

When the Law Says it is Fine to be a Fool: Supreme Court Reins in Doctrine of Lawful Act Economic Duress

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PRACTICES Litigation, International Arbitration

Where a party is induced to enter into a contract by illegitimate threats or pressure, and had no alternative but to do so, English law will set aside the contract on the grounds of duress. The threats or pressure can be financial in nature: for around forty years, English law has recognised the concept of ‘economic duress’. However, should English law go further and recognise the doctrine of economic duress where the threats or pressure amount to lawful conduct? In the recent decision of *Pakistan International Airline Corporation v Times Travel (UK) Ltd* [2021] UKSC 40, the Supreme Court answered that question in the affirmative, although it severely limited the application of this doctrine in the commercial sphere. The majority in the Supreme Court disagreed with the Court of Appeal, and found that threats of lawful conduct made in bad faith (such as asserting a contractual right that one does not in fact believe in) would not constitute economic duress. More reprehensible or unconscionable conduct was needed – but the question of precisely what that conduct will look like has not, we suggest, been conclusively answered.

***Times Travel* – the facts**

Times Travel was a family-owned travel agency based in Birmingham. Its business depended on the sale of airline tickets to Pakistan to members of the local Pakistani community. At the relevant time, Pakistan International Airlines (“**PIA**”) had a monopoly on such tickets, being the only carrier operating direct flights from the United Kingdom to Pakistan. Put simply, without being able to sell PIA tickets, Times Travel would have gone out of business.

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