

# High Court finds Wicklow eviction breached Constitution and awards €20,000 damages

Darragh McCann  
Court Reporter - Wicklow  
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A High Court judge has ruled that the warrant used to repossess a Wicklow family home was unlawful, finding that the county registrar effectively handed responsibility for the execution process to a Dublin sheriff acting on the instructions of the lender.

The judgment, delivered by Justice Oisín Quinn, follows a six-day hearing into the repossession of Dromin House, which is a seven-bedroom home in Delgany, Co Wicklow, where Yeoksee Ooi lived with her partner and their three children until the property was taken in February 2025.

Ms Ooi had challenged the “validity” of the warrant used to recover possession of the property, with her claiming the eviction process breached both statutory requirements and her constitutional rights.

The case centred on whether the county registrar for Wicklow lawfully appointed Dublin City Sheriff Joseph Burke to execute the possession order, after Promontoria Scariff DAC obtained an order for possession through the Circuit Court.

The court heard that the house had been purchased by Ms Ooi’s partner with loans of €3 million in 2005, but that he had obtained a new loan exceeding €5 million, which was secured against the property.

After the loans fell into default, Promontoria acquired the debt and later secured a possession order from Wicklow Circuit Court in January 2023, with an 18-month stay on execution.

Following the expiry of the stay, Promontoria wanted to enforce the possession order.

However, Justice Quinn found that, while Promontoria had lawfully obtained an order for possession, the statutory process used to enforce that order failed to comply with the requirements of the law.

In a 40-page judgment, the court held that the warrant issued by the county registrar on October 14, 2024, was not validly issued because the registrar had not personally considered or approved it before it was executed.

Instead, the judge found that responsibility for the execution process had effectively been delegated to Dublin City Sheriff Joseph Burke, who acted on instructions received from Promontoria’s solicitors regarding the timing and manner of the repossession.

Mr Burke was engaged to execute the warrant following discussions between the county registrar's office and Promontoria's solicitors.

Justice Quinn said the statutory scheme required possession orders to remain under the authority and control of the county registrar, acting through the court messenger.

However, the evidence established that once Mr Burke had been identified to execute the warrant, neither the county registrar nor the court messenger played any meaningful role in supervising the process.

"The execution process was effectively carried out without any meaningful supervision or control by the statutory officer to whom the law entrusts that function," said Justice Quinn.

He found that the lack of involvement was not a mere technicality but went to "the substance of the process required", concluding that the warrant had not been validly issued.

The judge also rejected arguments advanced by the State defendants that the county registrar and those acting on her behalf were immune from liability, finding there was "no proper legal basis" for that contention.

Justice Quinn said the evidence demonstrated a failure to engage meaningfully with Ms Ooi or assess the circumstances of those living in the property before the eviction took place.

The court also heard that Ms Ooi had lived at Dromin House since 2006 with her partner and their three children, including one minor child and an adult son with special needs.

Justice Quinn said those circumstances were known before the repossession took place, but found there had been no meaningful consideration of them during the execution process.

He found that the execution of the possession order breached Ms Ooi's rights under Article 40.5 of the Constitution, which protects the inviolability of the dwelling.

While he accepted that a valid possession order had been granted in favour of Promontoria, he said the manner in which that order was enforced failed to comply with the statutory safeguards governing the repossession of a family home.

"The entitlement to possession does not carry with it an entitlement to recover possession by any means," said the judge.

The judge found that the county registrar had effectively "abdicated and surrendered" the statutory responsibilities entrusted to the office by permitting the execution process to proceed under the direction of others.

He held that the warrant issued on October 14, 2024, was invalid and declared that the execution of the possession order on February 24, 2025, was unlawful.

He added that the statutory protections surrounding the repossession of a home are essential safeguards designed to ensure that one of the “State’s most intrusive powers is exercised lawfully, fairly and proportionately”.

However, the judge said Ms Ooi was entitled to compensation arising from the unlawful execution of the warrant.

He rejected claims for aggravated and exemplary damages, finding that while she had undoubtedly suffered distress, the evidence did not establish the exceptional conduct required to justify such an award.

Ms Ooi was awarded €20,000 in damages against the State defendants.

Justice Quinn dismissed the claims against Promontoria Scariff DAC and Blackwater Recoveries Ireland.

The matter was adjourned to settle the court’s orders and to determine liability for legal costs.

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