THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Port of Spain

Claim No: CV2017-03494

Between

BRITISH-AMERICAN INSURANCE COMPANY LIMITED

Claimant/Applicant

And

LAWRENCE DUPREY

Defendant/First Respondent

GARY DUMAS

Second Respondent

PRISM AGRI ESTATES COMPANY LIMITED

Third Respondent

PRISM TRUST FINANCE COMPANY LIMITED

Fourth Respondent

REIS FINANCIAL SERVICES LIMITED

Fifth Respondent

Before the Honourable Mr. Justice R. Rahim

Date of Delivery: March 28, 2019

Appearances:

Claimant/Applicant: Mr. B. McCutcheon and Mr. A. Rudder

Defendant/First Respondent, Second and Third Respondents: Mr. R. Huggins instructed by Ms. P. Maharaj

Fourth and Fifth Respondents: Mr. M. Coppin

Decision on application by the Second and Third Respondents to be removed as respondents

1. By application of the 31st January 2019 the Second and Third Respondents, Gary Dumas and Prism Agri Estates Company Limited apply to be removed from these proceedings having been joined by way of application of the 24th October 2018 on the part of the claimant. It must underscored that the proceedings before the court are proceedings in aid of enforcement and not substantive enforcement proceedings.

2. Further, this is not an application to have the freezing order set aside but is one restricted to the appropriateness of the joinder of both the second and third respondent.

3. The relevant history in brief is that the Claimant became a judgment creditor having obtained judgment for a substantial sum against the first respondent. The claimant subsequently obtained an order against the first respondent freezing his assets for the purpose of preservation of same so that the claimant will not be deprived of the fruits of its judgment. On the 24th October 2018, the claimant obtained an order freezing the assets of the second and third respondents based on an allegation that the first respondent had transferred ownership of the shares he held in the third respondent to the second respondent in an effort to dissipate his assets held in the third respondent with a view of defeating the judgment.

4. The second and third respondents (collectively referred to as the applicants) now argue as follows;

a. That the claimant has not applied for a declaration that the shares in the third respondent were transferred for the purpose of dissipation of assets or that the shares are held on trust for the first respondent by the second respondent. Therefore, at its highest such an allegation is speculative.

b. It is a well established principle of law that the shareholder of a company does not own the assets of the company and therefore the second respondent is not the owner of the assets held by the third respondent and in any event, shares cannot be treated as interest in the assets of the company. As a consequence the second respondent ought not to be a party to these proceedings.

c. It is wrong for the third respondent to be joined solely for the purpose of getting hold of the assets of the company.

d. There is no judgment in this case against the applicants. They are therefore not judgment debtors and it is unfair for them to be restricted by the proceedings even though nature of the proceedings is that of a fact finding exercise.

e. Sections **14** to **16** of the **Remedies of Creditors Act** Chap 8:09 do not apply to shares held by the third respondent because it is a private limited company. Those sections apply only to public companies. The sections read as follows;

> *14. If any person against whom any judgment has been entered up in the Court has any stock or shares of or in any public company carrying on business in Trinidad and Tobago (whether incorporated or not) standing in his name in his own right or in the name*

of any person in trust for him, it shall be lawful for a Judge on the application of any judgment creditor to order that the stock or shares, or such of them, or such part thereof respectively, as he thinks fit, shall stand charged with the payment of the amount for which judgment has been so recovered, and interest thereon, and the order shall entitle the judgment creditor to all the remedies as he would have been entitled to if the charge had been made in his favour by the judgment debtor.

15. In order to prevent any person against whom judgment has been obtained from transferring, receiving or disposing of any stock or shares authorised to be charged for the benefit of the judgment creditor under an order of a Judge, every order of a Judge charging any stock or shares in any public company under this Act shall be made in the first instance ex parte, and without any notice to the judgment debtor, and shall be an order to show cause only; and the order, if any stock or shares of or in any public company, standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by any such order, shall restrain the public company from permitting a transfer thereof; and if after notice of the order to the person to be restrained or, in case of corporations, to any authorised agent of the corporation, and before the same order is discharged or made absolute, any such corporation

or person permits any such transfer to be made, then and in such case the corporation or person so permitting the transfer is liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as is sufficient to satisfy his judgment, and no disposition of the judgment debtor in the meantime shall be valid or effectual as against the judgment creditor; and further, unless the judgment debtor shall, within a time to be mentioned in the order, show to a Judge sufficient cause to the contrary, the order shall, after proof of notice thereof to the judgment debtor be made absolute; but any Judge shall, upon the application of the judgment debtor or any person interested, have full power to discharge or vary such order and to award such costs upon the application as he may think fit.

