

ROYAL COURT

3rd February, 1994

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Before: The Judicial Greffier

<u>Between:</u>	Hambros Bank (Jersey) Limited	<u>Plaintiff</u>
<u>And:</u>	David Eves	<u>First Defendant</u>
<u>And:</u>	Helga Maria Eves née Buchel	<u>Second Defendant</u>

Application for Summary Judgment under Rule 7/1(1) of the Royal Court Rules, 1992.

Advocate A.P. Roscouet for the Plaintiff.  
 The First Defendant appeared in person.  
 The Second Defendant appeared in person.

JUDGMENT

**JUDICIAL GREFFIER:** On 23rd June, 1993, I gave Summary Judgment in favour of the Plaintiff against the First and Second Defendants in the capital sum of £100,000 for the capital due under a loan and left over the further consideration of the application for Summary Judgment in relation to the interest to another day.

The reasons for that decision were set out in a written Judgment dated 14th July, 1993.

On 11th January, 1994, the resumed hearing in relation to Summary Judgment for interest took place and I gave further Summary Judgment against the First Defendant for £28,121.06 together with further interest on the sum of £128,121.06 from the date thereof to the date of payment. I also gave Judgment against the Second Defendant in the further sum of £565.16 together with further interest on the sum of £100,565.16 from the date thereof to the date of payment. I also made various orders in relation to costs.

The Defendants have subsequently appealed against the Order of 11th January, 1994, and I am now setting out my reasons for those Orders.

Prior to the hearing on 11th January, 1994, the Plaintiffs, in accordance with paragraph (6) of my Order of 23rd June, 1993, filed an additional Affidavit which contained certain interest calculations. The Defendants responded with an Affidavit in answer.

The Affidavit in answer did not seek to challenge the accuracy of the interest calculations contained in the Plaintiff's further Affidavit, and, indeed, neither of the Defendants sought to do so in addressing me at the hearing on 11th January, 1994. The Summary Judgment for interest is based upon those interest calculations.

However, in the Affidavit, the Defendants sought to raise a number of different lines of defence and I will seek to deal with these paragraph by paragraph as they are set out in the Affidavit.

Paragraph 2 of the Affidavit seeks to raise issues relating to the enforced closure of the Glendale Hotel in 1989 and 1990. This matter is totally unrelated to this action and concerns a possible claim which the Defendants may have against the Tourism Committee. I have already found in relation to the action No. 92/18 that this was not a valid line of defence in relation to the Plaintiff's claim against the Defendants under the terms of guarantees relating to Glendale Hotel. That decision was set out in an Unreported Judgment dated 15th December 1992. That decision has been appealed by the Defendants but, although the Court adjourned the appeal of the First Defendant, the appeal of the Second Defendant was dismissed. As, in that case, the Court dismissed the appeal of the Second Defendant, which included this ground, then it must also, in due time, be bound to reject that ground in relation to the First Defendant.

Paragraph 3 raises the issue of an amount of £7,619.15 relating to the account of Glendale Hotel (Holdings) Limited. This is a line of defence which was raised in relation to this action at the hearing on the 23rd June, 1993. In the second paragraph on page 4 of my Judgment of 14th July, 1993, I commented that this line of defence was totally unfounded with absolutely no rational or factual basis.

Paragraph 4 of the Affidavit relates to a dispute between the Defendants and the Judicial Greffe as to when the appeal against the Order in relation to the hearing on 23rd June, 1993 was delivered. This is completely irrelevant to the application for Summary Judgment in relation to interest.

Paragraph 5 of the Affidavit disputes a factual statement which I made in my written decision dated 14th July, 1993 and also relates back to the ground of appeal mentioned in paragraph 2 of the Affidavit. It is also irrelevant for the reasons set out above.

Paragraphs 6 and 7 of the Affidavit relate to allegations that certain insurance policies which were taken out in conjunction with the loan had been paid up to date. This assertion could only be relevant in relation to the Judgment dated 23rd June, 1993, and was taken into account on that. The attempt to raise it again is an attempt to raise a line of defence which has already been rejected.

Paragraph 8 of the Affidavit is again seeking to incorporate matters relating to the Tourism Committee and is another variant on paragraphs 2 and 5 of the Affidavit and is similarly irrelevant.

Paragraph 9 of the Affidavit asks that the Plaintiffs claim be dismissed because a stay has been granted in action 92/18, the action relating to the guarantees concerning Glendale Hotel. I have already mentioned above that the Court, in relation to the appeal against my decision to grant Summary Judgment in action 92/18 has already dismissed Mrs. Eves' appeal and that as Mr. Eves' appeal was based upon similar grounds, his appeal must also fail in due course. Paragraph 9 states that any enforceable Judgment against the Defendants will render the action by the Defendants against the Tourism Committee nugatory. I can only describe this as an astonishing line of defence. It is even more irrelevant than the matters relating to paragraphs 2, 5 and 8 of the Affidavit, although it is also based on an attempt to delay Judgment in this action pending an unrelated action against a third party.

Accordingly, I found that there was absolutely no merit in any of these lines of defence and that as the calculations of arrears of interest were not challenged, I should grant Summary Judgment for these sums.

It also follows that, as interest continues to run upon the sum of £100,000 and the arrears, that I should grant Judgment for continued interest up to the date of repayment of the capital sum and the arrears.

Finally, the calculations produced by the Plaintiff for the purposes of the further hearing were produced at lower interest rates and, in the case of the Second Defendant, for a lesser period of time, than had been originally claimed. At the first hearing on 23rd June, 1993, I indicated to the Plaintiff that I would not be prepared to grant Summary Judgment at the rate of interest originally sought or, in the case of the Second Defendant, for the period originally sought.

However, the balance of the claim for interest against the Defendants remains outstanding and the effect of my Judgment dated

11th January, 1994, has been to grant the Defendants unconditional leave in relation to the balance of the claim.

No authorities.