

QUEEN'S BENCH DIVISION

B E T W E E N:

MICHAEL VENCATASSEN

Plaintiff

-and-

THE ATTORNEY GENERAL

Defendant

D E F E N C E

1. Paragraph 1 of the Statement of Claim is not admitted.
2. It is admitted that at all material times prior to the 8th November 1965 the island of Diego Garcia was a part of the British Colony of Mauritius. At all such times the ownership of the land constituting the ~~said~~ island was vested in Chagos Agalega Limited.
3. Paragraph 3 of the Statement of Claim is admitted. The Defendant will refer to the said Order, which provided for there to be a Commissioner for the British Indian Ocean Territory, for its full terms and effect.
4. On the 3rd day of April 1967, the then Commissioner of the said Territory on behalf of the Crown in the right of the said Territory acquired, inter alia, the said land, from the said Chagos Agalega Limited.
5. By an agreement made on the 15th April 1967 between the Crown in the right of the said Territory and the said Chagos Agalega Limited, the Crown let to the said Chagos Agalega Limited, inter alia, the said land, with all buildings, constructions and appurtenances thereto belonging, except all the site then used as a Meteorological Station from the 4th day of April 1967 for an unspecified period which should terminate at the end of six calendar months from the date of a written notice of termination from either party to the Lease.

6. Save that Mauritius became an independent sovereign state by virtue of the provisions of the Mauritius Independence Act, 1968 and not by virtue of the provisions of the Mauritius Independence Order, 1968, Paragraph 4 of the Statement of Claim is admitted.

7. No admissions are made as to Paragraph 5 of the Statement of Claim. If the Plaintiff was born as alleged in the Statement of Claim, he would have become a British Subject by birth.

Thereafter by virtue of the provisions of the British Nationality Act, 1948 he would have become a citizen of the United Kingdom and Colonies. On the 12th March 1968 he would also have become a citizen of Mauritius by virtue of the provisions of the Constitution of that country as contained in the Mauritius Independence Order, 1968.

8. After the termination of the said Lease, the Crown in the right of the British Indian Ocean Territory by the then Commissioner, agreed with Moulinie and Company (Seychelles) Limited that that company would manage on behalf of the Crown in the right of the British Indian Ocean Territory, inter alia, the Island of Diego Garcia and run the same as a coconut plantation in accordance with the terms of an un-executed agreement in writing and thereafter the said island was so managed.

9. In April 1971 work on the coconut plantation ceased and the employees of the said company were transferred by Moulinie and Company (Seychelles) Limited, at the employee's choice, either to the Islands of Peros Banhas or Solomon or to Mauritius and two ships the Nordvaer and the Isle of Farquhar were used for this purpose. The first named ship was the property of the British Indian Ocean Territory. Subsequently in 1973 employees who had been transferred to the Island of Peros Banhas and the Island of Solomon were transferred by the said Moulinie and Company (Seychelles) Limited

to Mauritius on the said Nordvaer. Such transfers took place with the consent of such employees.

10. If it is being alleged by the Plaintiff that he was transferred as aforesaid, then the Defendant would not be under any liability in respect of such a transfer.

11. If, which is not admitted, the Plaintiff resided at the said Diego Garcia, then he did so as an employee with the leave or licence of respectively the owners, the Lessees and Managers of the said Island. Without such leave or licence the Plaintiff had no right to enter upon or reside on the Island of Diego Garcia.

12. Paragraph 7 of the Statement of Claim is denied. If, which is denied, any of the acts referred to in that Paragraph took place, then they were not done by any servant or agent or with the authority of the Secretary of State for Defence or the Secretary of State for Foreign and Commonwealth Affairs.

13. Paragraph 8 of the Statement of Claim is denied. C O

14. The British Indian Ocean Territory Ordnance No. 1 of 1971 provided that no person should enter that Territory or, being in that territory, should be present or remain in that territory, unless he was in possession of a permit or his name was endorsed on the permit in accordance with the provisions of Section 5 and Section 7 of that Ordnance. The Plaintiff has no such permit.

