

ROYAL COURT
(Samedi Division) 249.

19th December, 1994

Before: P.R. Le Cras, Esq., Lieutenant Bailiff,
and Jurats Le Ruez and Potter

Between: C.I.I. (Drilling) Limited Plaintiff

And: Jeremy Grig Harvey Defendant

Applications by the Defendant for an order that:

- (1) the summary judgment of the Judicial Greffier be set aside, and that the Defendant have unconditional leave to defend the action;
- (2) the Plaintiff return forthwith to the Defendant all sums paid to the Plaintiff in satisfaction of the said summary judgment; and
- (3) the Plaintiff pay to the Defendant the costs of:
 - (a) the summary judgment application and hearing;
 - (b) the Plaintiff's application for an *Acte à peine de prison* in execution of the said summary judgment; and
 - (c) this application.

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

JUDGMENT

THE LIEUTENANT BAILIFF: It is quite clear that the Greffier's Order was made in excess of his jurisdiction and despite the very long delay we will set aside the Order of the Greffier.

5 First, we order that the summary judgment be set aside.
Secondly, we need to make no order for unconditional leave to defend as it seems to us that, under the rules, you have already such a right. Thirdly, we order the Plaintiff return immediately to the Defendant the sums already paid. The Plaintiff will return
10 the money so far paid, subject nonetheless to any order for costs

which may be made. The monies will be held in escrit by you, Mr. Begg, pending any award and will be accounted for.

5 There will be no order for costs as asked for by Mr. Begg of and incidental to this summons nor to the Order of the Greffier and Mr. Begg you will now have to account for the monies which you hold.

Authorities

Summons dated 14th December, 1994, appealing against summary judgment.

R.S.C. (1988 Ed'n): O.14.

R.S.C. (1995 Ed'n): O.14.

Barclays Bank Ltd -v- Cole [1966] 3 All ER 948.

Stafford Winfield Cook & Partners Ltd -v- Winfield [1980] 3 All ER 760.

Foster -v- A.G. (1992) JLR 6 C.of.A.

Royal Court Rules, 1992: Rules 1/5; 5/16; 6/22; 7; 15/1; 15/2.

Jackson -v- Hurst (1970) JJ 1285.

In re Barker (1987-88) JLR N.6.

Minories Finance Ltd -v- Arya Holdings Ltd (28th April, 1994)
Jersey Unreported C.of.A.