

ROYAL COURT
(Samedi Division)

135.

24th July, 1996

Before: Sir Philip Bailhache, Bailiff, and
Jurats Potter and de Veulle

The Attorney General

- v -

Hotel L'Oasis, Limited

1 count of contravening Article 14(1)(a) of the Housing (Jersey) Law, 1949, by failing to comply with a condition of a Housing Committee consent to the purchase by the Defendant Company of "Hotel L'Oasis", stipulating that private dwelling accommodation at the property be occupied by persons exempt from the need to apply to the said Committee for consent under the Housing (General Provisions) (Jersey) Regulations, 1970, or by persons specifically approved as occupiers by the said Committee.

Plea: Facts denied on 10th May, 1996; the action was sent to proof.

C.E. Whelan, Esq., Crown Advocate.
Mr. B. Shelton as a Director of the Defendant Company.

JUDGMENT

THE BAILIFF: We desire to say first of all that we have accepted all the evidence given by the witnesses in this case as having been given honestly and impartially.

5 The question for the Court is whether the Crown has proved beyond reasonable doubt that the second condition attached by the Housing Committee to a consent granted to the Defendant Company in 1972 was broken by the act of permitting Mr. Gill to occupy the accommodation which he was found by the Housing Officials to have
10 been occupying.

The second condition attached by the Committee to the consent provides:-

5 ".... that the private dwelling accommodation at the said
property should be occupied by persons exempt from
the need to apply to the said Committee for consent under
the Housing (General Provisions) (Jersey) Regulations,
1970, or by persons specifically approved as occupiers by
the said Committee".

10 That condition was attached after some correspondence with
legal firms which sought to establish exactly what the private
dwelling accommodation was.

15 Mr. Whelan for the Crown argued that the condition embraced
the private dwelling accommodation at the property in the sense of
any private dwelling accommodation. The argument was that, if the
private dwelling accommodation existing in 1972 had been destroyed
and reconstructed elsewhere on the site, the condition bound that
new accommodation.

20 Having regard to the use of the definite Article and to the
fact that in criminal proceedings any ambiguity must be resolved
in favour of the subject, we cannot accept that submission. We
have therefore asked ourselves whether we are satisfied beyond
reasonable doubt that the accommodation subjected to this
25 condition by the Housing Committee in 1972 is that dwelling
accommodation which was admittedly occupied by Mr. Gill and his
family during the period in question. We are not so satisfied and
it follows that the Defendant Company must, accordingly, be
discharged. Mr. Shelton, you will be entitled to taxed costs.

Authorities

Housing (Jersey) Law, 1949.

A.G. -v- Glendale Hotel Holdings, Ltd (10th February, 1989) Jersey
Unreported.

R. -v- Edwards [1974] 2 All ER 1085.

R. -v- Hunt [1987] 1 AC 353.

Nimmo -v- Alexander Cowan & Sons, Ltd [1968] AC 107.