

COURT OF APPEAL.

21st December, 1994. 250.

Before: The Bailiff, Single Judge

<u>Between:</u>	Mayo Associates S.A.	<u>First Plaintiff</u>
	Troy Associates Limited	<u>Second Plaintiff</u>
	T.T.S. International S.A.	<u>Third Plaintiff</u>
<u>And:</u>	Anagram (Bermuda) Ltd	<u>First Defendant</u>
	Robert Young	<u>Second Defendant</u>
	Maureen Young	<u>Third Defendant</u>
	Lionrock Ltd	<u>First Party Cited</u>
	Edgefield Properties Ltd	<u>Second Party Cited</u>
	Box Ltd	<u>Third Party Cited</u>
	Starshield, Ltd	<u>Fourth Party Cited</u>
	Cantrade Private Bank	
	Switzerland (C.I.) Ltd	<u>Fifth Party Cited</u>
	TSB Bank Channel Islands Ltd	<u>Sixth Party Cited</u>

Application by the Plaintiffs:

- (1) under Rule 15 of the Court of Appeal (Civil)(Jersey) Rules, 1964, for a stay of execution, pending determination of an appeal, of the Order of the Royal Court (Samedi Division) of 10th August, 1994, discharging injunctions in the Plaintiff's amended Order of Justice;
- (2) for directions as to the time period for prosecuting the appeal referred to in paragraph (1) above; and
- (3) for an order that the Plaintiffs be awarded the costs of and incidental to this application.

Advocate P.C. Sinel for the Plaintiffs.
Advocate D.F. Le Quesne for the Defendants.

JUDGMENT

THE BAILIFF: On 28th November, 1994, a very short time ago, the Court gave Judgment in respect of an application by the plaintiffs to cross-examine a number of the defendants on their affidavits, but particularly the affidavit of Dr. Young.

5 In that Judgment the Court noted that an the Order of Justice - which it is not necessary for me to set out in detail, and which was obtained from myself on 24th December, 1993 - contained a Mareva injunction and an Anton Piller order, as the Court said in its Judgment of 28th November *"in very wide terms"*.

10 Subsequently, on 10th August, this year, after 3 1/2 days' hearing, the Court lifted, in most of the instances, the Mareva injunction, but the Court also granted the plaintiffs leave to appeal against that decision.

15 On the 11th August, I sat as a Single Judge to hear an application for a stay of execution of the Court Order of 10th August, pending determination of an appeal. I adjourned the case until 18th August in order that the matter could be fully argued between counsel on 18th August and granted a stay until that date.

20 Nothing has happened since then until this morning, when I have been asked to continue that hearing of 11th August. I note, however, that in the Court's Judgment of 28th November, it was stated that it was not necessary to go into the reasons why nothing happened on 18th August, as *"by agreement we were told, the interim stay has continued"*. It appears to me that that agreement has now ceased because of the application this morning.

25 I understand that the Court of Appeal is sitting specially in February, 1995, to deal with the appeal because it is unable to do so in January at the Ordinary Sitting. At that time, it will also deal with an appeal by the Second Defendant against the order of 30 28th November, 1994, allowing cross-examination of him on his affidavit.

35 The long delay - which has not been satisfactorily explained to me by the defendants - in coming back to the Court of Appeal today to determine the stay application adjourned on 11th August, 1994, is a matter which I am entitled to take into account. I have had no affidavits submitted to me by Dr. Young nor indeed by any of the other defendants indicating that there has been great hardship or difficulties resulting from the imposition of the stay. There have been *ex parte* statements made by counsel for the 40 defendants that Dr. Young is now having to work in London, but I have nothing before me to suggest that he would be any more prejudiced by the stay continuing until the Court of Appeal can deal with the matter fully, which it is going to do, as I have said, in February. In my opinion this is not the same as looking 45 at a discretion exercised by a lower Court in a substantive matter; it is a discretion exercised in an interlocutory matter and I can find nothing in Rule 59/1/56 which deals with stays of execution in interlocutory matters - but that does not mean to say of course that those matters set out there and advanced by Mr. Le 50 Quesne are not to be taken into account.

Under the special circumstances of this case, I feel justified in saying, because of the delay when it might have been possible to deal with this matter much earlier, and because of the failure of the defendants to file an affidavit explaining the prejudice that is being caused them by the stay, I see no reason why it should not continue until the Court of Appeal sits and I so order. Costs will be in the appeal.

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Authorities.

Bean on Injunctions (3rd Ed'n): pp.77-79: para 7: Appeals:
Injunctions pending appeal.

Wilson-v-Church (No.2.). (1879) 12 Ch.D 1; 41 L.T. 50; on appeal
sub nom. National Bolivian Nav. Co.-v-Wilson (1880) 5 App
Cas. 176.

Erinford Properties Ltd.-v-Cheshire County Council. (1974) 1 Ch.
261 @ pp.267-8.

Sloan-v-Sloan. (1987-88) JLR 651 C.of.A.

LGL Administrators -v- Rahman & Ors. (17th September, 1993) Jersey
Unreported @ pp.3-4.

Seale Street Developments -v- Chapman (1992) JLR 243 C.of.A.

R.S.C. (1995 Ed'n): 59/1/56: pp.945-6.

Rahman -v- Chase Bank & Ors. (1984) JJ 127 @ p.134.

The Abidin Daver (1984) 1 All ER 470 @ p.482.