

JERSEY / JUDGMENT

AG -v- Bedding [2015] JRC 220 (30 October 2015)

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JUDGMENT

THE BAILIFF: 1. The defendant is here to be sentenced on one charge of carrying out or permitting and causing to be carried out without permission, building work for which permission is required under the Building Bye-Laws (Jersey) Law 2007 . The work in question amounted to alteration of three flats and a cottage at Seaview, Commercial Buildings, in the Parish of St Helier and involved replacing floor joists, altering, repairing supporting dwarf walls; removing and rebuilding studwork partitions; rebuilding external walls including the construction of door openings and foundations; removing and replacing floorboards; removing internal doors; removing fire-resistant linings from internal walls and ceilings; reconfiguring the layout of rooms; renovating thermal elements by removing plaster from external; walls and adding a thermal layer to a roof structure, and providing or replacing internal and below-ground foul drainage systems. 2. The work was commenced, we are told by Advocate Kelleher, during 2014 during times when the defendant, who has forty years plus experience as a builder, found that he had gaps in his building work and he therefore had his employees carry out some of this work on this property which he had acquired in September 2013. 3. There is no question that the defendant knew that he needed Bye-Laws permission; he was given a warning in relation to work he had done for a customer some twelve months before he started this particular work, and there is no question, it seems to us, that when he made the Building Bye-Laws application which he did in February 2015, he must have realised that the Department would come round to look at what was being done or being proposed, and find out that he had already started the work; and when he said to the investigating officer he had been very foolish, and Advocate Kelleher said to us that he had been very foolish, we accept that he was indeed foolish. 4. The other side of that coin is that he did do the work properly and he did ultimately get his permission and he had put his application in. It is just that he had not done these things in the right order and there is an element here of this being a process issue rather than a substance issue because there is no question that the work was done properly. Now we have looked at previous fines which the Court has imposed and we think that the Crown's conclusions are too high in this particular case but we want to explain precisely what our thinking is. The gravamen of the offence of doing building work without obtaining Bye-Law approval is that the law is there to protect people; it is there for their safety and it is therefore an important piece of legislation and people who break the Law by

carrying out that work without getting the appropriate Bye-Law permissions can expect to be fined a substantial amount of money, even if they do the work properly and even if they have in fact put in the building application albeit it late. Of course the fines will go up considerably if the work is not done properly or if there is some other feature which makes their culpability more serious or more intense. In this case we think that there are many things that can be said for the defendant; he has no relevant previous convictions; he was immediately cooperative from the outset, as I say, we treat this as being a process matter rather than a substance matter, but it is important to impose a fine which sets an example as it were to the building trade which makes it plain that conducting building work without Bye-Law permission is a serious offence and will be treated seriously. 5. In the circumstances we are going to fine you in the sum of £4,000 and there will be 3 months' imprisonment in default and you have 2 weeks in which to pay. In addition there will be costs of £1,500 to the prosecution. Authorities Planning and Building (Jersey) Law 2002. Building Bye-Laws (Jersey) Law 2007. Page Last Updated: 18 Jan 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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