



**THE COURT OF APPEAL**

Neutral Citation Number: [2017] IECA 262

**Irvine J.  
Hogan J.  
Whelan J.**

**RECORD NO. 2016/271**

**BETWEEN/**

**JOSE MONTEIRO DA SILVA, NUNO PERDRO GONCALVES LOPES, DAVID SARAIVA MATIAS, ANTONIO BARBOSA MOREIRA, JOSE FRANCISCO OLIVEIRA DA SILVA, JORGE DA SILVA LUIS, JOSE TEXEIRA GONCALVES, ANTONIO JORGE OLIVEIRA BESSA, FRANCISCO DA COSTA FERRIERA, JOSE LUIS FREITAS LIMA**

**PLAINTIFFS/**

**RESPONDENTS**

**- AND -**

**ROSAS CONSTRUTORES S.A., CONSTRUÇOES GABRIEL A.S. COUTO S.A. & EMPRESA DECONSTRUÇOES AMANDIO CARVALHO S.A. trading under the style and title of RAC CONTRACTORS and/or RAC EIRE PARTNERSHIP**

**DEFENDANTS/**

**APPELLANTS**

**RECORD NO. 2016/273**

**BETWEEN**

**CARLOS MANUEL MIRANDA, ALFREDO MARTINS RODRIGUES FERNANDES, VICTOR MANUEL MARQUES DE OLIVEIRA, MARIA PIEDOSA RIBEIRO CARDOSA GASTALHO, FRANCISCO PEREIRA MARTINS, JOSE MARIA COELHO BARBOSA, CARLOS JOSE LONGA**

**PLAINTIFFS/**

**RESPONDENTS**

**- AND -**

**ROSAS CONSTRUTORES S.A., CONSTRUÇOES GABRIEL A.S. COUTO S.A. & EMPRESA DECONSTRUÇOES AMANDIO CARVALHO S.A. all trading under the style and title of RAC CONTRACTORS and/or RAC EIRE PARTNERSHIP**

**DEFENDANTS/**

**APPELLANTS**

**RECORD NO. 2016/272**

**BETWEEN**

**ARMANDO AGOSTINHO ALVES DA SILVA, ALVARO ABILIO QUEIROS COELHO, HELDER FIGUEIREDO, MARIO AUGUSTO RAMALHO GASTALHO, SAMUEL FILIPE DA SILVA OLIVERIA, JOSE ANTONIO FONSECA RIBEIRO, ALBERTO BESSA LEITE, LUIS RODRIGUES DIAS MOURATO, JOSE DUARTE MAGALHAES, JOSE MARIA MARTINS VELOSO**

**PLAINTIFFS/**

**RESPONDENTS**

**- AND -**

**ROSAS CONSTRUTORES S.A., CONSTRUÇOES GABRIEL A.S. COUTO S.A. & EMPRESA DECONSTRUÇOES AMANDIO CARVALHO S.A. all trading under the style and title of RAC CONTRACTORS and/or RAC EIRE PARTNERSHIP**

**DEFENDANTS/**

**APPELLANTS**

**RULING OF THE COURT AS TO COSTS by Mr. Justice Gerard Hogan delivered on the 13th day of October 2017**

1. Following the delivery of the Court's judgment on the 4th October 2017 we are now called upon to resolve the issue of costs.
2. It is true that the defendants have prevailed in this Court upon one important issue, namely, the deductions made in respect of the accommodation. At the same time, the findings of the High Court that the accommodation was sub-standard remain undisturbed and this Court ruled the assessment of damages in this regard has to go back to the High Court.
3. A further consideration is that the plaintiffs succeeded on two other points, namely, the issue of Courts Act interest and the deductions in respect of the laundry. While these issues did not add to the length of the hearing in this Court, they nonetheless

added to the complexity of the written submissions in particular and the preparation time on the part of the respective legal teams.

4. Although in these circumstances it is not altogether easy quite to determine what the event for the purposes of Ord. 99 actually was, nonetheless taken in the round we think that the fairness thing is to make no order as to costs as so far as the costs in this Court is concerned. We accordingly take the view that balancing the mutual success and failures of the parties – essentially, the success of the defendants on one important point, but losing on two other slightly lesser points - essentially cancel each other out. That is why we propose making no order as to costs in this Court.

5. As to the High Court costs: Keane J. delivered a considered ruling in which he found for the plaintiffs. The defendants now seek to vary that costs order taking account in particular, the fact that they have succeeded on the accommodation deduction issue. It is true that this Court has found that Keane J. was wrong as a matter of law on the accommodation deduction issue. But the essential findings of fact that the accommodation was sub-standard remain undisturbed and will, presumably, be relied upon by the plaintiffs when matters go back to the High Court for a fresh determination on the damages issue.

6. In these circumstances we do not propose to vary the High Court costs order and we think that the fairest thing to do is to affirm the order made by Keane J. on the costs issue in the High Court.