16. *All the provisions mentioned above with regard to the charging any stock or shares shall be deemed and taken to extend to the interest of any judgment debtor, whether in possession, remainder or reversion, and whether vested or contingent, as well in any such stock or shares aforesaid as also in the dividends, interest or annual produce of any such stock or shares.*

The sections clearly demonstrate that they apply to shares held in public companies and not those held in private limited companies as is the case here.

f. Parts 46 and 49 (Charging orders) of the CPR do not apply to private companies and so are not applicable to the third respondent. There are methods of enforcement that should be employed by the claimant but none of these touch and concern the applicants.

5. The claimant argues that the evidence before the court demonstrates or is capable of demonstrating that there has been an attempt by the first respondent to dissipate his assets with a view of defeating judgment. Therefore both the second and third respondents are properly joined until the court determines whether as a fact this is so.

Law

6. A court may make an order freezing a person's assets even if that person is not a defendant to proceedings. This is so even in circumstances where the claimant has no cause of action against that person. Such an order will be granted where there has been a freezing order made against the defendant to the claim and it appears that the assets of the person who is not the defendant are ultimately beneficially owned in fact by the defendant. In this case an order was in fact made against the defendant Mr. Duprey.

7. In In ***TSB Private Bank International SA v Chabra and another [1992] 1 WLR 231,*** the plaintiff, T.S.B. Private Bank International S.A., issued a writ against the first defendant, Balbir Singh Chabra claiming payment of £1.5 millon for his failure to honour a guarantee given by him in respect of debts owed to the plaintiff by Foinavon Ltd., a British Virgin Islands company. On the plaintiff's ex parte application, Mummery J. continued and extended a

Mareva injunction, made against the first defendant by Morritt J. which restrained him until judgment or further order from removing from the jurisdiction, or otherwise disposing of or dealing with his assets within the jurisdiction, including and in particular his shares in Beverley Hotels (London) Ltd. in which he was the majority shareholder. He was also similarly restrained from dealing with the company's assets within the jurisdiction including and in particular the proceeds of sale completed from its hotel and restaurant interests. Mummery J., of his own motion, on ex parte application by the plaintiff, ordered Beverley Hotels (London) Ltd. to be added as second defendant and the writ to be amended accordingly, and granted against the second defendant an order in Mareva form containing provisions regarding the position of the second defendant similar to those contained in the order made against the first defendant.

8. By a notice of motion, the second defendant applied to 1) strike out the writ of summons against it on the ground that no cause of action was disclosed and 2) to set aside the Mareva injunction. The court is of the view that it is important to set out almost in full the ratio of the court as this court considers that it is bound by the erudite decision. At page 238, Mummery J had the following to say;

> *"In this state of uncertainty about the ownership of 5, Beverley Drive I am of the view that I should not strike out the company as a party to these proceedings. As I have said, I made the order for its joinder of my own motion pursuant to R.S.C., Ord. 15, r. 6. I considered that the presence of that company before the court was necessary to ensure that all matters in dispute in the cause or matter might be effectually and completely determined and adjudicated upon by adding the company as a party. I also considered that the position of the company fell within the broad*

provisions of Ord. 15, r. 6(2)(b)(ii), namely that there could be joined as a party

"any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the court it would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter."

I also considered when I made the order for the joinder of the company that it should be joined as a party if, as I intended, an injunction was to be made against it, so that it would then have the benefit of the cross undertaking in damages which the plaintiff was required to give.

In brief, in the light of the plaintiff's evidence and the absence of any detailed evidence on the part of the defendants, I am of the view that there is a good arguable case that there are assets, apparently vested in the company, which may be beneficially the property of Mr. Chabra and therefore available to satisfy the plaintiff's claims against him if established at trial. I am also of the view that it is arguable that the company was, in fact, at relevant times the alter ego of Mr. Chabra and that its assets, or at least some of its assets, may be available to meet the plaintiff's claims against him if established. There is support for the claims in the plaintiff's evidence, though they are not yet articulated in the statement of claim. Those claims have not been satisfactorily dealt with in the scant evidence adduced by the defendants. I decline to strike out the writ as against the company. In my view, the company

is a proper party to these proceedings, even though there is no cause of action against it on the guarantee."

