

209.

ROYAL COURT

18th December, 1989

Before: The Bailiff, sitting alone

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Between:	Security Express Limited	Plaintiff
And:	Ronald James Everett	Defendant
And:	Lloyds Bank plc	Party Cited
	AND	
Between:	Security Express Limited	Plaintiff
And:	John James Mason	Defendant
And:	Lloyds Bank plc	First Party Cited
And:	Allied Irish Bank (C.I.) Limited	Second Party Cited

Summons by the plaintiffs in both actions requesting the Court to overrule the Orders of the Judicial Greffier whereby he granted the defendants leave to amend their answers.

Advocate A.S. Regal for the Plaintiffs
 Advocate D.E. Le Cornu for the Defendants
 (The parties cited not being party to the present applications).

JUDGMENT

THE BAILIFF: In this case, the plaintiff in both actions alleges that the defendants were part of a team of criminals who robbed its premises on the 14th April, 1983, of goods to the value of approximately six and a half million pounds. It alleges that shortly after the robbery, the defendants came into a substantial sum of money, some of which they placed in Jersey bank accounts - insofar as one of the defendants is concerned, only in Lloyds Bank but insofar as the other defendant is concerned, in Lloyds Bank as well as in the Allied Irish Bank (C.I.) Limited.

In their answers to the Orders of Justice, both defendants claim, in substantially the same terms, that the money in question was not part of the proceeds of the robbery, but related to profits from their lawful business interests.

On the 20th July, the plaintiff issued a summons for further and better particulars of the defendants' lawful business interests. On the 18th September, the Judicial Greffier allowed the defendants to amend their answers so as to remove from them the reference to their claim that the money they had in Jersey arose from their legitimate and lawful legal business interests.

Today the plaintiff appeals from that Order. I was informed that there are warrants which have been issued by the English Courts for the arrest of the two defendants who are, I was also told, at present outside the English jurisdiction.

The question for the Court is to decide whether, if the appeal is allowed, the real question between the parties will be before the Royal Court when the matter comes for trial. If the appeal is allowed, the request for further and better particulars will lapse and if it is not allowed, the defendants may face an application under Rule 6/13 to strike out their defence in accordance with the principles enunciated by the Court of Appeal in Jersey in the case of Bates -v- Bradley (1982) JJ 59.

So far as the main point is concerned, it seems to me that the answers, if allowed to be amended, would be no more than general denials which, according to the English authorities, is generally insufficient (see the

case of Wallingford -v- Mutual Society (1880) 5 A.C. at 685). The real issue which will be before the Royal Court in due course is how the defendants came by their money. It seems to me that it would be unfair to remove from the plaintiffs the opportunity of acquiring the knowledge through further and better particulars of the positive averments contained in the original answers. In my opinion, were the averments removed, it would be insufficient for the plaintiffs to be compensated merely by an order for costs, if indeed they could be.

The issue is reasonably clear in my mind. I believe that this application, or the application before the Greffier which he allowed is - in the words of Cotton, L.J. in the case of Edevain -v- Cohen (1889) 43 Ch. D. 187: "a technical rule of law which is being asked for".

On page 190 the learned Lord Justice says:

"I do not think that this amendment is necessary to bring out the real question between the parties. I think this amendment is proposed merely to enable the Appellant to avail himself of what I may call a technical rule of law supported by the cases which have been referred to, and not in order to determine the real issue which ought to be determined in this action".

I think that the application was an attempt to avoid having to answer the particulars. In my opinion, the particulars should be answered in order that justice may be done between the parties and I therefore allow the appeal. I am willing to be heard on costs.

ADVOCATE REGAL: Sir, I would ask for the costs of this application and the applications before the Greffier.

BAILIFF: I think you can't resist that, Mr.

ADVOCATE LE CORNU: (indistinct)

BAILIFF: The costs of this appeal and the costs of the hearings before the Greffier will be paid by the defendants.

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Authorities referred to:

- Copley -v- Grimshaw JJ (Unreported) (14/10/87) 87/63.
Heseltine -v- Strachan & Co. JJ (Unreported) (19/1/89) 1989/3.
The Supreme Court Practice (The White Book) p.350 O.20/5-8/6.
Cropper -v- Smith (1884) 26 Ch. D. 700 (headnote only)
The Shorter Oxford English Dictionary p.1484.
Edevain -v- Cohen (1889) 41 Ch. D. 563 and (1889) 43 Ch. D. 187 at 190.
Sinclair -v- James (1894) 3 Ch. D. 554 at 557.
The Supreme Court Practice (The White Book) p.135 O.14/1/5.
The Supreme Court Practice (The White Book) p.140 O.14/3 and 4/3.
Wallingford -v- Mutual Society (1880) 5 A.C. 685 at 704.
Bates -v- Bradley (1982) JJ 59 at p.65.
The Supreme Court Practice (The White Book) p.304 O.18/13/5.