5. The said Ordinance further provides:-

(i) An Immigration Officer, acting in his entire discretion, may issue or renew a permit.

A person aggrieved by any decision of an Immigration Officer may appeal to the Commissioner whose decision should be final and conclusive and should not be questioned in any Court.

It should be unlawful for any person to enter the Territory or to be present or remain in the Territory in contravention

of the provisions of Section 4 of that Ordinance.

The Commissioner might make an order directing that any person whose presence within the said Territory was, under the provisions of the said Ordinance, unlawful should be removed from and remain out of that Territory, either indefinitely or for a period to be specified in the order.

16. The Plaintiff has not applied for the issue of such a permit; alternatively if he has applied for the issue of a permit the same has not been granted and he has failed to appeal against the decision not to grant such a permit.

17. Paragraph 9 of the Statement of Claim is denied. By letter dated the 1st December 1971 Lieutenant Commander Canter, Royal Navy, was appointed by the said Commissioner to the office of Justice of the Peace, Civil Status Officer of Diego Garcia, Immigration Officer, and Postal Agent, Diego Garcia. In order to take up that appointment, the said Lieutenant Commander Canter arrived at Diego Garcia for the first time on the 18th November 1971. At that time the Plaintiff was no longer on the island of Diego Garcia.

18. If, which is denied, the Crown is under any liability to the Plaintiff, then that liability arises otherwise than in respect of Her Majesty's Government in the United Kingdom and the Plaintiff is not entitled to bring proceedings against the Crown or the Defendant, such proceedings not being authorised by the Crown Proceedings Act, 1947 being excluded by virtue of Sections 2(6) and 40(2) (b) thereof.

19. Paragraphs 10 and 11 of the Statement of Claim are denied and save where express admissions are contained herein, each and every allegation set out in the Statement of Claim is denied as if the same were repeated herein and traversed seriatim.

HARRY WOOLF

SERVED this 19th day of August 1975 by Treasury
Solicitor of Matthew Parker Street, London SW1H 9NN, Solicitor for
the Plaintiff

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

MICHAEL VENCATASSEN

-and-

THE ATTORNEY GENERAL

D E F E N C E

TREASURY SOLICITOR
Matthew Parker Street
LONDON SW1H 9NN

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N:

MICHAEL VENCATASSEN

Plaintiff

-and-

THE ATTORNEY GENERAL

Defendant

REQUEST FOR FURTHER AND BETTER
PARTICULARS OF DEFENCE

Under paragraph 2

Of "the ownership of the land..... was vested in Chagos Agalega Limited" stating whether any agreement is relied upon in support of such allegation and if so identifying and producing such agreement;

Under paragraph 4

(i) Of "the then commissioner" identifying the commissioner referred to;

(ii) Of "in the right of the said territory" stating what is meant by such phrase and specifying the facts and matters relied upon in support of such allegation;

(iii) Of "acquired" identifying and producing any agreement relied upon.

Under paragraph 5

(i) Of "an agreement made on the 15th April 1967" producing such agreement;

Under paragraph 7

Of "by virtue of the provisions of the constitution of that country" specifying the provisions referred to;

Under paragraph 8

(i) Of "the termination of the said lease" stating whether

such termination was made orally or in writing; if orally stating the date and place at which the lease was terminated and identifying the person or persons who terminated it; if in writing identifying and producing the documents relied on;

(ii) Of "the then commissioner" identifying the person referred to, and specifying the date and manner in which he was appointed;

(iii) Of "agreed with Moulinie and Company (Seychelles) Limited" stating whether such agreement was made orally or in writing; if orally stating the date and place of such agreement and identifying the terms thereof and the person or persons who entered into it on behalf of Moulinie and Company (Seychelles) Limited; if in writing identifying and producing the same;

(iv) Of "an unexecuted agreement" identifying and producing the same;

(v) Of "thereafter" specifying the period of time referred to.