9. Further at pages 241 and 242, His Lordship stated as follows;

"…All these points made by Mr. Mitchell were, however, preliminary to his main submission that the court simply has no jurisdiction to make a Mareva injunction against the company, because the plaintiff has ad-mitted that it has no cause of action against the company. In considering this submission I bear in mind four preliminary but important points. I first take note of the wide terms of section 37(1) of the Supreme Court Act 1981 which empowers the court to grant an injunction in all cases where it appears to the court to be just and convenient to do so. Secondly, the whole basis of the Mareva jurisdiction is that, where a plaintiff has shown a good arguable case, the court, in order to protect the plaintiff's interests, has jurisdiction in a proper case to grant an interlocutory injunction restraining a defendant from disposing of or dissipating his assets, where the refusal of such an injunction would involve a real risk that a judgment obtained by the plaintiff would be stultified and remain unsatisfied.

Thirdly, the jurisdiction of the court should be exercised with caution and great care should be taken not to be oppressive to the persons restrained, either in the carrying on of a business or in the conduct of every-day life.

Fourthly, the practice of the court on the grant of Mareva injunctions is an evolving one which has to re-main flexible and adaptable to meet new situations as and when they arise.

With those points in mind, I turn to Mr. Mitchell's important submission. He sought to bolster it by reference to the decision of the House of Lords in Siskina (Owners of cargo lately laden on board) v. Distos Compania Naviera S.A. [1979] A.C. 210. He submitted that that case supported the proposition that an interlocutory injunction can only be made against a defendant against whom the plaintiff has a cause of action. He re-ferred to p. 256, where Lord Diplock said in his speech:

"A right to obtain an interlocutory injunction is not a cause of action. It cannot stand on its own. It is dependent upon there being a pre-existing cause of action against the defendant arising out of an invasion, actual or threatened by him, of a legal or equitable right of the plain-tiff for the enforcement of which the defendant is amenable to the jurisdiction of the court. The right to obtain an interlocutory injunction is merely ancillary and incidental to the pre-existing cause of action."

It is important to note that in that case there was only one defendant and it was held that, as there was no cause of action against the sole defendant which was justiciable in the High Court and enforceable by final judgment, the court had no jurisdiction to make an interlocutory injunction against the defendant restraining the removal of assets in England: see also Steamship Mutual Underwriting Association (Bermuda) Ltd. v. Thakur Shipping Co. Ltd. (Note) [1986] 2 Lloyd's Rep. 439.

In the present case there are two defendants. There is one defendant, Mr. Chabra, against whom the plaintiff undoubtedly has

a good arguable cause of action: the claim on the guarantee. That is justiciable in the English court; Mr. Chabra is amenable to the jurisdiction of the English court to make a final judgment against him on the guarantee. The claim for an injunction to restrain disposal of assets by Mr. Chabra is ancillary and incidental to that cause of action. In my judgment, the claim to a similar injunction against the company is also ancillary and incidental to the claim against Mr. Chabra and the court has power to grant such an in-junction in an appropriate case. It does not follow that, because the court has no jurisdiction to grant a Mareva injunction against the company, if it were the sole defendant, the court has no jurisdiction to grant an injunction against the company as ancillary to, or incidental, to the cause of action against Mr. Chabra: see for example, Vereker v. Choi [1985] 4 N.S.W.L.R. 277, 283. I agree that such a course is an exceptional one, but I do not accept that it is one that the court has no jurisdiction to take.

The company is a party to this action. It is properly a party to this action under R.S.C., Ord. 15, r. 6. There is a cause of action against Mr. Chabra. Although there is no cause of action against the company, there is credible evidence, not contradicted by evidence from Mr. Chabra, that assets apparently the property of the company may, in fact, be assets of Mr. Chabra and therefore available to satisfy a judgment obtained against him. In these circumstances, if an injunction against Mr. Chabra is inadequate to protect the plaintiff from the risk that assets vested in the company may become unavailable to satisfy the judgment obtained against Mr. Chabra, an injunction should be made against the company to prevent it from dissipating as-sets. An injunction against Mr. Chabra alone, either in relation to his own assets or the company's

assets, is inadequate. He is out of the jurisdiction: the court does not know what personal assets he has. It is no safeguard to the plaintiff to have an injunction against Mr. Chabra restraining him from directing or procuring the company from disposing of its assets when it may turn out that the plaintiff has no means of enforcing such an injunction against Mr. Chabra.

