



OUTER HOUSE, COURT OF SESSION

[2023] CSOH 82

CA69/22

OPINION OF LORD HARROWER

in the cause

LEGAL AND GENERAL ASSURANCE (PENSIONS MANAGEMENT) LIMITED

Pursuer

against

STEWART MILNE GROUP LIMITED

First Defender

and

HALLIDAY FRASER MUNRO

Second Defender

and

HALLIDAY FRASER MUNRO LIMITED

Third Defender

**Pursuer: MacColl KC, A McKinlay; Eversheds Sutherland (International) LLP  
First Defender: Lord Keen of Elie KC, McKenzie KC; Brodies LLP  
Second and Third Defenders: Borland KC, Manson; DAC Beachcroft (Scotland) LLP**

17 November 2023

[1] This is one of two actions concerning the Union Plaza building in Aberdeen, a multi-storey, office building at Union Wynd. The building has seven levels from the ground floor to the sixth floor. There are also basement and sub-basement levels providing car parking space. This action, CA69/22, relates to the superstructure. CA68/22 relates to the basements.

Both actions came before me for debate on the defenders' preliminary pleas-in-law regarding prescription, specification and relevancy. Since the issues raised are largely common to both actions, I addressed them together in the opinion issued relative to the basement action (CA68/22). For the reasons given in that opinion, I will refer to the first defender in this action as "SMG", and the second and third defenders in this action, collectively, as "HFM".

[2] I would be minded to give effect to that opinion in this, the superstructure action: by sustaining SMG's first plea-in-law, by excluding from probation the pursuers' averments regarding statutory prescription (rather than contractual limitation) being applicable to SMG's obligations under its collateral warranty; by sustaining HFM's first plea-in-law by excluding from probation the pursuer's averments regarding section 11(3) of the 1973 Act; by sustaining the pursuer's fourth plea-in-law by excluding from probation the defenders' averments regarding the pursuer not being able to sue on a collateral warranty that post-dated the pursuer's purchase of the building; and thereafter to allow a proof before answer with all pleas standing.

[3] However, for the reasons given in the opinion issued relative to the basement action, I have decided to put both actions out by order to discuss (a) the terms of the interlocutors that would give effect to my decision, including the precise averments that require to be excluded from probation, (b) further procedure, and (c) any question of expenses.