Under paragraph 9

(i) Of "the employees of the said company" identifying each and every employee referred to;

(ii) Of "were transferred by Moulinie and Company (Seychelles) Limited" stating the date and method of transfer of each such employee;

(iii) Of "at the employees choice" stating in the case of each such employee whether the choice was made orally or in writing;

(iv) Of "the Isle of Farquhar" identifying the owner of such ship;

(v) Of "the property of the British Indian Ocean Territory" stating when the ship Nordvaer became the property of the British Indian Ocean Territory and identifying the person or persons who transferred it to the British Indian Ocean Territory and specifying the consideration therefor;

(vi) Of "subsequently in 1973 employees" identifying the employees referred to;

(vii) Of "such transfers" specifying the transfers referred to;

(viii) Of "with the consent of such employees" stating in the case

of each such employee whether such consent was oral or in writing;

(ix) stating whether it is intended to allege or imply by such paragraph that the Plaintiff consented to his transfer to Mauritius and if it is so intended stating whether such consent was made orally or in writing; if it was made orally identifying the time date and place of such consent and giving the gist of the words used; if in writing identifying and producing each and every document relied on.

Under paragraph 10

Of "the Defendant would not be under any liability in respect of such a transfer" stating the facts and matters relied upon in support of such allegation, or the nature of the Defendant's case.

Under paragraph 11

(i) Of "as an employee" stating the parties and terms of each and every contract of employment relied upon and in respect of each such contract specifying the date upon which it was entered into and the date upon which and the manner in which it is alleged it was terminated; further stating in the case of each such contract whether it was made orally or in writing; if orally specifying the time and place at which it was entered into and identifying the person or persons acting for the employer; if in writing identifying and producing each and every document relied on;

(ii) Of "the owners" identifying each and every owner referred to;

(iii) Of "the lessees" specifying each and every lessee referred to;

(iv) Of "managers" specifying each and every manager referred to;

(v) In the case of each and every owner lessee and manager stating the date or dates upon which he gave the Plaintiff leave or licence to reside on Diego Garcia.

GERALD LEVY

SERVED this 24th day of February 1976 by Messrs. Bernard Sheridan & Co. of 14 Red Lion Square, London WC1R 4QL the Plaintiff's solicitors.

1975 - V - No. 2425

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N :-

MICHAEL VENCATASSEN

Plaintiff

- and -

H M ATTORNEY GENERAL

Defendant

FURTHER AND BETTER PARTICULARS OF DEFENCE
SUPPLIED PURSUANT TO THE ORDER OF MASTER
ELTON DATED 14 APRIL 1976

Under Paragraph 2

"Of 'the ownership of the land ... was vested in Chagos-Agalega Limited' stating whether any agreement is relied upon in support of such allegation and if so identifying and producing such agreement."

The Defendant will not rely upon any agreement without giving the Plaintiff due notice thereof.

Under Paragraph 4

"(i) Of "the then commissioner" identifying the commissioner referred to:

(ii) Of "in the right of the said territory" stating what is meant by such phrase and specifying the facts and matters relied upon in support of such allegation;

(iii) Of "acquired" identifying and producing any agreement relied upon"

(i) The Commissioner for the Territory on the 3rd day of April 1967 was His Excellency Sir Hugh Selby Norman-Walker, K.C.M.G., O.B.E;

(ii) The island of Diego Garcia then formed and still forms part of the British Indian Ocean Territory pursuant to the British Indian Ocean Territory Order 1965, particularly Articles 2 and 3 of and Schedule 2 to, that Order, and the phrase "in the right of the said Territory" is used with respect to the Crown of the British Indian Ocean Territory to distinguish the Crown in the right of that Territory from the Crown in the right of the United Kingdom.

