

ROYAL COURT
(Samedi Division)

Before: Commissioner P.R. Le Cras
Assisted by Jurats J.H. Vint & D.E. Le Boutillier

19th April, 1988

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| BETWEEN | Joao Avelinho Fernandes Escorcio | Plaintiff |
| AND | Jose Armando Nunes de Olival | Defendant |
| AND | Andre Louis Maris Jegat | First Third Party |
| AND | Celestino Ferreira Vierra | Second Third Party |

Application by the Plaintiff for an order that the issue of the Defendant's liability to the Plaintiff be tried before the issue of damages, and in any event before the trial of Third Party proceedings brought by the Defendant.

Advocate R.J. Michel for the Plaintiff
Advocate P. de C. Mourant for the Defendant
Advocate P.C. Sinel for the First Party Cited.

JUDGEMENT

COMMISSIONER LE CRAS: The summons is issued by the Plaintiff to show cause why it should not be ordered that the issues of the defendant's liability to the plaintiff for the alleged loss and damage and for the interest claimed thereon be tried before the issue of damages, if any, and in any event before the trial, if any, of the third party proceedings brought by the defendant. We should say at once that we are not prepared to make the orders asked for. We think that there was substance in

the points raised, especially by Advocate Sinel, when he pointed out under Order 33 4/5 that the beneficial object of the law is that all the disputes should be tried together. And we note the potential problem which his client may face if there were separate trials. We agree with both him and with Mr. Mourant, to whom we are equally indebted, that separate trials may lead to a complication of the issues and we believe that Mr. Michel was right in his original approach when he consented to the Greffier's Order of the 7th March.

The Order therefore that we make today is this - that the first part of the summons, that is to separate liability from quantum, will be stood over with liberty to either side to reapply. The second, that is for the issue as between the plaintiff and the defendant to be dealt with separately from the issues which arise with the third parties is dismissed and the Greffier's ~~Order therefore~~, original Order of the 7th March, 1988 is therefore maintained.

AUTHORITIES REFERRED TO

1. Orders 15, 18 and 33 of The Supreme Court Practice, 1988.
2. Piercy -v- Young (1880) 15 Ch. D. 475.
3. Everett -v- Ribbands (1952) 2 Q.B.D. 198.
4. Carl-Zeiss-Stiftung -v- Herbert Smith & Co. (1968) 2 All E.R. 1002.
5. Polskie -v- Electric Furnace Co. Ltd. (1956) 2 All E.R. 306.
6. Coenen -v- Payne (1974) 2 All E.R. 1109.
7. Stevens -v- William Nash Ltd. (1966) 3 All E.R. 156.
8. Hawkins -v- New Mendip Engineering Ltd. (1966) 3 All E.R. 228.
9. Todman -v- Black (1980) J.J. 255.
10. Broad Street Investments (Jersey) Ltd. -v- National Westminster Bank Plc., (1985) J.J.6
11. Bell -v- H & V Engineering Co. Ltd. (1985) J.J. Unreported.
12. Royal Court Rules, 1982: Rules 6/10 and 6/19.