

COURT OF APPEAL 124

Hearing dates: 12th, 16th, 18th June, 1995 (Judgment reserved).
Reserved Judgment: 5th July, 1995.

Before: The Bailiff, Single Judge.

<u>Between:</u>	David Eves	<u>First Appellant</u>
<u>And:</u>	Helga Maria Eves (née Buchel)	<u>Second Appellant</u>
<u>And:</u>	Hambros Bank (Jersey) Limited	<u>First Respondent</u>
<u>And:</u>	The Attorneys in the Dégrèvement.	<u>Second Respondents</u>

Application by the First Appellant for leave to appeal against the Order of the Royal Court of 9th June, 1995, raising the injunction (staying the *dégrèvement*) contained in the Appellants' Order of Justice, dated 8th June, 1995, and for a stay of execution of the said Order pending determination of the appeal.

The First Appellant on his own behalf.
Advocate A.P. Roscouet for the First Respondent.
The Second Respondents did not appear and
were not represented.

JUDGMENT

THE BAILIFF: I am sitting as a single judge of the Court of Appeal to determine an application by Mr. David Eves for leave to appeal against a judgment of the Royal Court of the 9th June, 1995, setting aside an injunction granted by the Deputy Bailiff in Chambers on the 8th June, 1995. The injunction, obtained at the instance of Mr. Eves and Helga Maria Eves, his wife, restrained Hambros Bank (Jersey) Limited ("Hambros") and the attornies of David Eves ("the Attornies") from "proceeding with the *dégrèvement* proceedings". At the hearing before the Royal Court it was agreed that Mrs. Eves had no *locus standi* in the matter and the Court

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ordered that she should withdraw. No point was taken before me on that aspect of the Royal Court's order. The Court below discharged the injunction on two grounds. First it found that it was not "able to interfere with the previous Acts of the Royal Court and set aside or delay the effect of the various judgments which it regards as 'choses jugées'." Secondly it could find "no proper or valid reason to interfere with the conduct of the discumberment which the Bank seeks. Even if the Bank will gain a collateral advantage from proceeding with the discumberment it is one which it is entitled to pursue under the Law."

That last sentence calls for a few words of explanation. On 27th October, 1993, the Royal Court sat to consider the appeal of Mr. Eves, *inter alia*, against a summary judgment of the Judicial Greffier dated 15th December, 1992. The judgment condemned Mr. Eves, as guarantor of two companies beneficially owned by him, to pay Hambros the sum of £102,291.57. At the hearing the Royal Court adjourned Mr. Eves' appeal until such time as an action brought by him and his two companies against the Tourism Committee had been determined. At the same time execution of the judgment was stayed until such determination. Mr. Eves complained to the Royal Court that the practical effect of the discumberment would be to avoid the stay ordered on 27th October, 1993. That would be the effect because once Hambros was vested with ownership of the immovable property of Mr. Eves it would in fact be able to sell it and then to recoup the amount of the judgment on the guarantee. This was the "collateral advantage" which in the view of the Royal Court was Hambros' entitlement under the Law.

It is unnecessary for me to recapitulate the labyrinthine history of Mr. Eves' legal battle with Hambros. Suffice it to say that Hambros has obtained judgments which have been appealed as far as the Privy Council. Hambros is now proceeding to execution and the *dégrévement* and *réalisation* of Mr. Eves moveable and immoveable property have been ordered. It is that process which Mr. Eves seeks to arrest. Mr. Eves addressed me at length as to the different reasons why the decision of the Royal Court was wrong and I have listened very carefully to him. There is no doubt in my mind that Mr. Eves believes that he has been wronged and that it is unfair that he should now stand to lose the house in which he and his family have lived for many years. Serious allegations were made against Hambros and against the Tourism Committee. I was told that Mr. Eves has filed complaints both with the Attorney General and with the Crown Prosecution Service in England alleging criminal misconduct, although I was given no particulars of those complaints. I was told that Mr. Eves has appealed to the European Commission on Human Rights and that he had been advised that he had solid grounds for his complaint in that quarter. I was told that certain minutes of the Tourism Committee contained evidence of a conspiracy between that Committee and Hambros to put Mr. Eves out of business because "his face did not fit". I make no comment upon these submissions

except to say that I have seen no evidence to support any of the allegations and complaints.

5 But my duty as a single judge lies in a more narrow compass.
I have to decide whether there appears to be a ground upon which
Mr. Eves could argue that the Royal Court was wrong and should not
have raised the injunction. I can find no such ground. Indeed in
my judgment there are other grounds in law upon which the Royal
10 Court might equally have relied in arriving at its decision. The
undertaking in damages given by Mr. Eves is clearly worthless. An
interim injunction must support or be ancillary to some recognised
cause of action; it is not easy to see in these circumstances
what that cause of action might be. Hambros has obtained
15 judgments which Mr. Eves has appealed as far as possible. Hambros
is now entitled to proceed to execution. The application for
leave to appeal is therefore refused.

Mr. Eves also asked for a stay pending appeal. One of the
20 relevant tests was stated in re Dégrèvement and Remise de Biens of
Barker (1985/86) JLR 1 to be whether there were special
circumstances justifying the stay. There are, in my judgment, no
such special circumstances in this case. Indeed there appear to
me to be good reasons why a stay should not be granted. I earlier
25 described the history of this legal battle as "labyrinthine". The
first summary judgment which has given rise to the *dégrèvement* was
given against Mr. Eves as long ago as 23rd June, 1993. Since that
time there have been numerous appeals and related proceedings
culminating in the issuance of this order of justice on the 8th
30 June, 1995. If courts lend themselves too readily, perhaps out of
understandable sympathy for those who have fallen on hard times,
to delaying the due processes of law, the integrity of the
judicial system is undermined and ultimately public faith in the
ability of the courts to deliver justice will be weakened. Any
litigant is of course perfectly entitled to take any proper legal
35 point and to press his case vigorously to the highest tribunal.
But once final judgment has been given a creditor is entitled to
proceed to execution of his judgment. The application for a stay
is therefore refused.

Authorities

re *Dégrévement* and *Remise des Eiens* of Barker (1985/86) JLR 1.