(iii) The Defendant will rely upon the Instrument of Acquisition dated the 3rd April 1967 as set out in the certified extract from the Register of Transcriptions Volume No.2 dated the 4th April 1967.

Under Paragraph 5

"(i) Of "an agreement made on the 15th April 1967" producing such agreement"

A copy of the said agreement is attached hereto marked "A"

Under Paragraph 7

"Of 'by virtue of the provisions of the constitution of that country' specifying the provisions referred to:"

The Mauritius Independence Order 1968 and in particular section 20(1) and (4) of the Constitution of Mauritius as set out in the Schedule to that Order.

Under Paragraph 8

"(i) Of "the termination of the said lease" stating whether such termination was made orally or in writing; if orally stating the date and place at which the lease was terminated and identifying the person or persons who terminated it; if in writing identifying and producing the documents relied on;

(ii) Of "the then commissioner" identifying the person referred to, and specifying the date and manner in which he was appointed;

(iii) Of "agreed with Moulinie and Company (Seychelles) Limited" stating whether such an agreement was made orally or in writing; if orally stating the date and place of such agreement and identifying the terms thereof and the person or persons who entered into it on behalf of Moulinie and Company (Seychelles) Limited; if in writing identifying and producing the same;

(iv) Of "an unexecuted agreement" identifying and producing the same;

(v) Of "thereafter" specifying the period of time referred to;"

- (i) The said Lease was terminated by letter in writing dated 29 June 1967 from Chagos-Agalega Limited to the Commissioner, British Indian Ocean Territory;
- (ii) His Excellency Sir Hugh Selby Norman-Walker K.C.M.G., O.B.E., who was given a Royal Commission on the 13th February 1967;
- (iii) and (iv) the agreement referred to in the phrase "agreed with Moulinie and Company (Seychelles) Limited" was an unexecuted agreement in writing, a copy whereof is attached hereto marked "B".
- (v) the period "thereafter" referred to is the period ending about April 1971.

Under Paragraph 9

- "(iv) Of "the Isle of Farquhar" identifying the owner of such ship;
- (v) Of "the property of the British Indian Ocean Territory" stating when the ship Nordvaer became the property of the British Indian Ocean Territory and identifying the person or persons who transferred it to the British Indian Ocean Territory and specifying the consideration therefor;
- (ix) stating whether it is intended to allege or imply by such paragraph that the Plaintiff consented to his transfer to Mauritius and if it is so intended stating whether such consent was made orally or in writing; if it was made orally identifying the time date and place of such consent and giving the gist of the words used; if in writing identifying and producing each and every document relied upon.

(iv) The owner is and was at all material times Paul Moulinie;

(v) The particulars referred to are being obtained and will be delivered hereafter;

(ix) It is intended to allege that the Plaintiff consented. In so far as the consent was oral it was made just before departure at Diego Garcia to Paul and Marcel Moulinie at a meeting with their employees. The gist of the words used was that he agreed to leave. In so far as the consent was by conduct it was evidenced by the Plaintiff embarking in a ship for that purpose without objection.

Under Paragraph 10

"Of 'the Defendant would not be under any liability in respect of such a transfer' stating the facts and matters relied upon in support of such allegation, or the nature of the Defendant's case."

The Defendant relies upon the matters already pleaded in the Defence and the fact that the Plaintiff consented as aforesaid, and the transfer was not carried out by anyone for whose acts or omissions the Crown in the Right of the United Kingdom or otherwise is responsible.

"(i) Of "as an employee" stating the parties and terms of each and every contract of employment relied upon and in respect of each such contract specifying the date upon which it was entered into and the date upon which and the manner in which it is alleged it was terminated; further stating in the case of each such contract whether it was made orally or in writing; if orally specifying the time and place at which it was entered into and identifying the person or persons acting for the employer; if in writing identifying and producing each and every document relied on;

(ii) of "the owners" identifying each and every owner referred to;

(iii) Of "the lessees" specifying each and every lessee referred to;

(iv) Of "managers" specifying each and every manager referred to;

(v) in the case of each and every owner lessee and manager stating the date or dates upon which he gave the Plaintiff leave or license to reside on Diego Garcia.

