

JERSEY / JUDGMENT

AG v Bracken-Smith [2007]

JRC 192 (05 October 2007)

[2007] JRC 192

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JUDGMENT

THE BAILIFF: 1. This defendant has admitted infractions of the Housing (Jersey) Law 1949 (as amended) by failing to comply with a condition attached to a consent for the purchase of a property on Gorey Pier, requiring that the property should be let to a person, or persons qualified under regulations 11A-J. 2. The property was acquired in 1997 and occupied by the Defendant herself until 2003 when she vacated it. The defendant knew that the property should be occupied by qualified persons but assumed, we are told by Counsel, that the different persons to whom she had let parts of the property, or at least one of them, had such qualifications. We accept that the Defendant did not deliberately set out to break the Housing Law, nor did she intend to make an illicit profit from letting the property to unqualified persons at rentals higher than the market rate. The reality is, however, that she did receive more in rentals from those to whom she let the property, than she would have received had the property been let to a qualified person, as was required by the form of consent. There was what was described in AG v Muren and Peter

[2000] 166, as some illicit profit and we have taken that into account in the fines at which we have arrived. 3. Defence Counsel sought to persuade us that at certain points during the four years in these infractions took place there was a qualified person in the premises, even if the property had not been let to that person. We have no evidence before us that any occupier during this period was in fact qualified under the Housing Law and Regulations. Having said, and accepted, that there was no deliberate intention to break the law, we think that there was a high degree of carelessness, or negligence, on the part of the defendant in failing to ascertain precisely what her obligations were. She is a successful, professional person of previously impeccable character, which makes the offence all the more surprising. However the object of the legislation is clear. It is to preserve, so far as is possible in a crowded housing market, certain accommodation for those who are qualified under the Regulations to occupy it. We have to punish the defendant, not only for the offences that she has committed, but in order to make it clear to others that compliance with the Housing Law is important. 4. It will be evident, from the exchanges which have taken place with Counsel, that in our judgement the conclusions are much too low, but we have, nonetheless, been influenced by them. We think that the appropriate total fine is one of £25,000. 5. On charge 1 you will be fined £5,000, or 2 months'

imprisonment in default, and on each of Counts 2, 3, 4 and 5; £5,000, or 2 months' imprisonment, consecutive, in default. Making a total of £25,000 or in default 10 months' imprisonment. We order you to pay £2,000 towards the costs of the Prosecution. (Discussion on time to pay) 6. The defendant has 28 days to pay. Authorities Housing (Jersey) Law 1949 (as amended). AG v Muren and Peter

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