

ROYAL COURT

15th November, 1989

Before: The Bailiff, and  
Jurats Coutanche and Hamon

---

Infraction: Alan Baker Arthur, John Dunett  
McLellan, Angela Marie McLellan, née Dennis,  
John Le Cras Bisson and Barry Keith Pickersgill

---

One charge of an infraction of paragraph  
(1)(d) of Article 14 of the Housing (Jersey)  
Law, 1949, as amended, by being parties to a  
device, plan or scheme for a transaction or  
arrangement inconsistent with an application  
made to the Housing Committee. Submission  
by the defendants (at the conclusion of the  
prosecution evidence) of 'no case to answer'.

---

Attorney General for the Crown  
Advocate S.A. Pearmain for Mr. Arthur  
Advocate S.J. Habin for Mr. McLellan et uxor  
Advocate W.J. Bailhache for Mr. Le C. Bisson  
Advocate D.E. Le Cornu for Mr. Pickersgill.

---

JUDGMENT

THE BAILIFF: Although this is a submission by counsel that there is no case to answer, I propose deferring a decision on that matter and merely giving you a bare decision with reasons to follow later - counsel would not expect me to give a reasoned decision today. The Court rules (it really is my decision on a matter of law but the Jurats are with me in this matter in so far as they are able to do so) that notwithstanding previous decisions, I have come to the conclusion that offences under Article 14(1)(d) are not offences of strict liability. What flows from that must be a matter for counsel to discuss amongst themselves, including the Attorney General, and we will return tomorrow at half past ten to see where we are.

Authorities referred to:

Archbold (Vol. 2) 17-2, 17-4 and 17-7.

A.G. -v- Roberts & Son (Holdings) Ltd. (3rd March '88) Jersey Unreported.

A.G. -v- Mileti (1st May '86) Jersey Unreported.

Lim Chin Aik -v- R. (1963) 1 AER 223.

Sweet -v- Parsley (1969) 1 AER 347.

R. -v- Gould (1968) 1 AER 849.

Gammon (Hong Kong) Ltd -v- A.G. of Hong Kong (1984) 2 AER 503.

Re Maidstone Buildings Provisions Ltd. (1971) 3 AER 363.

A.G. -v- Giggles Ltd. (1985-86) JLR 179.

De Gruchy -v- Housing Committee (1985-86) JLR 130.

Re H.P.C. Productions Ltd. (1962) Ch. 466.

A.G. -v- R.L. Weston (1979) JJ 141.

Churchill -v- Walton (1967) 1 AER 497.

Hardcastle -v- Bielby (1892) 1 Q.B 709.

R. -v- Holbrook et al (1877) 3 Q.B. 60.

Johnson -v- Youden et al (1950) 1 K.B. 300.

Re Madok Limited -v- Butler (1950-1966) JJ 207.

Le Gros: "Du Bail à Termage" pp.318 - 321 inclusive.