

JERSEY / JUDGMENT

AG v Troalic [2000] JRC 33A (23 February 2000)

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JUDGMENT

THE BAILIFF: The defendant has admitted a number of infractions of the Housing Law arising out of the letting of rooms at 'Isabella House' in Farley's Lane, which the defendant has on lease from Farley Properties Limited. There is a condition attached to the occupation of the private dwelling accommodation which is in standard form and which prohibits occupation by persons not qualified under Regulation 1(1)(a) to

- (h) of the Housing (General Provisions) (Jersey) Regulations 1970 without the consent of the Committee. Notwithstanding that condition the defendant permitted its occupation by unqualified persons over a period of some 16 months. She also failed to notify the Department of two transactions with qualified tenants. As a result the defendant has made an illicit profit - that is to say the difference between the rent paid to the company by her and the rent which she received from the lodgers and tenants. Mr. Benest for the defendant submitted in mitigation that his client's husband had telephoned an official in the Housing Department in March, 1995, and had been advised that it was in order to accommodate unqualified persons as lodgers provided that there was one qualified person present at the same time. The Crown states that this advice was not and indeed would not have been given. After hearing submissions the Court decided that it would not order a 'Newton' hearing. It is right therefore to state that we have proceeded upon the basis that that telephone call was made and that the defendant's husband understood that advice to have been given. In the circumstances of this case, we do not, however, find this submission to be compelling mitigation. At one time the defendant's husband was employed in the Housing Department and in our judgment it is surprising that he relied upon a telephone conversation with an unidentified official without ever committing his understanding of the position to writing in a letter to the Department or, indeed, seeking legal advice. However, in any event, it was the duty of the defendant, Mrs. Troalic, to satisfy herself as to what her obligations were and not to rely upon the telephone conversation which has been described. That, it seems, she completely failed to do. We accept that the failure was not wilful but it was nonetheless grossly negligent. As a result of that grossly negligent omission the defendant has made an illicit profit which ought to be removed irrespective of any penalty for a breach of the law. We wish to reiterate what has been said in this Court on numerous previous occasions and

that is that it is the duty of those who buy or take on lease property in this Island to ascertain what their obligations are under the Housing Law and Regulations. We think that the conclusions as to totality are correct and we propose to grant the conclusions subject only to modification of the amount in relation to each charge. Mrs. Troalic, will you stand up, please. On count 1, you are fined the sum of £2,700 or 2 months' imprisonment in default of payment; on count 2, you are fined the sum of £2,700 or 2 months' imprisonment in default of payment, consecutive; on count 3, you are fined the sum of £2,700 or 2 months' imprisonment, consecutive; on count 4, you are fined £200 or 1 week's imprisonment, consecutive; on count 5, you are fined the sum of £200 or 1 week's imprisonment, consecutive, making a total fine of £8,500, or 6 months and 2 weeks' imprisonment in default of payment. Having regard to the submissions made by your counsel I propose to modify the conclusions in relation to costs and you will pay the costs of the prosecution not exceeding £1,500. You are granted two months in which to pay. Authorities AG -v- Perkins (3 rd October, 1997) Jersey Unreported. AG -v- Prizada (9 th October, 1998) Jersey Unreported. AG -v- Boustouler (5 th March, 1993) Jersey Unreported. AG -v- Phillips (4 th May, 1990) Jersey Unreported. AG -v- Amy (14 th June, 1988) Jersey Unreported. AG -v- de Carteret (27 th March, 1984) Jersey Unreported. AG -v- FR Roberts & Son (Holdings) Ltd (3 rd March, 1988) Jersey Unreported. Page Last Updated: 19 Aug 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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