

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 296/94

IN THE MATTER OF A MEMORANDUM OF AGREEMENT DATED 20TH JULY, 1976  
(KNOWN AS THE CONTINENTAL FOUNDATION)

AND IN THE MATTER OF A MEMORANDUM OF AGREEMENT DATED 7TH OCTOBER, 1982  
(KNOWN AS THE AALL FOUNDATION)

AND IN THE MATTER OF THE TRUST LAW (REVISED)

BETWEEN:

BRIDGE TRUST CO. LTD  
ROBERT N. SLATTER

PLAINTIFFS

AND:

THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS  
EVEN WAHR-HANSEN  
COMPASS TRUST CO. LTD

DEFENDANTS

For the plaintiffs: Mr. Angus Foster  
For the 1st defendant: Mr. William Helfrecht  
For the 2nd defendant: Mr. Graham Ritchie  
For the 3rd defendant: Mr. Nigel Clifford  
For certain defendants in English proceeding: Mr. Steven Barrie

HARRE CJ.

JUDGMENT

I accept that the second defendant's application for a vacation of the trial date set for 24th July not a revisiting of his application for a stay of proceedings pending appeal which I rejected for the reasons set out in my ruling dated 11th April. The whole matter falls to be determined on the basis of what is known today.



In refusing a stay of the Cayman proceedings I was concerned not to bring to halt the preparation for the hearing of the preliminary issues referred to in the order which I made on 11th April. Those preparations have proceeded with expedition. All four leading counsel from London are available for a hearing which could begin on 24th July. I am told that if this date is vacated it is unlikely that that situation can be repeated before the end of the year. On the other hand, if it is retained, it is inevitable that the hearing of the preliminary issues will take place before the appeal against my decision that the Cayman Islands rather than London are the appropriate forum for the hearing of these and the other issues in the case.

In my ruling on 11th April on the application for a stay pending appeal I said this in relation to the second defendant, Mr. Wahr Hansen -

"His strongest point, however, in my judgment is his submission that if the preliminary issues are determined here while the forum question is still at large it would raise difficulties for the English Court. In practical terms that seems to me to be an unlikely sequence of events and not one which would justify my making an order which would have the effect of bringing the preparations for the hearing of the preliminary issues to a halt. Indeed, if an element of forensic stage management is brought into play, that consequence can be avoided as the respective actions unfold."

I accept that the submissions made yesterday on behalf of the second defendant are consistent with that approach. But I am now told - and no submission to the contrary was made - that the hearing of the forum issue in the English proceedings is at least 18 months away. It can be confidently expected that the appeal which is the subject of the second defendant's Notice of Appeal dated 8th May will be dealt with before that. The Notice seeks to have the whole of my order of 11th April discharged both on the broad forum ground and in relation to the

trial of the two preliminary issues. I need to ask what real prejudice is suffered by the second defendant if the preliminary issues are heard before the appeal comes on. If the Court of Appeal decides that the preliminary issues should not have been heard they will surely say so and be able to deal effectively with the consequences. If I am right about that the appeal will not be rendered nugatory even in relation to that issue, let alone the wider forum question.

On the other hand, the objective of the trustees is to get a speedy resolution of their position. They are entitled to the assistance of the Cayman Court in having that to the extent possible, as early as possible. And there is a public policy aspect of concern to the Attorney General in relation to charity which supports that. There is considerable prejudice in abandoning the opportunity presented by the availability of court and counsel on 24th July. The date should stand and I make an order in terms of paragraph 7 of the plaintiff's summons for directions.

It follows from that that the periods for the exchange of affidavits evidence by the plaintiff's and the first, second and third defendants set out in paragraphs 1, 2 and 3 of the plaintiff's summons dated 5th May should stand.

The second defendant has served a notice of alternative directions which he seeks. He objects to the sequence in which it is proposed in the plaintiff's summons for directions that affidavits be served. The objection taken was that the first and third defendant would have the right to reply to the evidence of the second defendant and that they should not have preferential treatment simply because they support the plaintiff. But it is a fact that on the issues before the court the plaintiffs and the first and third defendants take positions which are opposed to that of the second defendant. The sequence proposed by the plaintiff best addresses the substance of the issues and the order is in terms of paragraphs 1,2, and 3 of the plaintiffs' summons subject to the amendments proposed in a letter dated 10th May from Messrs.

C.S. Gill & Co., acting on behalf of certain parties and the addition

of a new paragraph 4 as also then proposed.

In what seems to me to be the unlikely event of prejudice to the 2nd defendant arising from this it would be open to the court to give leave for further evidence to be received.

With regard to cross-examination on affidavits my view is that it is unnecessary for the parties to come back for further leave and the order should be in terms of paragraph 6 of the plaintiffs' summons, with orders by consent in terms of paragraphs 4,5, and 8.

Costs in the cause.

12th May 1995



A handwritten signature in black ink, appearing to read "G.E. Harre".

G.E. Harre  
Chief Justice