Likewise, I am of the view that there is no practical protection to the plaintiff in restraining the company from aiding and abetting Mr. Chabra to act in breach of the order against him. There may be circumstances in which the company could aid and abet the breach of such an order without there being any effective sanction against it.

In brief, the most realistic and practical form of relief in this case is to restrain the company from disposing of, or dealing with, assets until it is established whether the plaintiff is entitled to a judgment against Mr. Chabra and until it is established which, if any, of the assets apparently vested in the company are available to satisfy any judgment obtained against Mr. Chabra.

In my judgment, I have jurisdiction to grant an injunction against the company and it is appropriate to grant it in support of the existing legal right claimed by the plaintiff against Mr. Chabra. The injunction which I grant, though made against a party against whom there is no cause of action, is in support of and in respect of that cause of action against Mr. Chabra…"

10. The jurisdiction was affirmed subsequently by the Hong Kong Court of Appeal in the case of ***XY, LLC v Jesse Zhu*** [2017] 5 HKC 479. The order has

since become known as the Chabra Injunction. In that case, a freezing injunction was obtained again the first defendant and a Chabra Injunction was obtain against a non-defendant company registered in the BVI, Grand Network Technology ("GNT"). GNT's application to have the Chabra Injunction against it discharged was refused and GNT appealed. On appeal, Kwan JA applied a two-limb principle Under the two-limb principle, a Chabra Injunction may be granted in the following circumstances: -

i) the third party holds, is using, or has exercised or is exercising a power of disposition over, or is otherwise in possession of, assets, including claims and expectancies, of the judgment debtor or potential judgment debtor; or

ii) some process, ultimately enforceable by the courts, is or may be available to the judgment creditor as a consequence of a judgment against that actual or potential judgment debtor, pursuant to which, whether by appointment of a liquidator, trustee in bankruptcy, receiver or otherwise, the third party may be obliged to disgorge property or otherwise contribute to the funds or property of the judgment debtor to help satisfy the judgment against the judgment debtor.

11. The test therefore is whether there is a good arguable case that the non-defendant's assets are in fat the assets of a substantive defendant and the presence of either one of the limbs set out above will suffice.

12. This was in fact the basis upon which this court acted when making its order in respect of the second and third respondents. Since that time

however, the respondents have had the opportunity to swear and file affidavits and the claimant has replied. The court must also highlight the fact that it intends to and does not make any findings of fact at this stage. The court does not therefore propose to traverse all of the evidence or facts set out at this stage of the process.

13. Further, this being proceedings in aid of enforcement the claimant is thereafter entitled to enforce by any method he chooses within the ambit of the law. In the Court of Appeal case of ***Agricultural Development Bank v Terry Sooklal and others*** Appeal number S-359 of 2018, the Honourable Chief Justice had the following to say in the opening salvo of the decision;

> *Once a judgment has been received, it is left to the Judgment Creditor to choose the most effective means of securing the fruits of his judgment. There is no hierarchy among the available methods. The choice of mechanism of enforcement is not an issue for the court, whose role is, to ensure that whatever method is used falls within the purview of the law.*

14. In that regard it is to be noted that a date has been set for trial of the issue on the substantive application as to whether the assets of the respondents are in fact assets of the first respondent. That hearing is set for the 9th April 2019. The respondents have argued that specific enforcement methods do not apply to this case but they have not set out those which do apply. A variety of enforcement options remain open to the claimant such as the appointment of a receiver/liquidator or a winding up petition in relation to the third respondent among others. So that under the second limb these enforcement procedures remain open to the claimant.

15. Additionally, the respondents argue that the claimant has not sought a declaration accordingly in its application of the 23rd October 2018. In the court's view that argument is unsustainable as it is abundantly clear that the nature of the application before the court requires a finding by the court as to whether or not the shares held by the second respondent in the third respondent are that of the first respondent and are essentially owned and held on trust for him.

