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ROYAL COURT

1st November, 1991. 160

Before: The Deputy Bailiff, and
Jurats Vint and Le Ruez

Attorney General

- v -

Riviera Guest House Limited

and

Lilian Mary Florence White

OFFENCE:

Riviera Guest House Ltd: Infraction of Article 14(1)(a) of the Housing (Jersey) Law, 1949, (first and second charges).
Lilian Mary Florence White: Infraction of Article 7 of the Lodging Houses (Registration) (Jersey) Law, 1962. (third charge).

PLEA:

Facts admitted.

DETAILS OF OFFENCE:

First defendant owned the guest house with private dwelling accommodation. Second defendant owned first defendant. Over three months, private accommodation let to unqualified persons in breach of housing consent. Defendants ceased to run guest house as a guest house pending sale, and took in 18 lodgers (the lawful maximum was 5) when sale fell through (a period of 4 months).

DETAILS OF MITIGATION:

Company insolvent. Bank loan exceeded value of property. Property to be sold shortly and monies paid to bank. Second defendant in ill health and coping with schizophrenic son.

PREVIOUS CONVICTIONS:

First defendant: none.
Second defendant: Article 14(1)(a) of the Housing Law.

CONCLUSIONS:

First defendant: (1) £1,000 (2) £1,000)
Second defendant: (2) £100 (statutory maximum)
£500 costs to be paid jointly and severally.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted but costs apportioned. Principals relating to individuals don't relate to companies. Wrong to impose lenient fine, and create impression offence not serious. Re. maximum for (3) - proper to fine maximum.

JUDGMENT

DEPUTY BAILIFF: Ingenious though the submission of Counsel are, we are not prepared to accept them. The guiding principles about fines relating to individuals cannot, in our view, apply to companies.

The Court of Appeal in England has said that it is axiomatic that where it is decided not to impose a custodial sentence the Court should be careful in imposing a fine, not to fix a fine at such a high level that it is inevitable that that which the Court has decided not impose, namely a custodial sentence, will almost certainly follow. That guiding principle has no application to companies.

These are serious offences and as the Court said in R. -v- Wilson (13th November, 1973; Butterworth: Current Sentencing Practice:9026):

> ***"it would be undesirable to impose a fine which looked as though the matter was of no consequence at all."***

Therefore insofar as the Company is concerned, the conclusions are granted and the Company is fined £1,000 on each of charges one and two.

Turning to the Second Defendant, again we disagree with Counsel. What she has said about maximum penalties is a general principle but there are precedents about maximum fines to be imposed where the maximum is, in fact, in effect, derisory. We are not legislating but attempting to the best of our ability to mark the seriousness of the offence. Again, we grant the conclusions and the Second Defendant will pay a fine of £100 or in default of payment, will serve two weeks imprisonment.

As to the question of costs we agree that they should be divided and not joint and several. We order the Company to pay costs of £400 and the Second Defendant to pay costs of £100. The Second Defendant will have four weeks to pay.

Authorities

Butterworth: Current Sentencing Practice: re. ability to pay fine.	: 9024/1-2 : 9025-9027

A. G. -v- Spencer (11th December, 1990) Jersey Unreported.

A.G. -v- McIntosh (24th April, 1990) Jersey Unreported.