

ROYAL COURT
(Samedi Division)

172.

1st September, 1995

Before: The Deputy Bailiff, and
Jurats Blampied and Gruchy

The Attorney General

- v -

Stansell Q.V.C. Ltd

1 Infraction of

Article 21(1)(a) of the Health and Safety at Work (Jersey) Law, 1989, in that being an employer, the company did not conduct its undertaking in such a way as to ensure, so far as was reasonably practicable, that persons not in its employment who might be affected thereby were not exposed to risks to their safety; in that the company failed to take any sufficient measure to protect members of the public from the risk of injury from material at hazard of falling from the upper levels of the development at International House, St. Helier.

PLEA: Facts admitted.

DETAILS OF OFFENCE:

As a result of bad working practice by a sub-contractor a 6½ lb. concrete brick fell 14 ft. to the ground - i.e. a busy public pavement - narrowly missing a member of the public. The defendant company was main contractor of the building site concerned and had failed to provide edge protections capable of avoiding this sort of accident.

DETAILS OF MITIGATION:

No previous convictions of any sort. Total co-operation. Full and swift compliance with the resulting prohibition notice.

PREVIOUS CONVICTIONS: Nil.

CONCLUSIONS: £2,000 fine, with £500 costs.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted. Strong mitigation accepted, but nevertheless a serious incident.

C.E. Whelan, Esq., Crown Advocate.
Advocate P. de C. Mourant for the
Defendant Company.

JUDGMENT

5 THE DEPUTY BAILIFF: The company is charged with and admits one
infraction under the Health and Safety at Work (Jersey) Law, 1989.
International House is a development in Old Street, St. Helier.
The site is four storeys high; boarding surrounds the building;
there is a very narrow pavement area to pass around the site in
order to enter the Parade, near the Cenotaph.

10 As outlined to us briefly, on 26th May at 12.30 p.m. a
concrete brick weighing 6½ lbs. fell some 14 ft. onto the
pavement, narrowly missing a Mr. Lewis, a member of the public,
who was passing by at the time. It landed some 2 ft. in front of
him. Had it hit him, the result could well have been fatal.

15 The reason for the fall of the brick is explainable: a damp-
proof course was being put in place at first floor level; this
required draping the damp-proof material over the edge of the
blockwork. Normally the overlap is nailed to the blockwork as,
apparently, it was in certain places. That is common practice.
20 But on this occasion a sub-contractor - and we think that is
important - had used concrete bricks to hold the damp-course down.

25 Something - it may have been the blustery wind - caused the
brick to fall. There was, apparently, an absence of edge
protections, but the company acted immediately and responsibly to
rectify the situation.

30 The fact that it was a sub-contractor is perhaps a technical
point because the company, under the law, is responsible for
everyone on the site.

35 It must be said that the company has no previous convictions.
It acted, as we have said, speedily and responsibly to rectify the
situation and the Crown Advocate, Mr. Whelan, has fairly pointed
out that this was not an easy site to work from.

40 We have a company before us with high standards and we have
no reason but to say that the fine - which is accepted by Mr.
Mourant - of £2,000 with the costs of £500 attendant thereon
reflect the Court's feelings for the responsible way in which the
company has hitherto and after the accident conducted its affairs.

Authorities

A.G. -v- Charles Le Quesne (1956) Ltd (8th November, 1991) Jersey
Unreported.