

LPA Receivers: personally appointed and personally liable, High Court confirms in *Yerbury v Azets Holdings Ltd*

Professional firms offering insolvency services are not vicariously liable for the acts and omissions of employees accepting appointments under the Law of Property Act 1925, the High Court has confirmed in *Yerbury v Azets Holdings Ltd* [2025] EWHC 757 (KB). LPA Receivers – and administrative receivers appointed under the Insolvency Act 1986 – are appointed as office-holders in a personal capacity and, in conducting their duties in the receivership, are acting in the course of that appointment and not in the course of their employment.

Background

A Mr Getliffe and a Ms Hill were appointed as LPA Receivers by the mortgagee of property in Kent. They were at all material times employees of CLB Coopers Chartered Accountants, to which the Defendant, Azets Holdings Ltd, was a successor. Coopers advertised receivership services, and the Receivers wrote to the borrower on the firm’s headed notepaper.

The property was sold for £4.28 million, which was some way below its highest pre-Receivership valuation. The Claimant had the benefit of assignment from the Liquidator of the borrower company against Mr Getliffe (as Lead Receiver) and Ms Hill (as Joint Receiver). He brought proceedings alleging that the property had been sold at an undervalue and without proper market exposure.

Pre-action, the Claimant had entered into protocol correspondents with AHL during which AHL never asserted that it was not the correct Defendant to the threatened claim. AHL and the Claimant entered into a standstill agreement, to which the individual Receivers were not parties. By the time the proceedings were brought, primary limitation had expired as against the Receivers. AHL was the only named defendant.

Master Davison granted AHL’s application to strike out the claim on the basis that a) the assignment had been in respect of a claim against the Receivers, not the firm and b) that there was no proper basis for suing the firm in any event; he rejected the Claimant’s argument that the firm was vicariously liable for the acts of the Receivers. The Claimant obtained permission to appeal on that point.

The parties’ arguments

The Appellant argued that, applying a conventional approach to vicarious liability, the Receivers were plainly acting “in the course of their employment” because, in broad summary:

- Licensed insolvency work, including receiverships, was part of AHL's business.
- The Receivers were contractually employed by AHL, were part of its business and were not remunerated directly, but by AHL as employees;
- AHL provided the Receivers’ office and support facilities;

- The fees and work in progress belonged to AHL. AHL therefore received the economic benefit of making employees available as receivers and, the Claimant argued, should bear the risk of the wrongs committed by the Receivers.
- The Receivers had professional indemnity insurance under a policy taken out by their employer.
- AHL had provided Mr Getliffe with an indemnity in respect of any liabilities incurred in the proper conduct of any of his “appointments”, in terms which acknowledged that the appointments were for the benefit of AHL’s business.

AHL argued that receivers are appointed, and owe their duties, personally as principals, not employees (or agents) of their contractual employer. The nature of this personal appointment was fundamentally inconsistent with the concept of vicarious liability. That was supported by the absence of any previous authority imposing vicarious liability in this context.

AHL also relied on the statutory framework in the Insolvency Act, which explicitly disqualifies corporate bodies from being office-holders in an insolvency. AHL argued that there was no logical basis for distinguishing between the two types of receivership, and in any event that the language of s.109 of the LPA 1925 is only apt to refer to an individual. In any event, the assignment was unambiguous in assigning causes of action against the Receivers alone.

The court’s decision

The court described the Claimant’s vicarious liability argument as “something of a rearguard action”, brought about by his error as to identity of the correct defendant: it had not featured in his original pleadings. He held (at [56]) that:

- The Receivers were appointed personally under a deed of appointment over the company’s assets. They owed their duties as receivers to the company’s creditors, not to their employer at the time. Those duties were wide ranging and in discharging them the Receivers were required to act autonomously and independently.
- Actions for breach of duty *qua* receiver are typically brought against the receiver personally, not against the firm that employs them or offers their services. Observations made by the courts suggest that a claim against the employer founded simply on the receiver’s breach of duty would not be possible; this correctly represents the law.
- The legislative framework means that LPA receivers are appointed personally so that there is a direct relationship, and thus accountability, between receiver and borrower.
- Since the appointment is personal it does not depend upon receivers maintaining their employment with any particular employer. The law treats receivers as independent agents, not as employees or representatives of their employer during the course of a receivership.
- For the purpose of an analysis of vicarious liability, once appointed a receiver is acting in the course of their appointment in respect of acts and defaults in the receivership and not in the course of their employment. Thus their employer is not vicariously liable for such acts and defaults.

Such was the prevailing view, as evidenced by the fact that Counsel for the respondent firm was unable to locate any case in which an action had been brought against the receivers' employers alone, but the decision nonetheless provides welcome clarity – and a warning for claimants to ensure that the correct Defendants are properly identified in good time before commencing proceedings.

Alice Nash

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