

ROYAL COURT

11th July, 1988

Before: The Bailiff and  
Jurats Vint and Le Ruez

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Her Majesty's Attorney General

- v -

John Hart

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Appeal against conviction  
in respect of one count  
of fraud

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Advocate S.C. Nicolle for the Crown  
Advocate R.J. Renouf for the Appellant

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**JUDGMENT**

BAILIFF: We can well understand the Magistrate's coming to the decision he did. The case was complicated, but a good deal of the difficulty arose, as the Magistrate said, from the informal arrangements made at Steeple Finance in dealing with their customers, of whom, Mr Hart was one. It is clear to us that Mr Hart was carrying out his normal practice of discussing with Steeple Finance his wish to sell the scales and that he was given a figure at which it would be possible for him to pay back what he owed and therefore in due course ensure that the purchaser would have a good title to the goods, but before he did that there was some discussion about a further cheque which

in fact was going to cause him some financial difficulties, if it was presented and not covered.

We think the Magistrate was entitled, of course, to prefer the view of Mr Le Sueur in this matter and at the time that the negotiations with Mr Jacobs took place, the appellant knew that the cheque had not been met and that there was a mistake on the part of Mr Le Sueur when he gave him a figure later on the 5th December, as to the balance that would be needed to clear the account and he took advantage of it. But having said that, we are satisfied that balancing that with his later actions, we cannot say with certainty that although he made a false statement to Mr Jacobs (of that there is no doubt) the Magistrate was entitled to prefer the evidence of Mr Jacobs on this point to that of the appellant, that the goods were not subject to an H.P. agreement and that he had a good title to them. Although he undoubtedly made those false statements we think that there is insufficient evidence to support the conviction because of the second limb that is necessary in a case of this sort that at the time he said those things he had to have the fraudulent intent to defraud the person to whom he was making these representations or, false pretences.

We think that the real position was that he hoped that all this would be put right; that the matters would sort themselves out and Mr Jacobs would in due course have a proper title to the goods. We think that was really at the back of the appellant's mind and thus we cannot find that in following the normal commercial practice, he did not have the subjective belief that what he was doing was in any way dishonest, according to the authorities and the accepted commercial practice and accordingly we allow the appeal. But as he took advantage of Mr Le Sueur's mistake it is my decision not to award any costs.

Authorities cited:-

Queen -v- Sinclair et ors. 1968 C.A. (C.D.) 618 - 624.

Queen -v- Allsop 1976 C.A. 29 - 32.

King -v- Granville Pickup 1931 C.A. (C.D.) 186 - 189.