

IN THE ROYAL COURT OF JERSEY

(Samedi Division)

141A.

4th October, 1991

Before: The Deputy Bailiff, and
Jurats Gruchy and Vibert

In the matter of applications by Shield Investments (Jersey) Limited, Saltaire Limited, Clarence Private Hotel Limited, Blenheim Hotel Limited, Cheapside Stores Limited, Blenheim Hotel Limited, Cheapside Stores Limited, GHS Holdings Limited, Airstore Limited, Les Catieaux Properties Limited, Palatine Limited, Vermont Nursing Home Limited and Gerald Henry Slous and Ann Jane Honeycombe, his wife, for Remises de Biens.

Advocate R.A. Falle for the applicants;

Advocate A.R. Binnington for Jurats
Vint and Orchard;

Advocate R. Renouf for AIB Bank (CI) Limited
creditor of Les Catieaux Properties Limited.

JUDGMENT

DEPUTY BAILIFF: There should be before the Court eleven applications, or perhaps ten applications because of Les Catieaux Properties Limited to which I shall return.

The old procedure is quite clear. After the two week delay there was a further representation from the debtor reciting what had happened and with the support of the Jurats' Report asking the Court to grant the Remise.

Dealing therefore with eleven applications, we have no hesitation in granting eight of them:

- i) Shield Investments (Jersey) Limited
- ii) Saltaire Limited
- iii) Cheapside Stores Limited
- iv) GHS Holdings Limited
- v) Airstore Limited
- vi) Palatine Limited
- vii) Vermont Nursing Home Limited
- viii) Gerald Henry Slous et uxor.

We can conveniently deal with Les Catieaux Properties Limited next.

I am satisfied that as a matter of law the Court has no jurisdiction to grant a Remise unless it is satisfied that there will be a credit balance, however small, for distribution amongst the ordinary creditors.

On the best advice at our disposal there would be no such balance in this case. Accordingly the application is refused.

The more difficult applications are those of Clarence Private Hotel Limited and Blenheim Hotel Limited.

This is difficult because in 1831 groups of companies were unknown. So we must be prepared to evolve the law to meet present day requirements.

In the matter of the Doléance of Barker 1985-86 JLR 284 at p.291 the Court said: **"A remise de biens is discretionary"**; and **"A remise de biens is a discretionary remedy"**; and **"The Court has a discretion; it can hear opposition as it did in this case. The Court has an unfettered discretion to take everything into consideration and depart from the recommendation in the Jurats' report"**; and at p.292 **"We have come to the conclusion that a remise de biens is always preferable to a dégrèvement when conditions warrant it"**.

We believe that we can exercise our discretion in favour of the applications if we consider some advantage may arise in the remise being granted by some reasonable expectation.

It is reasonable to expect that some if not all of the cross guarantees can be discharged by the sale of other assets within the group with the effect that the hotels owned by the two companies under consideration may be sold at sums which will provide a surplus over secured debts.

Therefore, we take a bold view and grant both applications.

The remise granted in all ten cases will be for a period of twelve months and Jurats Vint and Orchard, who have done an enormous amount of work over the past two weeks, and produced a very helpful report, will continue in office as Autorisés.

We should like to add this - we are aware that the Jurats have been very ably assisted by Messrs. Touche Ross & Co. and in particular by Mr. P.H. Beamish, a partner in that firm, and his

immediate team. They have had to work very long hours in order to produce a report within the statutory two weeks. Therefore, we gladly take the opportunity publicly to express our appreciation of their services.



Authorities

In re Doléance of Barker (1985-86) JLR 284.