



CASE DIGEST

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Enterprise
CHAMBERS

DRELLE V SERVIS-TERMINAL LLC

[2026] UKSC 29

KEY TAKEAWAYS:

1. The legal effect of an unrecognised foreign judgment for a debt or definite sum of money is that it gives rise to an obligation to pay the judgment sum.
2. Dicey Rule 51 does not mean that an unrecognised foreign judgment can only be used as a shield rather than a sword.
3. An obligation to pay a sum of money under an unregistrable, unrecognised foreign judgment is a debt within the meaning of s 267 Insolvency Act 1986.

ISSUE

Whether a creditor may rely upon an unrecognised and unregistrable foreign judgment as the basis for being owed a debt, sufficient to entitle the creditor (subject to other conditions not in issue) to present a bankruptcy petition under s 267 Insolvency Act 1986.

FACTUAL BACKGROUND

The Appellant, Servis-Terminal LLC, is a Russian company in bankruptcy. The Respondent, Mr Drelle, is the former Director General (and a former shareholder). The Appellant advanced a loan of RUB 2 billion (the Loan) to a Russian company with the benefit of a personal guarantee from the company's owner, who was the chairman and majority shareholder of the Russian Credit Bank (the Bank). The Bank collapsed and the Appellant lost around RUB 7.9 billion held in its accounts with the Bank. The Loan was never repaid and the Appellant was declared bankrupt in Russia. The Appellant issued Russian proceedings against the Respondent on the basis that by causing the Appellant to advance the Loan, he had acted unreasonably and in bad faith, and had caused loss. The judge held that the Respondent had breached his duties to the Appellant (the Russian Judgment) and the Respondent's subsequent appeals were dismissed. The Appellant served a statutory demand under s 268(1)(a) Insolvency Act 1986 (IA 1986) on the Respondent and presented a bankruptcy petition on an expedited basis under s 270 IA 1986.

SECTION 267 IA 1986

(1) A creditor's petition must be in respect of one or more debts owed by the debtor, and the petitioning creditor or each of the petitioning creditors must be a person to whom the debt ... is owed.

(2) ... a creditor's petition may be presented to the court in respect of a debt or debts only if, at the time the petition is presented...

(b) the **debt**, or each of the debts, is for a liquidated sum payable to the petitioning creditor, or one or more of the petitioning creditors, either immediately or at some certain, future time, and is unsecured...

FIRST INSTANCE
[2023] EWHC 506 (Ch)
ICC Judge Burton

The Respondent issued an application to set aside the statutory demand on the basis that the Russian Judgment debt (RUB 2 billion) was disputed on bona fide and substantial grounds because the Russian judgments were improperly obtained, biased and/or contrary to natural justice and English public policy, and further or alternatively that they were obtained by fraud and/or collusion.

ICC Judge Burton found that the Russian Judgment debt was **not disputed on bona fide and substantial grounds**.

On 31 March 2023, a bankruptcy order was made (the Bankruptcy Order).

FIRST APPEAL
[2024] EWHC 521 (Ch)
Richards J

The Respondent obtained permission to appeal against the Bankruptcy Order and raised for the first time the contention that the Russian Judgment did not constitute a petition debt since it had not been the subject of recognition proceedings.

Richards J **dismissed the First Appeal**, holding that the Russian judgment was a "debt" within the meaning of s 267(2)(b) IA 1986 despite being unrecognised.

SECOND APPEAL
[2025] EWCA Civ 62
Lords Justice Newey, Popplewell and Snowden

The Respondent obtained permission from the Court of Appeal to appeal on the ground that Richards J had erred in holding that an unrecognised foreign judgment is a debt within the meaning of s 267(2)(b) IA 1986 (Ground 1) and also on the ground that he had applied the wrong standard of appellate review to the decision of ICC Judge Burton and that that judge's conclusion that the Russian Judgment debt was not disputed on bona fide and substantial grounds was wrong (Grounds 2 to 4).

The **Second Appeal was allowed** on the ground that a bankruptcy petition cannot be presented on the basis of an unrecognised foreign judgment (**Ground 1**).

The Court of Appeal **did not address the Respondent's remaining grounds of appeal** (Grounds 2 to 4) relating to the decision that the Russian Judgment debt was not disputed on bona fide and substantial grounds.

SUPREME COURT JUDGMENT

The Supreme Court **unanimously allowed the appeal** against the Court of Appeal's decision to allow Ground 1 of the appeal before it. The case was **remitted to the Court of Appeal** to determine the remaining grounds for which it gave permission to appeal (Grounds 2 to 4).

ISSUE 1: At common law, what is the legal effect, if any, of an unrecognised foreign judgment for a debt or definite sum of money.

The legal effect of an unrecognised foreign judgment for a debt or definite sum of money is that it **gives rise to an obligation to pay the judgment sum**.

The Supreme Court identified that the well-established common law "doctrine of obligation", or "**obligation principle**", arises when the final and conclusive judgment is given and does not depend upon recognition. Therefore, the Supreme Court found that the Court of Appeal's conclusion that a foreign judgment has no legal effect until it is recognised was contrary to the principle.

The Supreme Court also held that the Court of Appeal were **wrong to say that Dicey Rule 51 means that an unrecognised foreign judgment can only be used as a shield rather than a sword** as a foreign judgment is clearly being relied upon as a sword where it is for a debt or definite sum of money and an action is brought on the judgment and, similarly, if the findings of fact or law are relied upon as being conclusive proceedings brought in reliance upon the underlying cause of action.

The Supreme Court also held that the Court of Appeal's **reliance on the "revenue rule" was misplaced** as "there is a world of difference between a sovereign authority bringing a claim asserting a sovereign right, such as to a tax or penalty, and a private person bringing a claim asserting a private right, as in the present case."

ISSUE 2: The construction of section 267 of the 1986 Act - does such a judgment give rise to a "debt" within the meaning of section 267 such that a bankruptcy petition can be presented in reliance upon it?

The Supreme Court's conclusion on issue 2 was that, contrary to the judgment of the Court of Appeal, **the obligation to pay a sum of money under an unregistrable, unrecognised foreign judgment is a debt** within the meaning of s 267 IA 1986.

The Supreme Court could envisage no reason why s 267 should have used "debt" in any narrower sense than the then common law understanding, or why its purpose should not have extended to a legal obligation to pay under an unrecognised foreign judgment.

ISSUE 3: Article 13 of the Model Law - does article 13 of the Model Law mean that a "foreign creditor" under an unrecognised foreign judgment for a debt has the same rights as a creditor with an equivalent claim under English law?

The Supreme Court were entirely unpersuaded by the Appellant's fallback argument in respect of Article 13 of the Model Law.

The Lord Justices held that "**foreign**" was used as a descriptor of geographical location and so had nothing to do with the question whether the Russian origin of the judgment creates any disadvantage for the creditor as against an English judgment, at least for the purpose of commencing bankruptcy proceedings.

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**ALEXANDER'S PRACTICE ENCOMPASSES
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