

S and A v Standard Chartered

Jurisdiction:	Jersey
Judge:	Bailiff
Judgment Date:	18 July 2003
Neutral Citation:	[2003] JRC 133
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Text

[2003] JRC 133

ROYAL COURT

(Samedi Division)

Before:

Sir Philip Bailhache, Bailiff, **and** Jurats Quérée **and** Georgelin

In the matter of the E Trust

And in the matter of the Trusts (Jersey) Law, 1984: Articles 47 and 49.

Between
S and A
Applicants
and

(1) Standard Chartered Grindlays Trust Corporation (Jersey) Limited; and
(2) M

Respondent

Advocate P. Sinel for the Applicants.

Advocate F.B. Robertson for the First Respondent.

Advocate M.H.D. Taylor for the Second Respondent.

Authorities

Supreme Court Practical: Civil Procedure Vol 1 (2001) Part 33 "Miscellaneous Rules About Evidence".

The Supreme Court Practice (1999) Order 41 "Affidavits".

Application by the Second Respondent to vary the terms of a consent order issued by Act of Court of 13th June, 2003.

Bailiff

THE

- 1 This is a summons issued by the Second Respondent seeking a variation of the terms of the consent order issued by the Royal Court on the 13th June, 2003. The summons raises a number of issues and, in particular, seeks a deferment of the date agreed for selling the company TAL.
- 2 The principal matter raised by the applicant in this summons is, as we have said, a deferment of the date for the submission of bids to purchase TAL. That application is refused. The Court can see no good grounds for setting aside an agreement entered into voluntarily by all the beneficiaries of the E Trust. Conversely, the Court can see a number of good reasons why the agreement as to date should be maintained.
- 3 It is clear from the papers placed before us that if the sale does not proceed on or before 14th July, 2003, there is a grave risk that the assets of the company will evaporate. Counsel for the second respondent has asked us to consider giving further directions as to the inclusion in the draft agreement of sale of a non-competition clause. This application is resisted by counsel for the first and second representors.
- 4 The Court is told that there is a dispute as to whether there is an existing agreement on restraint of trade. It appears to us that this is really a matter for another day and we decline to give any directions in relation to that matter.

- 5 Counsel for the Trustee has raised a question as to the manner in which the Court might deal with an objection to Clause 5(4) of the proposed agreement of sale. Counsel has suggested that the sale agreement might be amended at Clause 2 (1) so as to make it clear that the company itself and, of course, the Trustee would have a right of action against the directors and any employees for any possible misconduct. We agree with counsel for the Trustee that this would be an appropriate way of dealing with the submissions that have been made to us and we accordingly, authorise the Trustee to procure an amendment to the final paragraph of Clause 2(1) to add the words "or against all or any of the directors or employees of the vendor".
- 6 This might conveniently be achieved by an amendment to the Order of the Court of the 13th June, 2003, and we vary accordingly that Order by inserting an additional paragraph 3(7) to give effect to the order that we have just made. Subject to that amendment of the order of the 13th June, 2003, the application of the second respondent is dismissed.