

ROYAL COURT
(Matrimonial Causes Division)

30th November, 1988

Before: Commissioner P.R. Le Cras, and
Jurats Blampied and Le Boutillier

Between

Mrs E

Plaintiff

And

Mr E

Defendant

Summons by the defendant seeking to discharge
or, in the alternative, vary the injunctions
imposed by virtue of the Order of Justice in
the above action and seeking an order for
costs on a full indemnity basis.

Advocate A.P. Begg for the plaintiff
Advocate P.C. Sinel for the defendant.

(parties cited previously discharged)

JUDGMENT

THE COMMISSIONER: In our view, the terms of the injunction go further than is required. They go far beyond seeking to preserve assets and rather, have the effect of being injurious and penal. It is also our view that there was not sufficient full and frank disclosure in Mrs. E's affidavit. In particular, we see no reason why the properties should not have been properly and fairly described and we see no description of the effects which would be likely to arise from the imposition of the injunction. An injunction is not to be granted as a matter of course. There is to our mind no evidence in the affidavit, other than the allegation of slyness, that Mr. E is about to dispose of his assets in the Island. We have in mind that three and a half months went by after the ouster proceedings, that Mrs. E is in a position to have checked sales of those properties owned by Mr. E in his personal name, and that "oppositions" were possible, as indeed they are now. Alternatively, a fresh injunction is possible if proper grounds are shown. An injunction is an exercise of extraordinary jurisdiction and care must be taken when applying for one that the criteria are met.

Finally, we should say that it is our view that this injunction was a bargaining counter rather than an attempt to preserve assets and that this is an improper use of procedure. The injunction is therefore discharged.

- * Authorities referred to in address - otherwise "other authorities referred to"
- * Rules of the Supreme Court (1988 Edition) Volume 2 Section 1577:
Matrimonial Causes 1973; Section 1577: "Avoidance of transactions intended to prevent or reduce final relief"; Section 1578: Commentary.
R.N. Ough: "The Mareva Injunction and Anton Pillar Order " (1987) p.8.
- * D. Barnard: "The Family Court in Action (1983) pp 186, 187.
- * Bars v. Bars (1985) Plaids de Meubles 696 (Extract from Guernsey Law Journal, Issue 1) pp 6, 7.
- * In the matter of the Representation of John Cecil Vibert (Unreported Jersey Judgments 87/14).
- * Joshi v. Laugée 1986/35 - as yet unreported.
- * Trasco International Aktiengesellschaft v. R.M. Marketing Limited and Others (1985/86) J.L.R. N.5.
Walters and Others v. Bingham and Others (1985/86) J.L.R. 439.
- * David Bean on Injunctions (3rd Edition - 1984) Chapter III and pp 28, 107, 108, 120 and 121.
- * Order 29 of the Rules of the Supreme Court.
- * Bates v. Lord Hailsham of St. Marylebone (1972) 1 W.L.R. p. 1373 1972 3 A.E.R.
- * Beese and Woodhouse (1970) 1 W.L.R. (1970) 1 E.R. p. 769.
- * Halsburys Laws of England (4th Edition) Vol. 24 re. Injunctions.
- * Quartermane v. Quatermane (1974) 118 Solicitors' Journal 597.
- * Roche v. Roche (1981) 11 F.L. 243.

