

ROYAL COURT

17th August, 1990 118.

Before: The Deputy Bailiff, and
Jurats Vint and Vibert

The Attorney General

- v -

Giovanni Galante

Accused sentenced in respect of one infraction
each of paragraph (1)(a) of Article 14 and
Article 7(1) of the Housing (Jersey) Law, 1949.

The Attorney General.
Advocate J.A. Clyde-Smith for the defendant.

JUDGMENT

DEPUTY BAILIFF: The Court has decided to grant the conclusions.

In relation to the first charge we have noted that the defendant was motivated by compassion for his sister-in-law and that he could have left the whole flat to her and she could have taken in lodgers and no doubt he could have influenced her choice of lodgers and she could then have paid rent and there would have been no offence.

If those facts stood alone we might well have reduced the fine asked for, but we cannot ignore the fact that the defendant had caused

his legal advisers to write to the Committee asking to have the restriction on one unit lifted. The Committee refused and he should not then have been in any doubt as to the situation. Frustration can never be accepted as an excuse for breaking the law. He knowingly did exactly what he had been told he must not do. In those circumstances, even if there was no indirect profit, the fine moved for is justified.

In relation to the second charge, the defendant, who has proved himself a very worthy member of the Jersey community was in a sense rewarded by being permitted to purchase a valuable Jersey home.

The Court has said many times that people who buy property in Jersey have a duty to make themselves fully aware of the laws and regulations affecting them.

Clearly here there was a separate unit of accommodation in the view of the Housing Committee and this was made very clear, regardless of any misinformation given by estate agents.

If the defendant chose to ignore the papers sent to him by his legal advisers then he must face the consequences. When a unit of accommodation restricted for what we can call (a) to (h) persons is used otherwise, the Court will always take a serious view.

We must also have regard to the fact of course of the ability to pay and even if he does have a substantial mortgage the defendant undoubtedly has a very considerable capital equity at his disposal.

Therefore the defendant is fined £2,000 on each of the two charges. In default of payment he will serve two months' imprisonment on each charge consecutively, thus making total fines of £4,000 or four months' imprisonment, and he will also pay costs in the sum of £250.

No authorities.