

ROYAL COURT

8th March, 1988

V.A. Tomes, Esq., Deputy Bailiff
assisted by Jurat J.H. Vint
and Jurat J.J.M. Orchard

Application by Hill Street Trustees, Ltd, re Arya Holdings, Ltd.

Application to raise a declaration
"en désastre" not limited
to original declarant

The Viscount on his own behalf
Advocate J.G.P. Wheeler for the representors

JUDGMENT

DEPUTY BAILIFF: This is an application by Hill Street Trustees Limited for an order raising the "désastre" on Arya Holdings Limited.

The applicant company makes the application as the shareholder of Arya Holdings Limited.

Arya Holdings Limited was declared "en désastre" on the 17th January, 1986, at the instance of Minories Finance Limited, (formerly Johnson Matthey Bankers Limited).

Arya Holdings Limited (formerly Gomba Holdings Limited) is part of a group of companies known as the Gomba Group, and the shares in the company form part of the Trust Fund of a Trust known as the Gomba Jersey Trust.

The claim in respect of which the "désastre" was declared was one against Arya Holdings Limited as guarantor of the obligations of Gomba Holdings UK Limited and Gomba UK Group Limited, wholly-owned subsidiaries of Arya Holdings Limited. The Court has been satisfied that the claims of Minorities Finance Limited have been discharged and the receiverships of those companies have been discharged by the High Court of Justice, Chancery Division.

The Court is also satisfied that all the other claims against Arya Holdings Limited have been settled or that appropriate provision has been made for them, and that all the creditors consent to the raising of the "désastre".

The Court has heard the Viscount who supports the application; provision has been made for the payment of the Viscount's costs of and incidental to the "désastre".

The result of the raising of the "désastre" will be to reinstate Arya Holdings Limited in the ownership of the applicant company for the ultimate benefit of the Gomba Jersey Trust.

The Court agrees that all claims in the "désastre" having been satisfied or appropriate provision for them having been made, as a result of which Arya Holdings Limited is no longer insolvent, the continuation of the "désastre" would serve no useful purpose.

There is ample authority for the raising of a "désastre". It seems that historically the raising of a "désastre" was effected only on the application of the person who had declared it. However, in the case *Incat (Jersey) Limited* (29th May, 1987) a "désastre" declared by a Miss Lynn Housely Evans was raised on the application of the Company "en désastre". We see no reason why an application to raise a "désastre" should be limited to the original declarant, provided the Court is satisfied that the original declarant has reached an agreement with that person declared "en désastre". As we have already said, in the instant case, the claims of Minorities Finance Limited, the original declarant, have been satisfied and it consents to the raising of the "désastre".

Accordingly the "désastre" in respect of Arya Holdings Limited is hereby raised.

Authority referred to in the judgment:-

Representation of Incat (Jersey) Limited; 29th May 1987.

Other Authority referred to:

Representation of A. Johnson; 14th March, 1986 and 21st March, 1986.