



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 21
CAM-A18-24**

Sheriff B Mohan

OPINION OF THE COURT

delivered by APPEAL SHERIFF B MOHAN

in appeal by

ANTHONY GLADWIN

Defender/Appellant

In the cause

MONEYBARN NO.1 LTD

Pursuer/Respondent

v

ANTHONY GLADWIN

**Defender/Appellant: Party
Pursuers/Respondents: McClymont; DWF LLP**

11 March 2026

Background

[1] In June 2023 the parties entered into a contract whereby the defender purchased a Volvo motor vehicle (registration number YJ14 WUY) from the pursuer under a conditional sale agreement regulated by the Consumer Credit Act 1974. The total price of the vehicle

was to be £17,821.33 payable by instalments. The defender took possession of the vehicle. Title to the vehicle would only pass once all sums under the agreement had been paid.

[2] In March 2024 the pursuers served a default notice on the defender. The pursuers claimed that the defender was in arrears of payments and raised the present proceedings. The pursuer sought from the court, among other orders, recovery of the vehicle and a decree for £16,809.87. Initially the action was undefended and the pursuer obtained decree. The defender reponed successfully and defences were lodged. The defender challenged the jurisdiction of the court because he no longer resided within the territory of that sheriff court. In terms of the contract between the parties, the defender accepted that the agreement was entered into and that he took possession of the vehicle, but denied all other claims made by the defender. He claimed that the contract was “defective and unenforceable” because of “non-disclosure of the amount of commission awarded” to the pursuer.

[3] The pursuer argued that the defences did not present any valid defence in law to the claim, and that the defender had failed to provide any legal basis for his argument that the relationship between the parties was unfair or that the contract was invalid. The pursuer sought summary (ie immediate) decree from the court under ordinary cause rule 17 without the necessity of the court hearing further debate or evidence.

[4] The sheriff heard parties on 9 and 15 September 2025. The continuation to a second day was to enable the defender an opportunity to seek legal advice. In the event the defender represented himself before the sheriff (as he also did at the appeal).

The sheriff's judgment

[5] The sheriff's judgment addresses the matters of both (1) jurisdiction and (2) specification and relevancy of the pleadings. The sheriff noted in the judgment why he

considered that Campbeltown Sheriff Court had jurisdiction in the case. [In this appeal the appellant has not challenged that aspect of the decision.]

[6] The sheriff determined that the defences displayed “a complete lack of specification” (para [44] of sheriff’s judgment). He considered that the defender’s claims concerning commission were neither relevant nor specific. The defender had referred to both section 140A of the Consumer Credit Act 1974 and the English Court of Appeal decision in *Hopcraft & another v Close Brothers* [2024] EWCA Civ 1282. The sheriff found from the information before him that the defender had not provided anything in his pleadings which amounted to a relevant defence under the 1974 Act. In particular, there was no application to the court under section 140B to set aside the contract. So far as the *Hopcraft* decision was concerned, the sheriff noted that that case had been determined finally by the Supreme Court after the Court of Appeal judgment. He noted that the defender had made very general statements about the case in the Court of Appeal and what it purported to decide, without specific reference to paragraphs or findings in the decision. The sheriff’s own conclusion was that the *Hopcraft* case “does not provide any support for the defender’s submissions anent breach of contract by the pursuer.” (para [48] of judgment).

[7] As a result of these findings the sheriff granted summary decree. The defender appealed that decision. The question in this appeal is: has the sheriff erred in law in granting summary decree?

Appellant’s submissions

[8] The appellant appeared in his own right. He had not lodged a note of argument which had been ordered in the court’s interlocutor of 28 November 2025. He wanted to rely on the points made in his original Note of Appeal. His submission was that the contract

under which the respondents had sued him was “defective”. He claimed it was void. He accepted that he had “signed up” for the car, but the respondents did not reveal the commission they had received. In his view this made the contract unfair. The appellant considered that a recent decision from the UK Supreme Court favoured him. This was the case known as *Hopcraft & Others*. The sheriff, in granting summary decree had erred because he had not considered the defence which had been established by the recent case law.

[9] In particular, the appellant pointed to the case brought by Mr Johnson, one of the litigants in the four cases reported collectively as *Hopcraft*. He believed that his case was very much like that of Mr Johnson and that, as a result of the Supreme Court’s decision, the contract which he had with the respondents should be “cancelled” under section 140A of the Consumer Credit Act 1974.

[10] As far as the decision of the sheriff was concerned the appellant stressed that he was a litigant in person and was unable to obtain independent legal advice. Due to his own lack of legal knowledge, he was unable to add any further argument. He simply considered that matters had changed since the Supreme Court’s decision in *Hopcraft* and this meant that his appeal against the sheriff’s determination to grant summary decree should be allowed. He wanted the decree recalled.

Respondents’ submissions

[11] The respondents’ agent adopted his written note of argument. The respondents’ position was that the sheriff’s determination should be upheld. The appellant had not pled a case under section 140A of the Consumer Credit Act 1974. He had not sought a declarator. He had no plea-in-law or crave to support the position he had advanced in general terms in

the appeal. The sheriff had found that the appellant's case lacked specification and relevancy. His pleadings did not reveal a defence, and accordingly summary decree was granted.

[12] The appellant was now trying to re-argue his case. That was not the purpose of an appeal. His answers made reference to a "balance of convenience" test. That test was appropriate when a court was deciding whether or not an interim interdict should be granted. It had no application when assessing whether he had a defence to the claim brought by the respondents.

[13] The *Hopcraft & Others* case related to commission paid in relation to car sales. *Esto* there was any commission paid in this case (and that was not a matter detailed in this case because specifics had not been raised in the pleadings and therefore not explored as background) that did not make the contract between the respondents and the appellant either void or voidable. That seemed to be what the appellant was suggesting. That was not what the cases said. The arguments which the appellant sought to make today were absent from his pleadings.