16. In relation to the submission of the respondents that the shareholders do not own the assets of the company, as a matter of law the court accepts this as being the correct position. However, it is equally clear that he who holds the majority of shares also holds a controlling interest in the company and is in a position to direct the manner in which the company's assets are dealt with, be it by way of disposition or otherwise. While he therefore does not hold an interest in the assets of the company he in fact holds a controlling interest in the corporate personality that is the company.

17. Additionally, the shares are of stand alone value independent of the value of the assets of the company and are a chose in action. They are therefore of value and are capable of being assigned. ***Halsbury's Laws of England, Volume 13 (2017), paragraph 1*** provides as follows;

"The expression 'chose in action' or 'thing in action' in the literal sense means a thing recoverable by action, as contrasted with a chose in possession, which is a thing of which a person may have physical possession. The meaning of the expression 'chose in action' or 'thing in action' has expanded over time, and is now used to describe all personal rights of property which can only be claimed or enforced by action, and not

by taking physical possession… A chose in action is no less a chose in action because it is not immediately recoverable by action, such as a debt payable in the future. Though the existence of a remedy or remedies is an essential condition for the existence of a chose in action, the remedies are not property in themselves, capable of assignment separately from the chose.

Halsbury's Laws of England, Volume 49 (2015), paragraph 455 also provides;

"…The term 'chose in action' embraces all rights of a kind enforceable only by action, not by possession. In its current usage, the term covers not only rights in personam but also incorporeal property conferring rights in rem. It thus includes patents and copyrights as well as bills of exchange, bills of lading, debts, shares and debentures in companies, shares in a partnership, policies of insurance and legacies…" (For shares and debentures see ***Colonial Bank v Whinney*** (1886) 11 App Cas 426, HL)

18. In the court's view therefore both limbs set out in the two- limb principle above are present in the circumstances of this case.

19. For the sake of completeness, the court sets out the following as a basis for having joined the second and third respondent and the finding that they are properly joined. What follows is not a fact finding exercise but is provided for context only. It must be borne in mind that the application before the court is one of improper joinder. There is in substance no challenge to the substantive grant of the injunction and the application has not been argued on that footing by the second and third respondents save and except that in his submissions in reply, attorney for the respondents sought to answer the issue of good arguable case raised by attorney for the claimant. In that regard, attorney for the respondent simply countered

that there had been no good arguable case. Despite this, it remains clear to this court that the applications were not argued on this basis.

20. The evidence as set out by Mr. Rudder in his affidavit of the 23rd October 2018 (paragraphs 28 to 44), filed in support of the application of even date demonstrated that at first Mr. Duprey, in purported compliance with the requirement to file a Form 1.977 Fact Information Sheet (FIS), following the entry of judgment in Florida, declared that he owned no assets anywhere in the world. A copy of the form filed by the first respondent in the Florida court on the 18th December 2017 is attached to the said Rudder affidavit. Judgment was subsequently given by this court on the 27th September 2018. While the substantive case before this court was pending however, contempt proceedings were brought against the first respondent in the Florida court. On the 6th March 2018, the first respondent filed a revised FIS wherein he disclosed extensive and significant assets within the jurisdiction. The revised form is also exhibited to the Rudder affidavit. The disclosure included amongst other matters that the first respondent held one share in the third respondent and that the second respondent held 49,999 shares. These disclosures were clearly not made in the earlier form filing and there may be a strong inference that they were purposely not disclosed. (It is to be noted that the first respondent also disclosed that there exists a dispute between he and another in respect of his shares in the fourth respondent, a matter not strictly relevant to the present application). Additionally, the first respondent swore to an affidavit in the Florida proceedings on the 27th April 2018 in which he deposed that he had not sold, loaned or transferred any real or personal property worth more than $100.00 to any person from 27th April 2017 to 27th April 2018.

21. The annual returns of the third respondent however appear to tell a different story. They are attached as ADR 12 to the Rudder affidavit. The first respondent is listed as a director on the first return dated the 1st September 1999. The other director was an assistant of the first respondent. Authorized share capital was 50,000 but only one share had been issued. The first respondent was the sole shareholder. By Notice of Change of Directors of the 21st September 2016, the first respondent ceased being a director however he continued to be the sole shareholder. On the 22nd May 2017, the second respondent became a director. By resolution of the 1st February 2018, it was resolved at an extra ordinary meeting of the board of directors that 49,999 shares would be issued to the second respondent with effect from the 17th August 2017. No explanation for the decision was provided at that time and the claimant notes that it was the first time that the balance of the shares were being issued in some twenty year of existence. Further, no receipt for funds paid for the shares was up to that point disclosed.

