

IN THE COURT OF APPEAL FOR THE CAYMAN ISLANDS

MISCELLANEOUS APPEAL NO. 1/84

BEFORE: The Hon. Mr. Justice Zacca, President
The Hon. Mr. Justice Kerr, J.A.
The Hon. Mr. Justice Ross, J.A.

The Cayman Free Press Ltd.) The Attorney General
Brian Uzzell) v. for the Cayman
Bob Berggren) Islands

Mr. R. Alberga for the Appellants

Mr. Richard Ground for the Attorney General

22nd June, 1984

ZACCA, P.:

The court has considered the submissions which have been made on behalf of the Appellants and the Respondent. While it is quite correct that the Acting Chief Justice ought to have taken into account the fact that this may have been a serious contempt of court having regard to the publications, it is quite clear that in considering the question of what fine ought to have been imposed the Learned Acting Chief Justice ought also to have taken into account the circumstances of the case, that is, not only as to the publication but as to the apology which was immediately tendered. The fact that the editor came before the court and publicly apologised and also inserted an apology in the daily paper and having regard to all the other circumstances of this case, we are of the view that the Learned Acting Chief Justice did not seem to have taken into account the particular circumstances of this case in arriving at the quantum of fine which ought to be imposed.

We are of the view that the appeal of the first Appellant ought to be allowed and the fine will be vacated. The fine is varied to one of two thousand dollars.

So far as the appeals of the second and third Appellants are concerned these will be dismissed.

We make an order that there should be no order as to costs of the appeal or as to costs in the court below.

MR. ALBERGA:

So, M'Lord, the total fines are six thousand dollars.

ZACCA, P.:

Yes.