



Bank's legal entitlements when interest noted on an insurance policy

Allied Irish Banks PLC v Connors [2018] IEHC 382

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Does a bank have any legal entitlements where its interest is noted on an insurance policy? The High Court in [Allied Irish Banks PLC v Connors](#) [2018] IEHC 382 has reviewed this question.

Background

AIB brought an application for summary judgment against Mr. James Connors and his father, Mr. Luke Connors (collectively “**the Connors**”), in the sum of €239,192.66 when they fell into arrears on a loan facility.

Mr. James Connors's property had been destroyed by fire prior to the application for summary judgment and FBD Insurance plc (“**FBD**”), the insurers of the property, had declined the claim in relation to the damage to the property. That decision gave rise to an arbitration and court proceedings between the parties, which resulted in a settlement between Mr. James Connors and FBD. AIB were not involved in that dispute. After appeals to the Supreme Court and deduction of costs, a sum of €85,000 was available to reinstate the dwelling house.

AIB's interest, as mortgagee, was noted on the household insurance policy between Mr. James Connors and FBD, and following resolution of the case between Mr. Connors and FBD a cheque issued in the joint names of AIB and Mr. Connors.

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Defence

The Connors pleaded that AIB had failed to mitigate its losses and that it had acted unreasonably in not joining with them to require FBD to indemnify them in full in respect of all losses sustained by them as a result of the fire at the dwelling house.

It was also alleged that AIB had acted unreasonably in failing to agree to the request of Mr. James Connors to encash the settlement cheque on the terms requested by him.

Decision

The court held that the Connors faced insurmountable difficulties in relation to each of their defences. It concluded that there was no basis to support the argument that AIB had available to it measures which it could have taken to mitigate its loss.

In relation to the suggestion that AIB should in some way have joined in the arbitration of the decision of FBD under the policy to refuse indemnity, the court noted that the simple fact of the matter is that AIB had no privity of contract with FBD and would have no standing to make a claim under the policy. The commented as follows:-

“The household insurance that is put in place at the time that a mortgage is taken out is put in place for the joint protection of the mortgagor and the mortgagee. The interest of the mortgagee is usually protected by a simple statement noting its interest on the policy. In the event of a successful claim under the policy, the interest of the mortgagee is protected through the expedience of payment being made in the joint names of the mortgagor and the mortgagee. Typically, no other interest is conferred on the mortgagee under the terms of the policy.”

Further, AIB had not acted unreasonably in not agreeing to the request of Mr. James Connors to encash the cheque issued by FBD in the joint names of the parties on the terms requested by him, the difficulty with this argument was that by that time the Connors were already in arrears and AIB was entitled to have the cheque applied in reduction of those arrears.

AIB was entitled to obtain judgment in the amount sought.

Comment

This case confirms that the noting of a bank's interest on a household insurance policy does not result in legal entitlements under that policy being granted to the bank. The only entitlement is that the proceeds of any claim in relation to damage to the property should be paid into the joint names of an insured and a bank. This is subject to a review of the terms and conditions of each insurance policy and any associated documentation.

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