

ROYAL COURT

13th January, 1989

Before: The Bailiff and
Jurats Myles and Orchard

In the matter of the "dégrèvement" of the
immovable property of Peter Kelway Tregunna
and Alison Betty Waldron, his wife,

and

In the matter of the representation of the
Judicial Greffier.

Advocate S.C. Nicolle (Crown Advocate)
for the Judicial Greffier.

Advocate M.H. Clapham for the "Attournés"
appointed by the Court to conduct the "dégrèvement"
and for Midland Bank PLC, the creditor which had
provoked the dégrèvement.

JUDGMENT

BAILIFF: Well, I have to rule as a matter of law - I rule first of all that the 'jus accrescendi' is not suspended as Mr. Clapham suggests. It operates immediately without any act of the Court and cannot, unless there is very clear reason for it, be held up.

Therefore, it follows, as I said just now, that at the time the Acte de Dégrèvement was made there were two cessionnaires - Mr. and Mrs. Tregunna. By the death of one, there is only one remaining.

At the time the Acte was made, claims against Mrs. Tregunna were barred from being filed because of the Bonn judgment. The fortuitous (if that is the right word) death of Mr. Tregunna lifts that difficulty of the Bonn judgment.

In my opinion, it is good law that, there being only one cessionnaire, her independent debts - or rather her creditors for independent debts, should be able to prove against the single cessionnaire, and I so rule.

Costs in the dégrèvement.

Authority

In re Dégrèvement Bonn (1971) J.J. 1771.