(i) and (v) The Defendant cannot comply with these requests until after discovery;

(ii) By the "Owners" the Defendant means Chagos-Agalega Limited;

(iii) By the "Lessees" is meant Chagos-Agalega Ltd.;

(iv) By the "Managers" is meant Moulinie and Company
(Seychelles) Ltd.

Harry Woolf

Served by the Treasury Solicitor on behalf of
H M Attorney General on Messrs Bernard Sheridan
and Company, Solicitors for the Plaintiff
this 3rd day of August 1976

*Moulinie
Solicitor*

"A"

EXTRACT FROM REGISTER OF TRANSCRIPTIONS volume P.B.1 No. 2..

18th April, 1967

Agreement made this fifteenth day of April one thousand nine hundred and sixty-seven Between The Crown, hereinafter referred to as "the Lessor", duly represented by His Excellency the Right Honourable the Earl of Selborne and Asquith, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Commissioner for the British Indian Ocean Territory. And Chagos Agalega Limited, hereinafter referred to as "the Lessee", a societe anonyme incorporated in Seychelles, having its registered office at Victoria, Mahe, Seychelles and duly represented by its Board of Directors.

Hereby Witnesseth That the Lessor doth lease unto the Lessee, which accepts the same, the islands of the British Indian Ocean Territory listed in the Schedule hereto hereinafter referred to as "the islands", with all buildings, constructions and appurtenances thereto belonging; excepting the sites at present used as a meteorological station on Diego Garcia, together with all buildings, installations and apparatus used in connection therewith, which are hereby expressly excluded from this lease. To have and to hold from the fourth day of April one thousand nine hundred and sixty-seven for an unspecified period which shall terminate and the end of six calendar months from the date of a written notice of termination from either party to this lease delivered or sent by post to the other party. Yielding therefor rent at the rate of eighty per centum of the net income before taxation derived from the islands after the thirtieth day of April one thousand nine hundred and sixty-seven payable on the thirty-first day of December one

thousand nine hundred and sixty-seven and thereafter on the thirty-first day of December of every year provided that the final payment of rent will fall due on the date of termination of this lease. The rent shall be paid at the Mortgage and Registration Office, Victoria, Seychelles or at such other office as the Administrator for the British Indian Ocean Territory may from time to time appoint. The Lessor covenants with the Lessee for the quiet enjoyment of the premises hereby demised during the term of this lease subject to the conditions hereunder, the Lessee covenanting and agreeing as follows, that is to say:- Article 1. That the Lessee shall not assign or sublet the whole or any part of its interest under this lease without the express permission in writing of the Lessor. Article 2. That, except with the express permission in writing of the Lessor, the Lessee shall not fell, or permit to be felled or otherwise injure any tree, timber or brushwood on the islands or clear any part thereof by fire. Such express permission is hereby given to the Lessee for the felling of the islands in accordance with Article 5 of this lease and in so far as may be required to carry out maintenance or repair work on the islands. Article 3. That the Lessee shall not take any stone or coral or make lime on the islands except as may be required by it to carry out maintenance or repair work on the islands. Article 4. That, except with the express permission in writing of the Lessor, the Lessee shall not erect any new permanent building or construction or make into any new development. Article 5. That the Lessee shall during the currency of this lease occupy and cultivate the islands beneficially to the satisfaction of the Lessor in accordance with the principles of good husbandry, having regard to the conditions of the lease and except with the express permission in writing of

