

Ward
file

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 195/2004

BETWEEN:

605-04

- 1. KHT CAPITAL LTD.
 - 2. KHT CAPITAL MANAGEMENT LTD.
- Applicants/Plaintiffs

AND:

CAYMAN ISLANDS MONETARY AUTHORITY
Respondent/Defendant

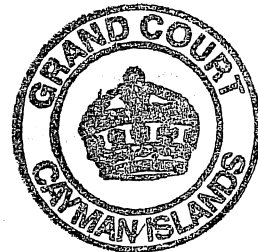
BEFORE: THE HON. MADAME JUSTICE P. LEVERS

APPEARANCES:

Counsel for the Plaintiffs: Mr. Jeremy Walton of Appleby Spurling Hunter
Counsel for the Defendant: Mr. Eliot Simpson of Ogier & Boxalls,
Cayman Islands Monetary Authority: Ms. Wendy Straker and Mr. Robert James-Berry

Heard: 4th May, 2004

RULING



Livers J,

Leave for Judicial Review having been granted by Henderson J. I am now being asked to deal with the question of the stay.

Cayman Islands Monetary Authority (CIMA) argues that I do not have the jurisdiction under Order 53, rule 3 (10) and Counsel for CIMA Mr. Simpson relies heavily on the case of the *Minister of Foreign Affairs Trade and Industry v Vehicles and Supplies Ltd. and another* [1991] 4 All ER 65, in support of his submission that a stay cannot be granted in judicial review proceedings. I have carefully read the Judgment and it is agreed by both parties that Lord Oliver's statements were obiter on this aspect of the matter. It is in divergence with many

other authorities including *R v (1) Secretary of State for Health (2) Norgine Ltd. EX P. Scotia Pharmaceuticals International Ltd. (No.1)* [1997] EuLR 625 and *Regina (H) v Ashworth Special Hospital Authority* 1 WLR [2003] 127. I am persuaded by the latter authorities and am of the view that the Court has power to grant a stay in judicial review proceedings.

To my mind it would be very unsatisfactory not to preserve the status quo. The prejudice to the applicant is great in this matter if a stay is not granted. As the matter has not been fully completed and Mr. Cleaver's task has not been carried into effect, I order a stay pending the hearing of the Judicial Review proceedings or further order of the Court.

Costs to the Applicant to be agreed or taxed.

Dated this 6th day of May, 2004



Judge of the Grand Court

