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ROYAL COURT

11th October, 1990

147A

Before: The Deputy Bailiff, and
Jurats Gruchy and Vibert

<u>Between:</u>	Glendale Hotel Holdings Ltd	<u>First Plaintiff</u>
<u>And:</u>	David Eves and Helga Maria Buchel, his wife	<u>Second Plaintiffs</u>
<u>And:</u>	The Tourism Committee	<u>Defendant</u>

Application by the plaintiffs (1) for leave to appeal against the Order of the Court given on the 3rd October, 1990, whereby the interim injunction imposed on the defendant was raised, and (2) in the event that the Court should grant application (1), an order immediately re-imposing the said interim injunction pending the hearing of such appeal.

Advocate P.C. Sinel for the plaintiffs
Advocate C.E. Whelan for the defendant.

JUDGMENT

DEPUTY BAILIFF: The Court will hear both of the plaintiffs' applications together because it appears to us - and I think everybody agreed - that they stand or fall together. We have before us an application for

leave to appeal and an application to re-impose the original injunction. The decision to discharge the injunction contained in the Order of Justice which I signed on the 26th September, 1990, was made on the 3rd October, 1990, by a Court comprising myself, Jurat Myles and Jurat Vibert and was unanimous. It was an interlocutory judgment. Thus under Article 13(2) of the Court of Appeal (Jersey) Law, 1961, no appeal lies without the leave of the Court whose decision is sought to be appealed from (that is to say the Inferior Number of the Royal Court) or of the Court of Appeal. None of the exceptions set out in Article 13(e) apply to present case.

The Court has decided to refuse leave to appeal. The Court believes that in considering whether or not to grant leave, it is entitled to have regard to the merits, that is to say has the appeal a reasonable chance of succeeding? In the judgment of this Court the appeal would be bound to fail on the merits. But if the Court were wrong in that judgment there is another aspect of this matter which the Court has considered. The action is one for declarations and damages. Let us suppose that the proposed appellants, given leave, were to succeed in their appeal and go on to win declarations and an award of damages. This would mean that they would have remained able to run their hotel, subject to inspection or interference from by the Tourism Department, to the further extent permitted by the provisions of the Tourism (Jersey) Law, 1948, (as amended) until the 26th October, 1990. If they were to succeed upon trial and obtain declarations, the award of damages would inevitably include any losses incurred as a result of the closure of the hotel or rather the interruptions in the running of the hotel from the 8th September, 1990, to the 26th October, 1990.

An important factor is that the defendants as a Committee of the States would have the ability to pay virtually limitless damages. It must follow that whatever the hardship which may be suffered by residents or intending residents of the Glendale Hotel by having to rehouse themselves, or be rehoused by the Tourism Department elsewhere, the hardship to the plaintiffs in the original action is small. The appeal after the 26th October, 1990, would be of academic value only and the Court is not prepared to reimpose the injunction which it is satisfied was discharged on sound and unassailable grounds.

Consequently the first and second limbs of the plaintiffs' summons are dismissed.

The Court proposes to make the following Order: Mr. and Mrs. Eves are ordered to re-accommodate all residents above five in number of the Glendale Hotel in accommodation that is at least of comparable standard to Glendale at their own costs and by 12 o'clock, noon, tomorrow. The Tourism Department is to give all practical assistance possible other than financial assistance. All pre-booked clients who are to arrive hereafter must also be relocated elsewhere on the same basis and therefore the Court requires an undertaking of the defendants that there will be no further breach of the injunction after tonight. On that basis, and I will come back to that in a moment, the Court will reconvene tomorrow at 4 o'clock p.m., or as soon after as possible following the close of the Court's ordinary business in order to receive a report of the implementation of this order and to go on to consider and decide what sanction or sanctions should be imposed for the admitted contempt of Court. Mr. and Mrs. Eves, have I got your undertakings in those terms? Very well, that disposes of the matter until 4 o'clock tomorrow.