

ROYAL COURT

12th July, 1990 101A.

Before: The Bailiff, and
Jurats Myles and Orchard

Between: **Abbondio Sergio Bianchi** Plaintiff
And: **Franco Luciana Gentili** Defendant

Contested application for an "Acte à peine de prison".

Advocate P.C. Sinel for the Plaintiff,
Advocate P. Harris for the Defendant.

JUDGMENT

BAILIFF: This matter arises from a judgment debt of November, 1988, under which the defendant was condemned to pay £12,500 to the plaintiff with interest at ten per cent from the date of judgment. We are told that from that time until now, something a little over £4,000 has been repaid, of which part was a single payment of £3,000 on the 23rd November, 1989.

The plaintiff has sought to put into effect his judgment of November, 1988, without success because the defendant has no earnings and he has insufficient assets to merit the Viscount selling him up. Such payments as have been made, we are told, are the result of the work of the wife, partly from the profits of the Guest House and partly

her own work as a dental receptionist or assistant. The defendant has no assets of his own, although he works in the Guest House for his keep and receives odd sums of money from his wife from time to time.

The plaintiff now applies for an "Acte à peine de prison" having done so earlier at the end of last year when the matter was put off for argument until today. The granting of an "Acte à peine de prison" is discretionary and it is not obligatory upon the Court to do so if it is satisfied that the defendant is making strenuous efforts to repay the amount. We are satisfied those efforts are being made by the Gentili family, that is to say Mrs. Gentili.

Whether the defendant could make some further efforts, whether he could get a job is a matter of conjecture. He says that he is too old to get a job but he is a skilled restaurateur and speaks four languages. We think it would not be beyond his capabilities of finding a job which would produce a little more income.

Be that as it may we have decided for the time being not to grant the act you seek, provided that payments of £125 per month are made regularly and that the figure which we were told had been promised to be paid this month of £2,000 is in fact paid by the 31st July, 1990.

If either of those two conditions fail, Mr. Sinel, you can come straight back to this Court as at present constituted and unless there are very strong arguments advanced by you, Mr. Harris, to the contrary, we shall probably - I say no more than probably at this stage - grant the "Acte à peine de prison". I make no order for costs.

No authorities.