

Judgment 34/2009

**E v E – Court of Appeal (Civil Appeal 369/397) – 13
July 2009**

Matrimonial Causes (Guernsey) Law, 1939 – application for leave to appeal to the Judicial Committee of the Privy Council from judgment given on 17 September 2008 – held that the value of the matter in dispute in the present appeal did not exceed £500 – Court of Appeal (Guernsey) Law, 1961 (Art.16) - application for leave to appeal refused - (See Judgments 43/2007 and 31/2008 and 26/2009)

IN THE COURT OF APPEAL OF THE ISLAND OF GUERNSEY

Civil 369/397

The 13th day of July, 2009 before the Hon Michael Jacob Beloff, QC, presiding, Michael Scott Jones, QC and John Vandeleur Martin, QC

E

Appellant

-v-

E

Respondent

In the matter of the application by the Appellant for leave to appeal to Her Majesty in Council, set out in his notice dated 20 January 2009 and subsequent written submissions, from the judgment of the Court of Appeal dated

17 September 2008;

THE COURT, having considered the written submissions filed by the respective parties, this day ISSUED JUDGMENT in the attached terms and REFUSED the said application for leave to appeal to Her Majesty in Council.

K H TOUGH
Registrar of the Court of Appeal

**IN THE COURT OF APPEAL OF THE ISLAND OF
GUERNSEY**

CIVIL DIVISION

Between:

E

Appellant

-v-

E

Respondent

Before:

**The Hon Michael Jacob Beloff, Esq., QC, President
Michael Scott Jones, Esq., QC
John Vandeleur Martin, Esq., QC**

Text:

The Court of Appeal (Guernsey) Law 1961

Cases:

Arieh Zvi Lipshitz v Haim Aron Valero and Others [1948] AC 1

Allan v Pratt (1888) LR 13 App CAS 780

Beloff JA

1. This is a determination of the Court.
2. The Applicant seeks leave to appeal our decision of the 17th September 2008 to the Privy Council.
3. He does so under Article 16 of the Court of Appeal (Guernsey) Law, 1961 which provides as follows:

"No appeal shall lie from a decision of the Court of Appeal under this Part of this Law without the special leave of Her Majesty in Council or the Leave of the Court of Appeal except where the value of the matter in dispute is equal to, or exceeds, the sum of five hundred pounds sterling."

4. Two issues arise.
5. First, whether he needs leave or whether he can bring his putative appeal within the proviso; secondly, if not, whether we should in the exercise of our discretion grant him leave.

6. As to the first: The question whether the “value of the matter in dispute” is equal to or exceeds £500 falls to be determined by asking whether it is worth £500 or more to the party wishing to appeal to have the order complained of reversed. (*Arieh Zvi Lipshitz v Haim Aron Valero and Others* [1948] AC 1; *Allan v Pratt* (1888) LR 13 App CAS 780).
7. On that basis we do not consider that the case falls within the proviso. The “*matter in dispute*” must refer to what will be in dispute on the putative appeal to the Privy Council: it cannot sensibly refer to anything that was in dispute at any stage of the proceedings, even if it is no longer a live issue.
8. We decided two matters: (1) that the property should be re-vested in the parties jointly, and (2) that the new mortgage documents should be executed on the Applicant’s behalf.
9. The first restored the position to what it had been before the Lieutenant Bailiff’s order, and was favourable to him. It is, consequently, contrary to his interest, and not worth £500 or more to him, to reverse that part of the determination. He cannot therefore appeal that part of it.
10. The second simply authorised and directed the Sergeant to do what the Applicant unlawfully refuses to do.
11. Although the property is jointly vested, that is a result of the first order of this Court (differently constituted) on 7th December 2007 in respect of which, we are advised, leave to appeal has been refused. In consequence, it does not seem to us that the property itself is the matter in dispute.
12. As to the second, no arguable flaw has been identified in our judgment. The Applicant’s repeated (but unsubstantiated) complaints are that he has been disadvantaged by inadequate or even malevolent counsel and unperceptive or malevolent judges. There is no point of law involved. He is unfortunately unable to reconcile himself to the consequences of his divorce.
13. This whole matter has been too protracted already. He does not excite sympathy because of earlier non compliance with court orders.
14. We therefore refuse leave to appeal.

**M.J. BELOFF, Q.C.,
PRESIDENT**