the Lessor the Lessee shall not engage into any activities on the islands which were not engaged into before the islands became vested in the Crown. Article 6 That the Lessee shall maintain all existing buildings, constructions and paths in good condition. Article 7 That the Lessor through duly authorised agents may enter and view the state of the island's and of any building or construction thereon at any time. Article 8 That the Lessee shall provide (weather permitting and at times agreeable to the Lessee) free return passages from Lahe twice a year for one representative of the Lessor on any ship charter'd or owned by the Lessee. Article 9 That the Lessee shall grant to those persons employed at the meteorological station on Diego Gracia a right of access to such station. Article 10 That the Lessee shall, every time when rent falls to be paid under this lease, produce to the Lessor certified true accounts to enable the rent payable to be assessed. Such accounts shall be verified by an affidavit of a duly authorised agent of the Lessor. Article 11 That in case the rent payable by the Lessee shall at any time become more than two calendar months and shall not be paid within one week after the same shall have been due by a notice to that effect given to the Lessor by an usher of the Supreme Court or his chancery, this lease shall thereby be an ipso facto forfeited and cancelled and the Lessor shall, without prejudice to any claim which it may have against the Lessee, be entitled to re-enter upon the premises hereby demised and to dispossess the same thereof. Article 12 In case of the non-fulfilment by the Lessee of any condition of this lease or infraction by it of any prohibitory clause herein contained this lease shall be and become ipso facto forfeited and cancelled and the Lessor shall, without prejudice to any claim

Lbe

which it may have against the Lessee, be entitled to re-enter upon the premises hereby demised and repossess its former estate therein. Article 13 That on the termination of this lease or upon its Forfeiture or surrender the Lessee will yield up the premises hereby demised novice deteriorated in value except as may be necessary for its exploitation in conformity with the terms of this lease and as may arise from fair wear and tear without any claim whatsoever for any indemnity. All the buildings and constructions which may have been erected or placed on the island by the Lessee shall not be removed by it and shall become the absolute property of the Lessor without any claim whatsoever on the part of the Lessee for any indemnity. The Lessee shall have no claim whatsoever for any indemnity against the Lessor in respect of any diminution in value of the premises hereby demised as to any plantation made or work done by it. Article 14 That the lessor will have the right to resume possession of any part of the premises hereby demised on giving to the lessee six calendar months notice in writing and in such an event the provisions of article 12 shall apply mutatis mutandis. The lessor or his all its duly authorised agents shall have a right of entry to the resumed premises. Article 15 This lease shall be interpreted in accordance with the laws in force in the British Indian Ocean Territory. Schedule The following islands or group of islands known as - (a) Diego Garcia; (b) Feroe Bankos; (c) Salomon Islands; (d) French Franks including Sea Cow, Danger Island, Le Perle, etc; (e) a belt of Six Islands; (f) Farquhar Islands. In witness whereof the parties have set their hand to this instrument on the 10th originals. For and on behalf of the Lessor
(s.) Oxford & Aspinwall Commissioner For and on behalf of the Lessee (s.) J. J. Goulinet (s.)

(sd) E. Bouchereau (sd) H.T. Moulinie (sd) Paul Chenard
(sd) F. Morel du Boil. (sd) Robert Boulle members of the
Board of Directors of Chagos Agalega Limited.
.....

Registered at Seychelles this 18th April, 1967 in Register
A 54 No. 1480. Paid Rs, 2,000/- C.B. No. 496. (sd) D.
Baillon, Registrar

I hereby certify this to be a
true copy of the original.
Duty & Fee Rs. free

Date 29/3/76

REGISTRAR GENERAL

B.L.O.T.

87

The Crown, hereinafter referred to as "the owner", duly represented by His Excellency Sir Hugh Selby Norman-Walker, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Officer of the Most Excellent Order of the British Empire, Commissioner for the British Indian Ocean Territory.

And

Moulinie and Company (Seychelles) Limited, hereinafter referred to as "the Company", a societe anonyme incorporated in Seychelles, having its registered office at Victoria, Mahe, Seychelles and duly represented by its Board of Directors.

