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European Business Lawyers

Scullion -v- Bank of Scotland Plc (trading as Colleys) – Case reference: [2010] EWHC 2253 (Ch)

Miller Rosenfalck represented the Claimant, Emmet Thomas Scullion in an Appeal made by the Bank of Scotland Plc trading as Colleys which was heard before the Master of the Rolls Lord Neuberger, Lord Justice Etherton and Lord Justice Gross on 23 May 2011.

It is anticipated that the reserved Judgment will be handed down within the next two months before the long vacation.

The Bank's Appeal was against the decision¹ of Richard Snowden QC, sitting as a Deputy High Court Judge in the Chancery Division and is of considerable public interest concerning as it did the liability of a Surveyor in respect of a negligent valuation with regard to a Buy-to-Let property purchased by Mr Scullion in July 2002.

The Judge at first instance found that the Valuer Colleys did owe Mr Scullion a duty of care in respect of not only any negligent valuation with regard to capital but also with regard to rental income.

The Judgment is particularly relevant in respect of new-build properties, which have in recent years been marketed as investment properties that would not only provide an appreciating asset but also a rental income stream which would in many cases fund the purchase of the property itself.

Given the importance of the decision the Trial Judge did grant the Bank of Scotland permission to appeal in relation to whether any duty was owed to Mr Scullion and if whether this extended to losses in rental income.

For further information and advice please contact:

John Kenneally

Partner

DD +44 (0)20 7553 6001

E jk@millerrosenfalck.com

I millerrosenfalck.com

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¹ <http://www.bailii.org/ew/cases/EWHC/Ch/2010/2253.html>