22. It is also to be noted that two major event had taken place in the intervening period between the 22nd May 2017 and the date of the resolution namely, the Florida court had ordered Final Judgment against the first respondent on July 31, 2017 and the substantive claim before this court in this jurisdiction had in fact been filed on October 30, 2017 and the first case management conference had been held on the 24th January 2018.

23. The claimant submitted that in its view it was highly unusual for a company to issue a large number of shares, in this case the balance of the share capital, to one of its directors the effect of which is to essentially dilute its

sole shareholder, the first respondent, to a minority shareholder. In its view the move was strongly suggestive of an attempt to dissipate assets.

24. The application of the claimant is also supported by the affidavit of Wayne Sylvester, an alleged whistleblower sworn to and filed on the 23rd October 2018. Mr. Sylvester is the former General Manager of the third respondent. In essence Mr. Sylvester's evidence is that he had a conversation (among others) with the first respondent (who was at the time neither a director or the holder of more than one share) while he Sylvester was employed with the third respondent in relation to the sale of lands (the Tamana Estate) held by the third respondent. In his view it was obvious that the first respondent was the one who wanted to sell the lands and was instructing same. The conversation was held in the presence of the second defendant. It is also his testimony that the second defendant told him that the first respondent wanted to sell the lands for the sum of $49 million. See paragraphs 35 to 38 of the said affidavit.

25. The second respondent responded by affidavits. By affidavit of the 15th January 2019 he deposed that the third respondent was formed to facilitate the purchase of the Tamana Estate. Because of his close personal and business relationship with the first respondent for over thirty years he was instrumental in the purchase of two other estates. The purpose of the purchases was to get into the cocoa business. The first respondent financed the business and the second respondent managed the lands. He stated that he never had any desire to be a director of the third respondent, that a holding company was to be formed and he would have accepted a directorship in that company. His responsibilities included the sourcing and obtaining of feasibility studies and financing. In some cases he personally directed the operations of projects. However he was never

paid an income for all of his service (save and except that his expenses associated with his duties were paid). He earned a living from his private work. He deposes that he put into the business more than he received but he was never bothered by this. In 2017 it became clear to him that the shares and assets of the first respondent were being transferred to the fourth respondent (presumably by the person so authorized to transfer same) in an effort to protect those assets from being taken away by the Government of the Republic of Trinidad and Tobago (GORTT). He then decided that it was time to become a director of the third respondent and maintain control of the Tamana estate. This was the estate in which he injected more time and money, however it was run down and required more time and attention.

26. It is therefore his answer that he was owed for thirty years of service so that the first respondent permitted the issue of 49,999 shares to him. He has deposed that the filing of the annual return on the 1st February 2018 was merely coincidental to the proceedings in court of which he was unaware. Further, that the issue of the shares to him was an above board bona fide transaction.

27. The court makes no finding of facts in relation to the disputes contained on the affidavit of the opposing parties at this stage. Without treating with the details, it must also be noted that the affidavits in support highlight an alleged intention to sell of part of the estates. Suffice it to say that the court was and is still of the view that the claimant would have demonstrated a good arguable case that the assets of the third respondent held in the name of the second respondent may belong to the first respondent in that the beneficial interest may be vested in him. The latter issue has not yet been determined by this court.

28. If therefore it is found that the shares are owned by the first respondent, it follows that they are available to satisfy the claimant's judgment. It is also arguable that the third respondent was, in fact, at relevant times the alter ego of the first respondent (just as was argued in ***The Chabra*** above) and that its assets may be available to satisfy the judgment in like manner. In those circumstances the court felt that this was a proper case to grant an interlocutory injunction restraining both the second and third respondents from disposing of or dissipating assets, as the refusal of such an injunction would involve a real risk that the judgment obtained by the claimant would not be satisfied.

29. It follows that both the second and third respondents were properly joined to the application of the claimant and will not be removed. As this court has demonstrated from time to time in this very case, any potential prejudice can be and has been assuaged by the court's variations of the order to suit the particular circumstances of the proposed transaction while at the same time protecting the interest of the claimant on the order as granted. This practice shall continue. The application shall be dismissed and the parties heard on costs of the application.

Ricky Rahim

Judge of the High Court