

ROYAL COURT  
(Samedi Division)

19.

25th January, 1996.

Before: P.R. Le Cras, Esq., Lieutenant Bailiff, and  
Jurats Mrs. B. Myles and P.J. de Veulle.

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Application by Rosedale (J.W.) Investments Limited for a declaration  
that the property of Mr. Barry Shelton be declared "*en désastre*".

Application for an adjournment.

Before: P.R. Le Cras, Esq., Lieutenant Bailiff, sitting alone.

Application by Rosedale (J.W.) Investments Limited for costs.

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Advocate R. J. Michel for Rosedale  
(J.W.) Investments, Ltd.  
Advocate M.M.G. Voisin for Mr. Barry Shelton.

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JUDGMENT

THE LIEUTENANT BAILIFF: This is a further chapter in a long running  
saga. In the circumstances, there is, in our view no need to  
rehearse the facts.

5 In view of the submissions and the advanced state of the  
negotiations which should release a sufficient sum to repay the  
applicant in full in the near future, we are prepared to grant a  
further adjournment on conditions.

10 In setting out these conditions, we note Mr. Voisin's  
suggestion that the application should return to the Court on  
Friday 15th March, 1996, and his undertaking to agree to book a  
date shortly thereafter, should the necessity arise.

15 The conditions which we attach to the adjournment are:-

1. Mr. Shelton must keep the applicant or his advisers informed  
of the progress of the present negotiations and the applicant  
shall have liberty to apply.

2. In the absence of any such application, this application will come back to the Samedi Court on Friday 15th March, 1996.

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JUDGMENT (on costs).

10 THE LIEUTENANT BAILIFF: This is an application for costs to date, first by the applicant and second insofar as regarding the hearing of 6th October and today, by Mr. Shelton. The applicant seeks indemnity costs. I will deal with that point first. There are no grounds in these proceedings which, in my view, justify an award of indemnity costs.

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The applicant has been pursuing an unpaid loan which is due and has, in my view, been entitled to do so. The loan has not yet been repaid in full and Mr. Shelton has received a series of adjournments from the Court to enable him to seek to do so. The applicant has, in my view, been entirely justified in returning to the Court on each occasion, given the circumstances, to maintain pressure on the debtor.

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In my view Mr. Shelton must bear the costs of seeking and obtaining these adjournments. The Court therefore awards the applicant, that is Rosedale, the taxed costs of and incidental to the application of the *désastre* on 25th August, 1995 and the proceedings which follow thereafter to date.

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No Authorities.