[14] The fact that the appellant was a litigant in person had been accommodated. The sheriff's note took account of that in paras [31] and [39]. The absence of a written note of argument in advance of today's hearing illustrated that too. The respondents themselves had not taken objection to the absence of a note of argument and had been satisfied that the matter should proceed. The appellant had added nothing of substance in the appeal hearing and did not demonstrate that he had any defence. The fact that he self-represented did not excuse a lack of specification in his pleadings. The appellant had been unable to justify his claim that the sheriff had erred in law. The appeal should be refused with expenses to the respondents.

Decision

[15] The question to be addressed in this appeal is whether the sheriff was entitled to grant summary decree in terms of ordinary cause rule 17. That court rule reads as follows:

“Applications for summary decree

- 17.2. (1) Subject to paragraphs (2) to (4), a party to an action may, at any time after defences have been lodged, apply by motion for summary decree.....
- (2) An application may only be made on the grounds that—
- (a) an opposing party’s case (or any part of it) has no real prospect of success; and
 - (b) there exists no other compelling reason why summary decree should not be granted at that stage.”

[16] The defender’s (now appellant’s) answers contained an acceptance that he had contracted to purchase a car with the assistance of the pursuers (now respondents) as the finance company. In his answers he agreed that he received the car and drove it. He gave a general denial in his answers that he fell behind in his repayments and that a default notice was served. Beyond that, however, the answers gave no further specification of his defence to the case raised against him. He did not, for example, aver that he maintained all payments due under the agreement with the respondents.

[17] The sheriff took the view that no defence was revealed in the Answers. The summary decree procedure allows parties to confirm at the hearing before the sheriff any other information or material which may be relevant to a party’s claim or defence. The sheriff was not satisfied that any defence had been revealed to him either in the pleadings or the submissions made before him, and he therefore granted summary decree. The sheriff’s reasoning is summarised in paras [44] and [45] of his judgment where he noted the following:

“[44] Having reviewed the defender's answers in this case I consider they display a complete lack of specification. This is exemplified by his averments in answer in relation to article 4 where the defender does not say who received commission from whom and when. In answer 5, he does not specify why the relationship between the parties is unfair.

[45] Elsewhere, (for example, in answers 3 and 6) the defender's answers to the pursuer's averments amount to no more than bald, general denials of the pursuer's averments and lack any sort of specification. Notwithstanding the fact that they relate to matters which surely fall within the defender's knowledge of the defender, he has included no averments or pleas-in-law which adequately explain his position.”

[18] At this appeal the appellant had no argument to demonstrate that the sheriff was not entitled to reach that view. He offered no argument that the sheriff's decision was wrong in law. In paras [51] to [53] the sheriff explains his application of the summary decree test (set out in ordinary cause rule 17, noted above). He has applied the test appropriately. I was not persuaded that the appellants comments about the recent *Hopcraft* decision from the Supreme Court changed that view.

[19] There is nothing in the pleadings which sets out a defence which may have been justified by the *Hopcraft* decision concerning commission payments. There is nothing in the pleadings or the Note of Appeal to explain how *Hopcraft* may have affected the contract between the parties, except for the general assertion that the case provided a defence. It was not enough for the appellant to claim in general terms that the Supreme Court had looked at commission and, in a case which he thought was similar to his situation (that of Mr Johnson) a contract was “cancelled”.

[20] While the appellant was unable to direct me to any specific sections or paragraph numbers of the *Hopcraft* judgment, I have noted some of that decision's details. The decision before the Supreme Court was included in the joint bundle of authorities presented at the appeal, and is reported as *Hopcraft and another (Respondents) v Close Brothers Limited*

(Appellant); Johnson (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant); Wrench (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant) [2025] UKSC 33.

[21] As a matter of law the Supreme Court - in relation to the case of Mr Johnson, one of the four litigants in the Supreme Court decision - did not decide that the contract between those parties was “cancelled”, void or otherwise unenforceable. The case brought by Mr Johnson concerned commission paid where a car was purchased on credit. In that particular case, the “hidden commission” amounted to approximately 25% of the sums due to be paid under the contract. The Supreme Court judgment gives a detailed analysis of the facts and legal processes in relation to each of the litigants. However, contrary to the assertion made the appellant in this case, the decision of that court on Mr Johnson’s circumstances did not affect the ownership of the vehicle nor the party’s requirement to repay the credit. It did not render that part of the contract unenforceable.

[22] The Supreme Court did conclude that commission should be repaid to Mr Johnson. But that decision does not provide a blanket ban on commission payments. The decision was made because of circumstances specific to the case before that court. In particular, the Supreme Court noted at paragraph 340:

“The relationship between Mr Johnson and FirstRand was unfair within the meaning of section 140A of the CCA [Consumer Credit Act], by reason in particular of the size of the commission, the failure to disclose the commission, and the concealment of the commercial tie between the dealer and FirstRand. Mr Johnson is therefore entitled to succeed in his claim on that basis.”

There was nothing to indicate that such circumstances applied to the appellant in the case before me. It was not sufficient for the appellant merely to point to the *Hopcraft* case (or, more specifically, that raised by Mr Johnson) and claim that this provided a defence to the action against him. As the respondents pointed out, the appellant had no crave for

declarator to reduce the contract. He had no plea-in-law concerning the Consumer Credit Act 1974. His averments contained no detail about commission. His argument at the appeal gave no detail on how or why the sheriff's decision was wrong in law.

[23] In all the circumstances I therefore find that there is no basis for this appeal. I refuse the appeal with expenses as taxed in favour of the respondents.