Hereby Witnesseth

That the Company hereby agrees to manage on behalf of the owner the islands of the British Indian Ocean Territory listed in the Schedule hereto, hereinafter referred to as the islands, for a fee of eight per centum of the gross value of all the produce from the islands delivered by the Company to the owner at Port Victoria, Mahe, Seychelles. Such value shall be taken to be the f.o.b. value of the produce at Port Victoria. If the produce is exported from the islands to a place other than Port Victoria, without being transhipped or landed at Port Victoria, the produce shall be deemed to have been delivered by the Company to the owner when the produce shall have been loaded on to the ship for export and the value shall be taken to be the f.o.b. value of the produce loaded on the ship before export. The fee shall be payable at the end of every calendar year in respect of produce delivered to the owner in the course of that year.

In consideration of the payment of such fee the Company shall provide the services of its organisation in Victoria, Mahe, Seychelles to manage the islands on behalf of the owner in accordance with the principles of good management. Expenditure in relation to staff, other than the Company's staff in Victoria, expenditure on the islands and freight to and from the islands shall be met by the owner.

This agreement shall be subject to the following further conditions:-

(a) Capital Expenditure

Capital expenditure in excess of Rs.2,000 on any one item or group of connected items shall not be incurred without the written permission of the owner.

(b) Maintenance

Normal maintenance to keep buildings weatherproof and sound, and equipment in working condition may be undertaken by the Company without reference to the owner. All other maintenance work and improvements shall require the written permission of the owner.

(c) Exploitation

The islands shall be run as coconut plantations in accordance with the principles of good husbandry. No extension of the area under cultivation shall take place without the written permission of the owner, and no subsidiary industries shall be run without such permission.

(d) Number of employees and wage rates

The number of male labourers on the islands shall not exceed the following limits without the written permission of the owner:

Diego Garcia	250
Peros Banhos	90
Salomon	75
Farquhar	70

Single women and boys not accompanied by their families shall not be recruited by the Company, but the Company may employ in addition to the above male labourers members of their families who have accompanied them to the islands.

The basic monthly wage rate for labourers shall be:

Men	Rs.25
Women	Rs.12
Boys	Rs.10

No increase shall be made without the written permission of the owner.

The wage rates for artisans shall be fixed by the Company provided that no artisans shall be employed at a basic monthly wage exceeding Rs.100 except with the written permission of the owner.

The wage rates of managerial staff on the islands, including medical staff, shall be agreed in writing between the Company and the owner.

Payment except for managerial staff shall be based on a task system of one task per day, six days a week, with an average working week of 30 hours. Extra payment shall be made for additional tasks at the rate ruling on each island on 31st December 1967.

In addition to their basic wages and extras all staff shall be entitled to free housing and free rations according to the scale laid down by law.

(e) Charter Arrangements

The written agreement of the owner shall be required for any arrangements made to charter any vessel for the service of the islands.

(f) Records of Expenditure and Revenue

The Company shall keep such records of revenue and expenditure as may be required by the Auditor appointed by the owner. The accounts shall be kept on the basis of the calendar year, and shall be presented annually for audit and settlement as soon as possible after the 31st December in each year, and in no case after the 28th February in the year following that to which the accounts relate. The Auditor appointed by the owner shall have access at any time to the Company's books in so far as they relate to the management of the islands.

(g) Notice of termination

This agreement may be terminated by the owner at six months' notice in writing or by the Company at twelve months' notice in writing.

Schedule

The following islands or group of islands known as -

- (a) Diego Garcia;
- (b) Peros Banhos;
- (c) Salomon Islands;
- (d) Three Brothers Islands;
- (e) Eagle Islands;
- (f) Danger Islands;
- (g) Egmont or Six Islands;
- (h) Farquhar Islands.

In witness whereof the parties have set their hand to this agreement made in two originals.

