

ROYAL COURT

3rd March, 1988

Before: Commissioner R. Vibert, O.B.E.,
assisted by Jurats M.G. Lucas and
J.J.M. Orchard

H.M. Attorney General

- v -

^{P.}
~~F.R.~~ Roberts & Son (Holdings) Ltd
Paul Brent Ashworth and
Carol Ashworth

Infraction of Article 14 (1)(d) of the
Housing (Jersey) Law, 1949
Judgment in respect of penalties imposed after
reserved judgment delivered finding
Respondents guilty

Advocate S.C. Nicolle on behalf of the Attorney General
Advocate G.R. Boxall on behalf of the Respondents

JUDGMENT

COMMISSIONER VIBERT: There is no doubt that the Housing Law is one that is very important for the great majority of Jersey people. The prime purpose of the law is to try to ensure that such housing stock as there is is allocated to the people who deserve it most, that is to say those with the greatest

claim on the Island, in particular the residents. And so it is a law that it is very important that people should try to enforce. As everybody has accepted that there was a genuine misconception it is not for the Court to find otherwise, but we do not think that this is in any way a sufficient excuse, nor much mitigation, because it is so easy to find out what the law is if you are in any doubt. It is said that Mr Roberts in particular was not in any doubt, but the condition attached to the consent to take the premises was very clear: the flat must be occupied by people who are qualified. In choosing to arrange that the flat would be occupied in part by people who were not qualified, Mr Roberts was taking a risk and he was relying on a conception which he adopted for himself and we do not know where he obtained it. But it would be very simple to check it, particularly as Mr Roberts is an experienced businessman and we find it difficult to believe that if this had been something concerned with his business affairs, for example the construction of a building, that professional advice would not have been taken, particularly as one can go so easily, and this applies also to the Ashworths, to the Housing Office, and check that a transaction is in order without any expense whatsoever. Nobody in the Island should imagine that there is any excuse to say, in relation to the Housing Law, that they did not know what it was. If they do not know, then they can easily find out.

We therefore do not propose to reduce the total amount of fines for which the Crown Advocate has moved, particularly as there has been another recent case which is very similar and we would not wish to depart greatly from that. In any case even if that case had not been heard we would not have thought that the totality of these fines are too low, bearing in mind that the amount fixed by the legislature is £5,000 maximum and the legislature, I know, gets a bit tired of fixing fines which the Court sometimes seems in no way to approach. As to the division of the totality, we feel that the company, that is to say Mr Roberts, is very much more responsible for this (as I'm sure Mr Roberts himself realises, in fact I gather he has said so) than Mr & Mrs Ashworth. As I have said, he is a businessman and particularly Mrs Ashworth is an employee of Mr Roberts and may therefore be presumed to think that the boss in all things knows best.

So, we fine the company £1,250. Mr and Mrs Ashworth £350 each with the same alternative of imprisonment if the fines are not paid within two months. The amount of costs to be taxed by the Greffier with a totality of no more than £750 is to be paid by the company.

AUTHORITIES

H.M. Attorney General -v- J.M.P. Luis et uxor - J.J. 1988 (unreported).

H.M. Attorney General -v- B.A. Logan et anor - J.J. 1988 (unreported).