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Clitheroe v Bond

Edward Hicks
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Clitheroe v Bond [2020] EWHC 1185 (Ch)

On appeal [2021] EWHC 1102 (Ch)

Banks v Goodfellow (1870) LR 5 QB 549 per Cockburn CJ:

"It is essential ... that no insane delusion shall influence his will in disposing of his property and bring about a disposal of it which, if his mind had been sound, would not have been made".

Psychiatric definition (per Prof Jacoby):

"A fixed false belief of morbid origin inconsistent with the patient's cultural or educational background"

- *A false belief*
- *Of morbid origin*
- *That is fixed*

Textbooks:

Williams on Wills:

"A delusion is a belief in the existence of something which no rational person could believe and, at the same time, it must be shown to be impossible to reason the patient out of the belief."

Citing *Dew v Clark* (1826) 3 Add 79.

Textbooks:

Williams Mortimer and Sunnucks:

"Delusion has been variously defined, but to almost every definition some objection can be raised. Perhaps the best legal test for determining whether delusion is present in a person's mind is this:

"You must of necessity put to yourself this question and answer it, 'Can I understand how any man in possession of his senses could have believed such and such a thing?' And if the answer you give is, 'I cannot understand it,' then it is of the necessity of the case that you should say that the man is not sane."

Citing Boughton v Knight (1873) LR 3 PD 64.

Per Falk J in *Clitheroe v Bond* at [102] – [104]

For a delusion to exist, the relevant false belief must not be a simple mistake which could be corrected. It must be irrational and fixed in nature. It should be out of keeping with the person's background.

Per Falk J in *Clitheroe v Bond* at [102] – [104]

This may be demonstrated in a number of ways:

1. Where the belief is obviously extreme and irrational (e.g. *Smith v Tebbitt*);
2. By showing that the individual could not be reasoned out of the belief;
3. By showing that the belief was formed and maintained in the face of clear evidence to the contrary of which the individual was plainly aware;
4. By demonstrating that the individual had no basis on which they could rationally have formed and maintained the mistaken belief.

The key question in each case is whether the relevant irrational belief is fixed.

Per Falk J in *Clitheroe v Bond* at [102] – [104]

"As a matter of principle, it seems to me that the correct focus must be on the individual's state of mind. What is required to determine that the relevant belief has the requisite fixed nature must depend on the particular factual circumstances (which will include the nature of the belief and the circumstances in which it arose and was maintained), rather than itself being part of the test."

A test based on the hypothetical proposition, that if an attempt was made to reason the individual out of the belief it would not succeed, was rejected.

Per Falk J in *Clitheroe v Bond* at [102] – [104]

The proper approach allows a holistic assessment of all the evidence taking into account various factors such as:

1. the nature of the belief;
2. the circumstances in which it arose;
3. whether there was an evidential basis for it;
4. whether it was formed in the face of evidence to the contrary;
5. the period of time for which it was held; and
6. whether it was the subject of any challenge.

Radcliffe Chambers

Radcliffe Chambers
11 New Square
Lincoln's Inn London
WC2A 3QB

T: 020 7831 0081
F: 020 7405 2560
DX: 319 London

ehicks@radcliffechambers.com
clerks@radcliffechambers.com

www.radcliffechambers.com

