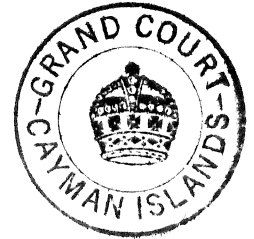


Original



1 IN THE GRAND COURT OF THE CAYMAN ISLANDS

2
3 CAUSE NO. 153 of 1995

4
5 In the matter of the Cotorro Trust originally constituted by a Trust
6 Agreement dated the 1st day of June 1979 between Maria Ernestina
7 Barcardi y Gailard and Roywest Trust Corporation (Cayman) Limited, now
8 named Coutts & Co. (Cayman) Limited.

9
10 AND

11
12 In the matter of the Trust Law (Revised)

13
14 BETWEEN: COUTTS & CO. (Cayman) LIMITED

15
16 **PLAINTIFF**

- 17
18 AND: 1. JERRY M. LINDZON
19 2. ELENA GOMEZ DEL CAMPO DE LINDZON
20 3. ELENA LAURA PESSINO DE BALMASEDA
21 4. CESAR JAIME DE BALMASEDA
22 (A minor, by his Guardian ad Litem George
23 Giglioli on his own behalf and on behalf of all
24 minor and remoter beneficiaries of the Cotorro
25 Trust)
26 5. SANTIAGO CASAS
27 6. MARIANA ELENA PESSINO DE QUIRCH
28 7. MARIA EUGENIA PESSINO DE ROTHWELL

29
30 **DEFENDANTS**

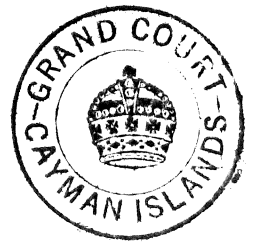
31 **APPEARANCES:**

32 Mr. Antony Duckworth of Charles Adams, Ritchie & Duckworth for the
33 Plaintiff.

34 Mr. Neil Timms of Maples and Calder for the 1st and 2nd defendants.

35 Mr. George Giglioli the Guardian ad litem for 4th defendant.

36 Mr. Angus Foster of W.S. Walker & Co. for the 6th defendant.



RULING

1
2
3
4 As the preliminary issues decided in the judgment were raised by summons
5 within the Trustees Originating Summons proceeding in respect of which
6 there are issues yet to be resolved, I think it is proper to regard the judgment
7 as an interlocutory judgment for the purposes of the Appellate Rules. This
8 is so notwithstanding that the issues decided in the judgment would be
9 regarded as having been finally decided and even though I recognise that for
10 that reason in particular, there are strong arguments the other way: ie: that
11 leave to appeal is not required, the judgment being in that sense a final
12 judgment and not one going to the determination only of procedural
13 preliminary issues.

14
15 As the question is one of jurisdiction, I regard the first view of it as safer
16 than the latter which involves the prospect of the appeal being shut out for
17 want of leave, if it turns out the Court of Appeal takes the view that leave
18 would have been required.

19
20 Accordingly leave is granted on the conditions noted - that the question of
21 the full costs of appeal, - as a matter of whether a pre-emptive order for
22 costs from the Trust Fund should be given to the Guardian at this stage, - is
23 entirely reserved.

24
25 It is however appropriate that he should be protected as to certain costs until
26 the full grounds can be identified and canvassed. To the extent of the
27 security for costs of the appeal and those to be incurred in taking his
28 counsel's advice, I now allow a pre-emptive order for costs from the Trust
29 Fund.

30
31 The question of costs of the appeal generally, and as that question may
32 involve applications from other parties, I reserve to a time to be notified.

33
34
35
36 
Anthony Smellie

37 Judge of the Grand Court

38 Dated this 13th day of June 1997