# ROYAL COURT SAMEDI DIVISION 16th February, 1987.

## Before Mr. Commissioner Dorey, sitting alone.

BETWEEN AND Grindlays Bank Plc James Allan Corbett PLAINTIFF DEFENDANT 87 18

35

Appeal by Plaintiff from Judicial Greffier's decision on taxation of costs.

> Advocate D.F. Le Quesne for Plaintiff Advocate J.G.P. Wheeler for Defendant

## JUDGMENT

The Commissioner: The Plaintiff appeals against the Greffier's taxation of his bill of costs on three grounds; (a) the Judicial Greffier was wrong in finding that the words "of and incidental to the action" cannot extend the scope of the order for costs to costs arising after the date on which the judgment was given; (b) the Judicial Greffier was wrong in disallowing the plaintiff's costs incurred in relation to matters which did not relate solely and exclusively to the Jersey action; and (c) the Judicial Greffier was wrong in disallowing the Plaintiff's costs incurred in preparing its bill of costs.

As regards (a) the meaning of the words 'of and incidental to the action' have been fully discussed in the case <u>The Official Solicitor -v- Alan</u> <u>Evelyn Clore;</u> there is nothing in that case, or in any other of the cases that were cited before me today, to support the proposition of the plaintiff that these words extended the scope of the order for costs so as to include costs that arose between the judgment and enforcement. The plaintiff admitted that he could find no positive authority for that proposition, but relied on the concept of what was just. I can only say that all the authorities that have been put forward, while supporting the claim that

costs incurred before the issue of the writ can in certain cases be allowable on taxation, in no way support the view that costs incurred after judgment can likewise be allowable. It is interesting to note that where the phrase used is 'costs incurred' or 'to be incurred', as is usual in the Matrimonial Causes Division, the words 'to be incurred' have been very narrowly interpreted as meaning the costs of obtaining the Decree Absolute, and do not include the costs of subsequent ancillary proceedings.

As regards (b) all costs necessary or reasonable to the conduct of the action are allowable on taxation even if they are incurred in relation to matters relevant to proceedings in another jurisdiction; however, I have accepted the submissions of the defendant's advocate, that the items concerned were disallowed because they related to interlocutory proceedings in which judgment with costs had been pronounced against the plaintiff.

Finally as regards (c) the Judicial Greffier has a discretion to allow the costs incurred in preparing the bill of costs, and he should use this discretion except in those cases where a bill is so drawn that a considerable part of the total is disallowed on taxation, in which case he is entitled to reduce or disallow the costs of preparing the bill. I consider that the present bill of costs would fall under this exception. I therefore dismiss the whole of the appeal.

#### Case referred to in the judgment

The Official Solicitor -v- Alan Evelyn Clore: Unreported judgment of Jersey Court of Appeal (1984).

#### Cases also cited

Re Gibson's Settlement Trusts: (1981) All ER 233 Société Anonyme Pêcheries Ostendaises -v- Merchant Marine Inusrance Company: (1928) IKB 750. Frankenburg -v- Famous Lasky Film Service, Ltd: (1931) ICh.D 428. Re Fahy's Will Trust: (1962) I All ER 75. Department of Health and Social Security -v- Envoy Farmers, Ltd: (1976) 2 All ER 173.