

JERSEY / JUDGMENT

Parujan v Atlantic Western Trustees

[2002] JRC 213A (04 November 2002)

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judgment

the bailiff: 1. On the 19 th August, 2002, the Court gave directions, in relation to the filing of evidence, with a view to bringing this representation on for hearing. Under paragraph 6(4) of those directions, an affidavit was to be filed by the Trustee, in relation to Mr. Ellis' report or any other matter relevant to the determination of paragraphs 3, 4 and 5 of the representation as it saw fit, on or before 30 th September, 2002. 2. In fact the two affidavits were not filed until the 31 st October, 2002. Advocate Le Quesne has apologised for this failure to comply with the Court's order, and, without objection from Advocate Taylor, I accept that a misunderstanding took place. It is now agreed, and I direct, that the affidavit or affidavits, referred to in paragraph 6(5) of the earlier directions, will be filed on or before the 18 th November. The affidavits in reply referred to in paragraph 6(6) of the earlier directions, will be filed by close of business on nd November. 3. Counsel for both parties are agreed on further directions as follows: (i) All evidence-in-chief will be given by affidavit, except that Mr Ellis will confirm the contents of his report on oath before being cross-examined. No witnesses, other than the deponents of affidavits, and save for Mr Ellis, will be heard. (ii) All witnesses who are to give evidence-in-chief by affidavit will attend the trial for cross-examination. No affidavits will be admitted unless the deponent attends court for cross-examination. (iii) Mr Ellis will be cross-examined by counsel for the Representor and subsequently by counsel for the Trustee. (iv) Not later than the 26 th November, 2002, counsel for the Trustee will supply to counsel for the Representor copies of the affidavits and authorities upon which it will rely. Not later than 28 th November, 2002, the Representor will file with the Court and with the Trustee bundles containing the affidavits, documentary material and authorities to be placed before the Court. (v) On the same day, 28 th November, counsel for the Representor will file with the Court, and with the Trustee, a copy of his skeleton argument. The Trustee's skeleton argument will be filed with the Court and with the Representor by 3 rd December. Any supplemental skeleton argument to be filed on behalf of the Representor will be filed with the Court and with the Trustee by 6 th December. Counsel for the Representor will supply Mr Ellis with the bundle of affidavits at the same time as these documents are filed with the Court. 4. As to the question of time limits I have listened carefully to the submissions of Advocate Le Quesne for the Trustee. These are Article 47 proceedings where the Court has a wide discretion as to how to resolve issues before the Court. In general I accept Advocate Le Quesne's

submission that unpleaded

issues

should not be raised. If there is doubt as to whether a matter raised in an affidavit is relevant to issues before the Court it is open to counsel to seek a ruling before the matter is subjected to cross-examination. 5. It remains the view of the Court, however, that the issues raised by the representation are capable of being resolved in two days, and that it is in the interests of justice that they should be. To that end I give the following directions on time limits: (i) Mr Ellis will be cross-examined by counsel for the Representor for not more than 10 minutes. He will then be subject to cross-examination by counsel for the Trustee for not more than 140 minutes, that is 2 hours and 20 minutes. (ii) Mr Karpadia who is the only witness to be called for the Representor will be subject to cross-examination by counsel for the Trustee for not more than 90 minutes. Re-examination by counsel for the Representor will last not more than 15 minutes. (iii) Mr Evered and Mr Medlock who are to be witnesses for the Trustee will each be subject to cross-examination for 40 minutes and to re-examination for not more than 10 minutes. I envisage that one of those witnesses will give evidence on the afternoon of Thursday 12 th December, and that the other will give evidence on the morning of Friday 13 th December. If Mrs Evered is called as a witness she will be subject to cross-examination for not more than 20 minutes, and to re-examination for not more than 10 minutes. (iv) Counsel for the Representor will then have a maximum of 1hour 30 minutes to make his closing submissions, both as to the law and as to the facts. Counsel for the Trustee will have 1 hour and 45 minutes to reply. Counsel for the Representor will then have 15 minutes to respond. 6. Those are my directions. No Authorities.

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