For and on behalf
of the Owner

For and on behalf
of the Company

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N :

MICHAEL VENCATASSEN

Plaintiff

- and -

THE ATTORNEY GENERAL

Defendant

R E P L Y

1. The Plaintiff joins issue with the Defendant on his Defence herein.
2. The Defendant is not entitled to rely upon the alleged rights of the lessees and managers of Diego Garcia to justify the expulsion of the Plaintiff from Diego Garcia and or in the alternative from British Indian Ocean Territory or the preventing of the Plaintiff's return thereto. In support of such allegation the Plaintiff will rely upon the following matters and each of them:

(i) The Crown is not, as a matter of law, entitled to rely upon the alleged rights of its own lessee or manager so as to justify the removal of a subject from, or in the alternative, prevent the return of a subject to, that part of the realm where he would otherwise be entitled to reside, or in the alternative, from which he could not lawfully be removed;

(ii) the said Secretaries of State and each of them had caused or procured the said lessees and managers to terminate or purport to terminate the Plaintiff's employment and or in the alternative to cause the Plaintiff to leave Diego Garcia and or in the alternative British Indian Ocean Territory;

(iii) the termination or purported termination of the Plaintiff's employment was unlawful; the Plaintiff had a written contract of service dated 26th March 1964 with Chagos Agalega Limited, which was subsequently novated by conduct with Moulinie & Company (Seychelles) Limited. By reason of the provisions of S.10(3) of the Mauritius Lesser Dependencies Ordnance 1904 (No. 4 of 1904) such contract at all material times continued in force.

(iv) The expulsion of the Plaintiff from the entire island of Diego Garcia or the entire territory of British Indian Ocean Territory was an unlawful act by such lessees or managers or in the alternative was carried out in an unlawful manner.

3. The Plaintiff denies that he consented to leave Diego Garcia and/or British Indian Ocean Territory.

4. In the alternative if it be found at the trial herein that the Plaintiff consented to leave the said island or territory the Plaintiff will aver that such consent was induced by the representation by the said naval officer and/or by Paul and/or Marcel Moulinie acting on

behalf or in accordance with the instructions of the said Secretaries of State and each of them that the Plaintiff would be paid compensation. Such representation was false; at the time it was made the said Secretaries of State did not have the intention of paying compensation to the Plaintiff, or of causing or procuring the Crown to pay compensation to the Plaintiff.

3. The Defendant is not entitled to rely upon British Indian Ocean Territory Ordnance No. 1 of 1971 by reason of the following matters and each of them:

(i) Such Ordnance was ultra vires S.11 of the British Indian Ocean Territory Order 1965 since its purpose and effect was to wholly or substantially de-populate the whole or a substantial part of British Indian Ocean Territory and or in the alternative to remove therefrom all or a substantial part of those who were at the date of such Ordnance entitled to reside therein. The said Ordnance was not made for the peace order and good government of the Territory; in the alternative

(ii) the removal of the Plaintiff from the island was unlawful and the Defendant cannot therefore be heard to rely upon the said Ordnance in justifying the prevention of the Plaintiff's return thereto;

(iii) it has been and is the intention of the Secretary of State for Foreign and Commonwealth Affairs to cause or require an immigration officer and/or the Commissioner to refuse to issue a permit to the Plaintiff to enter and remain in the Territory;

(iv) such immigration officer would not be exercising his or any discretion in refusing any application by the Plaintiff;

(v) the provisions of the said Ordnance have not been put into operation since as appears from paragraph 17 of the Defence herein in December 1971, and so far as the Plaintiff is aware at all times thereafter, the immigration officer and the Commissioner were the same person.

GERALD LEVY

SERVED this 29th day of October 1976
by Bernard Sheridan & Co. of 14 Red Lion Square,
London WC1R 4QL.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N :

MICHAEL VENCATASSEN Plaintiff

- and -

THE ATTORNEY-GENERAL Defendant

R E P L Y

Bernard Sheridan & Co.
14 Red Lion Square,
London WC1R 4QL.