

ROYAL COURT
(Samedi Division) 50.

4th March, 1994

Before: The Deputy Bailiff, and
Jurats Blampied and Hamon.

In re the Bankruptcy (Désastre) (Jersey) Law, 1990.

In re Blue Horizon Holidays, Ltd., en désastre on the
application of St. Brelade's Bay Hotel, Ltd.

Application by Blue Horizon Holidays, Ltd., under Article 7 of the above
Law to recall the *déclaration en désastre* effected on 11th February,
1994.

Mr. David Eves of behalf of Blue Horizon Holidays, Ltd.
Advocate R.J. Michel for St. Brelade's Bay Hotel, Ltd.

JUDGMENT

THE DEPUTY BAILLIFF: In his Judgment of 18th February, 1994, (see Jersey Unreported Judgment of that date) the Bailiff said this: "***There is one more thing the Court wants to say and it is this: all the property at Blue Horizon Holidays Ltd is vested in the Viscount. Should the Viscount wish, at the request of - it would be impossible to say all - but the majority of the creditors to make a representation...***" What the Bailiff is saying there is that if the Viscount wished, at the request of the creditors, to make a representation to the Court regarding the administration of a bankrupt company then the Court would listen to any such application. I do not think that the Court was encouraging the bankrupt company, or you, Mr. Eves, on behalf of the bankrupt company, to make an application to the Court. What the Bailiff was saying was that if the creditors wished to support such an application by the Viscount then the Court would listen to that application.

The Court has given you greater indulgence, I think, than it really should have done, because you are a litigant in person

appearing on behalf of Blue Horizon Holidays Ltd., but the only status which Blue Horizon Holidays Ltd has at the moment is to make an application for the recall of the *désastre* and we have listened to you on that basis.

The Court has considered already two such applications from you on behalf of the company and I do not think that I really need to add very much to what the Court said on those occasions. What the Bailiff said on the last occasion was this, and I am going to recite it in full for the benefit of this ruling:

"There is one more thing that the Court wants to say and it is this: all the property of Blue Horizon Holidays, Ltd is vested in the Viscount. Should the Viscount wish, at the request of - it would be impossible to say all - but the majority of creditors, both as to number and in substance, to make a Representation to this Court regarding the administration of the bankrupt Company, or regarding the possibility of its continued trading, the Court will, of course, listen to any such application, but it will have to be with the consent of the majority, I repeat, either in number or in substance, of the creditors."

We have been told this afternoon that the Viscount is not prepared, at this stage, to make a representation to the Court. If the majority of the creditors urged him to make such a representation we have heard from Mr. De Gruchy that the Viscount would consider very seriously whether he should make such an application. But at this stage he does not wish to do so.

In those circumstances, Mr. Eves, there is nothing which the Court can do to recall the *désastre* because the property of the company has vested in the Viscount and it is for the Viscount, in effect, to decide whether it is in the interests of the creditors to make any such application.

Your application is refused and the only other thing which I would wish to say to you on behalf of the Court is that you should work in collaboration with the Viscount to see whether the creditors can be persuaded to urge the Viscount to take a different view. At this stage we have no evidence that the creditors in fact wish to urge the Viscount to take a different view. But if circumstances change then certainly the Court would be prepared to consider an application from the Viscount, I would like to make that clear. Therefore, the application, Mr. Eves, is refused.

Authorities

Representation of Blue Horizon Holidays Ltd (18th February,
1994) Jersey Unreported.