

ROYAL COURT

178

5th September, 1994.

Before: F.C. Hamon, Esq., Commissioner,
assisted by Jurats Gruchy and Le Ruez

In the matter of the Judgments (Reciprocal Enforcement) (Jersey) Law 1960.

And in the matter of the Judgment of the High Court of Justice of England and Wales, Chancery Division, Manchester District Registry, obtained in the action between Geoff Bell Holdings Limited, Plaintiff, and Ian Geoffrey Bell, Defendant, and dated the 15th day of February, 1993.

Defendant's application for a stay of the further enforcement of the Plaintiff's English Judgment dated the 15th February, 1993, and registered in Jersey pursuant to the Judgments (Reciprocal Enforcement) (Jersey) Law, 1960, as appears by Act of Court of the 25th August, 1993, notwithstanding that such application is brought outside time period fixed by the Judgments (Reciprocal Enforcement) (Jersey) Rules, 1961.

The application was adjourned until further Order of the Court on 17th May, 1994 (See Jersey Unreported Judgement of that date [1994/175]).

Advocate P.S. Landick for the Defendant applicant.
Advocate A.P. Begg for the Plaintiff.

JUDGMENT

5 THE COMMISSIONER: On 17th May of this year, this Court sat to consider the Defendant's application for an order that further enforcement of the Plaintiff's Judgment - which was rendered pursuant to an Act of the Court dated 25th August, 1993 - be stayed, and the shares in a company called Barakot Limited arrested by the Viscount in execution of the Judgment, be retained by the Viscount until 14 days after the determination of the appeal by the Defendant against the Judgment, notwithstanding that the time limited by the Rules for making the application had expired. There was also an application for costs.

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As a result of that hearing various consent Orders were made and the effect of those consent Orders was really to preserve the *status quo*.

5 The whole action came about because, on 15th February, 1993, a summary Judgment was obtained under Order 14 of the Rules of the Supreme Court, *inter partes*, in Manchester, against the Defendant.

10 In Jersey, on 25th August, 1993, the Greffier granted the application of the Plaintiff to register that Manchester Judgment against the Defendant under the provisions of the Judgments (Reciprocal Enforcement) (Jersey) Law, 1960.

15 The Judgment was not to be enforced until after the expiration of the statutory period of 28 days, or any extension of the period granted by the Court, or if an application was made to set aside the registration, until such application had been disposed of.

20 What has now happened - according to the parties - is that very recently, towards the end of August of this year, the adjourned action was heard in England - although it had originally been set down, we believe, for the 27th July - and the Order 14 Order of the Court was set aside; the Defendant was given
25 unconditional leave to defend and that of course will mean a hearing *inter partes* in the High Court.

30 Mr. Landick made application before us this afternoon to have the whole matter set aside on the basis that the Reciprocal Enforcement Order had been obtained on a Judgment which has now been set aside by the High Court. In effect, what he is saying is that the Judgment in Jersey was built upon sand and therefore has fallen away altogether.

35 Mr. Begg made a preliminary objection to that because he said that, in effect, all that was before the Court, which is being extended today, was the application for the stay and with that view we have some sympathy.

40 The point of Law is both unique and may be somewhat difficult when we come to decide it.

45 We feel, in the circumstances, that it is incumbent upon Mr. Landick to serve a formal summons setting out exactly what he wants this Court to do, which may be only to set aside the Judgment obtained under the Reciprocal Enforcement Law, or it may include other matters, dependent upon the Order that we made in May, 1994.

50 Because the matter is important we are prepared to abridge time for the hearing and we would be prepared - because it is the only near date available to us - to sit to hear this matter on

Wednesday of this week. It may not be suitable or appropriate for the parties to hear the case so quickly. It may not be suitable for Mr. Landick because he may have to research the Law; it may not be suitable for Mr. Begg for similar reasons. However, we extend that concession to the parties and we are prepared to make Wednesday available. If Wednesday is not possible then all that can happen - because we are now out of vacation - is that the parties must attend in the usual way before the Bailiff's Secretary to try to arrange a date. We have done what we said to counsel we would do: we have tried to expedite the matter. If that date is not suitable to either counsel, then you must, between yourselves, arrange a suitable date. We will hear the case as soon as we can thereafter.

No Authorities.