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ROYAL COURT
(Samedi Division)
10th February, 1995.

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Before the Deputy Bailiff
and Jurats Orchard and Rumfitt

Between Hambros Bank (Jersey) Limited Plaintiff
 And David Eves First Defendant
 And Helga Maria Eves (née Buchel) Second Defendant

Representation of the First Defendant

The First Defendant on his own behalf
 Advocate A.P. Roscouet for the Plaintiff

JUDGMENT

5 THE DEPUTY BAILIFF: This is a Representation by Mr. David Eves. We get the impression that it is another step in a long and hitherto successful delaying action. We may be wrong and we will therefore treat the application as *bona fide*.

10 On the 30th September, 1994, the Plaintiff obtained an *Acte Vicomte chargé d'écrire*. That Act authorised the Viscount to notify the Defendant that if he should fail to pay to the Plaintiff certain sums within two months of the Viscount's Notice all the Defendants' property real and personal would be adjudged by the Court to be renounced.

15 On the 28th October, the Court said this:-

20 "We have no jurisdiction to set aside the order of this Court ordering an *Acte Vicomte chargé d'écrire* but we do have jurisdiction, in our Judgment, and we order that the Act of the Court of the 30th September, 1994, be stayed unless and until the Court of Appeal has dismissed Mr. Eves' application for leave to appeal to the Privy Council or until further order of this Court."

25 The Court went on to say this:-



5 *"The Court will make it a condition of the stay of the Acte
Vicomte chargé d'écrire that interest on the capital sum of
£100,000 and interest on the arrears to the extent that the
Judicial Greffier has given Summary Judgment shall be paid in
due time. That means, Mr. Eves, that the Court is making no
condition in relation to the disputed amount of interest, but
it is a condition that interest on the arrears of interest,
in respect of which the Judicial Greffier has given Judgment
against you, should be paid in due time."*

10 We do not know whether, in fact, those arrears of interest
have been paid.

15 To continue the scenario, on the 11th January, 1995, the
Court of Appeal met, as the Royal Court had anticipated, and the
President in an exchange with Counsel said this at page 10 of the
Judgment:-

20 *"Subject to anything you may have to say, we think that it
would be fair to continue the stay for a strictly limited
period to allow Mr. Eves an opportunity to apply to Her
Majesty in Council."*

25 Afterwards there was a further exchange and the President said at
page 11 -

30 *"Very well, then, we state for the record that we make no
order for a stay of the Order of the Royal Court of 30th
September because the Plaintiffs have undertaken not to
enforce that Order before 31st January, 1995. And I add that
we asked for that undertaking because we thought it right
that Mr. Eves should have the opportunity, if he is so
advised, to approach the Privy Council before the order of
35 30th September becomes effective."*

40 So the Court of Appeal had taken an undertaking from Counsel
not to enforce before the 31st January. Looking at grounds 2 and
3 of the Representation before us, we can only say that they seem
to us to be identical. But matters have moved on because the
Privy Council has now notified the parties that the petition will
be heard by the Privy Council on the 13th February, 1995 at 11.00
in the morning. The Representation now before us asks us firstly
45 to set aside the order. We cannot set it aside because that would
be to nullify an Act properly obtained. There is already an Act
of this Court dated the 28th October that the Court has not the
jurisdiction to set the order aside. This Court in our view
cannot upset that order unless it felt that it was improperly
50 obtained or in our view it was clearly wrong. At the moment we
have no doubt that it was neither of those matters.

The only other matter which we are asked to deal with in the
Representation is whether we should order a further stay. That

resolves nothing because Hambros have deferred their application to continue with the order for a Dégrevement until next week. Therefore, in the circumstances, and because the Privy Council is going to meet on Monday, we will adjourn this present Representation until next week when we know what the Privy Council has to say.

No Authorities