed to discharge their requirement to make reasonable inquiry. The Judge ordered that the mortgage is set aside and accordingly dismissed the Claimant's claim for possession.

The Claimant appeals on the grounds that:

- 1) The Court erred in law by making a finding of undue influence between Boris and Theresa, and;
- 2) Alternatively, a finding of undue influence should not have prevented their claim for possession against Boris.

In the interests of the Overriding Objective, the Court has directed that the appeal hearing take place on paper. Please prepare written submissions in support of the Claimant's appeal.

**Please email your written submission to competition@lpc-law.co.uk
by 5pm Monday 25th March 2019.**