



IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (KBD)

CL-2020-000092

The Honourable Mrs Justice Cockerill DBE, sitting in public

19 April 2023

B E T W E E N:

CRF I LIMITED

Claimant / Respondent

- and -

(1) BANCO NACIONAL DE CUBA

(2) THE REPUBLIC OF CUBA

Defendants / Applicants

ORDER

UPON the CPR Part 11 applications dated 26 May 2020 made by the First Defendant and the Second Defendant contesting the Court’s jurisdiction (the “**Applications**”, each an “**Application**”)

AND UPON Mr Justice Henshaw having on 9 December 2022 given permission for the Defendants to amend their Points of Defence so as to remove allegations of bribery and reserved both the costs of the application to amend and any costs thrown away as a result of the amendment (the “**Reserved Bribery Costs**”)

AND UPON the trial of the Applications and the handing down of judgment on 4 April 2023 (the “**Judgment**”)

AND UPON the parties agreeing, and the Claimant undertaking, that the Claimant will not contend that, by serving evidence, making submissions and/or otherwise engaging with the



matters addressed in this Order and/or in issue in this hearing, either of the Defendants has taken any step in the proceedings within the meaning of section 2 of the State Immunity Act 1978, or otherwise submitted to the jurisdiction of the English Court, and that all of their rights, privileges and immunities (if any) remain unaffected (including, but not limited to, those arising under the State Immunity Act 1978). For the avoidance of doubt, the Claimant makes no admissions or concessions in relation to the issues of immunity and jurisdiction or otherwise

AND UPON hearing Leading Counsel for the Defendants and Leading Counsel for the Claimant

IT IS ORDERED AND DECLARED that:

Jurisdiction

1. The First Defendant's Application is dismissed.
2. It is declared that:
 - 2.1 The First Defendant, on its own behalf, consented to the assignment to the Claimant of the debts represented by an agreement executed between the First Defendant and Credit Lyonnais on 24 January 1984 and an agreement executed between the First Defendant and Istituto Banco Italiano on 30 January 1984 (the "Agreements"), and accordingly, the debts represented by the Agreements have been validly assigned to the Claimant;
 - 2.2 The Court has jurisdiction to try the debt claims herein against the First Defendant;
 - 2.3 The First Defendant is not immune from the jurisdiction of the Court pursuant to the State Immunity Act 1978; and
 - 2.4 The conditions for the service of the Claim Form out of the jurisdiction upon the First Defendant have been satisfied.
3. The Second Defendant's Application is granted.
4. It is declared that:
 - 4.1 The Court has no jurisdiction to try the claims herein against the Second Defendant; and



- 4.2 The Second Defendant is immune from the jurisdiction of the Court pursuant to the State Immunity Act 1978.

Correction under the Slip Rule

5. Paragraph 398 of the Judgment shall be corrected under CPR 40.12(1), so as to replace the words “*The Defendants*” with “*BNC*”.

Costs

6. The First Defendant shall pay the Claimant’s costs of and occasioned by the First Defendant’s Application, including the Claimant’s Reserved Bribery Costs, such costs to be the subject of detailed assessment on the standard basis if not agreed, save as regards the Claimant’s Reserved Bribery Costs which shall be the subject of detailed assessment on the indemnity basis if not agreed.
7. The First Defendant shall make an interim payment to the Claimant in the sum of £575,000, on account of the costs ordered under paragraph 6 above, by 4:30 pm 2 May 2023. Such payment shall be made to the Claimant’s solicitor’s client account as follows:

Memery Crystal Client Account £ Sterling
Address: Barclays Bank plc, Bedford Square, Leicestershire LE87 2BB
Account name: RBG Legal Services Limited
Client Account No: 80646954
Sort Code: 20 05 75
IBAN: GB20 BARC 2005 7580 6469 54
Swift: BARCGB22

8. The Second Defendant is entitled to its costs of and occasioned by the issues specifically raised by the Second Defendant’s Application on which the Second Defendant was successful. Such issues are to be determined at the Case Management Conference to be fixed in accordance with paragraph 12 below.
9. The Second Defendant is entitled to an interim payment on account of the costs ordered under paragraph 8 above. The amount of such payment is to be determined at the Case Management Conference to be fixed in accordance with paragraph 12 below.



10. The party by whom or the mechanism by which the costs ordered under paragraph 8 above and the interim payment on account of such costs under paragraph 9 above are to be paid is to be determined at the Case Management Conference to be fixed in accordance with paragraph 12 below.

Interest on Costs

11. As regards interest on the costs ordered to be paid under paragraphs 6 and 8 above, the paying party shall:
- 11.1 Pay pre-judgment interest on such costs at the rate of 1.5% above the Bank of England base rate from the dates the costs were paid by the receiving party until the date of this Order.
- 11.2 Pay post-judgment interest on such costs at the Judgment Rate from the date of this Order until the date of payment by the paying party.

Directions

12. A Case Management Conference in this matter shall be listed for the first mutually convenient date, with a time estimate of 2 hours (before Cockerill J if possible).

Application for Permission to Appeal

13. The consequential hearing on 4 April 2023, at which the Judgment was handed down, is adjourned in order to give the parties the opportunity to apply to the Judge for permission to appeal, if so advised. Any such application is to be made in writing to the Judge by 4:30 pm on 19 May 2023, copied to the other parties, with the other parties having until 4:30 pm on 26 May 2023 to make any written submissions in response, following which the application(s) will be determined by the Judge on the papers.
14. The time to file any appellant's notice (and, for the avoidance of doubt, to make an application for permission to appeal to the Court of Appeal) is extended until the later of (i) 16 June 2023; and (ii) 21 days after the date of the Judge's determination referred to in paragraph 12 above.

Other matters

15. Liberty to apply.

Dated 19 April 2023

