[2016] JMCA Civ 31

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO 86/2013

BEFORE: THE HON MR JUSTICE BROOKS JA
THE HON MRS JUSTICE MCDONALD-BISHOP JA
THE HON MR JUSTICE F WILLIAMS JA

IN THE MATTER of all that parcel of land part of CHERRY GARDEN in the parish of SAINT ANDREW being the lot numbered **NINE** on the Plan of part of Cherry Garden aforesaid deposited in the Office of Titles on the 21st day of November, 1957 of the shape and dimensions and butting as appears by the Plan thereof and being the land comprised in Certificate of Title registered at Volume 965 Folio 215 of the Register Book of Titles.

AND

IN THE MATTER of the restrictions affecting the use and development of the said land as well as distance of buildings and boundaries.

AND

IN THE MATTER of the Restrictive Covenants (Discharge and Modifications) Act.

BETWEEN	**MINISTRY OF HOUSING**	**APPELLANT**
AND	**LANCELOT NEVILLE RAYNOR**	**1ST RESPONDENT**
AND	**JEAN ANDREA KATHLEEN RAYNOR**	**2ND RESPONDENT**

Mrs Camaleta Davidson and Miss Ana-Stassia McLeish instructed by Vaccianna and Whittingham for the appellant

W Anthony Pearson instructed by Pearson and Company for the respondents

28 July and 6 October 2017

BROOKS JA

[1] The Restrictive Covenants (Discharge and Modifications) Act (the Act) was passed on 25 February 1960. Mrs Davidson, on behalf of the appellant, the Ministry of Housing, submitted that the Act has lagged behind the changes in society and land usage. Learned counsel urged this court to prod the legislature to make changes that are necessary to reflect modern realities.

[2] Mrs Davidson made these suggestions as part of her submissions that Rattray J erred when, on 9 March 2012, he refused the appellant's application to modify restrictive covenants affecting premises 2A Mark Way, Cherry Garden, in the parish of Saint Andrew (hereinafter called number 2A). The learned judge made that decision after Mr Lancelot Raynor and Mrs Jean Raynor, objected to the appellant's proposal to build six townhouses on number 2A. The Raynors are the registered proprietors of premises, number 2 Mark Way, which are next door to number 2A, for which the appellant is the registered proprietor. They are among the beneficiaries of the restrictive covenants which are endorsed on the certificate of title for number 2A.

[3] The issues which are raised by this appeal are, firstly, whether the learned judge properly defined the neighbourhood to which number 2A belonged for the purpose of

determining whether restrictive covenants have been rendered obsolete as was contended by the appellant, and secondly, whether the learned judge properly directed his mind as to whether the modification of the restrictive covenants would cause injury to the persons entitled to the benefit of those covenants. Those issues shall be addressed individually below, but a prior outline of the factual background to the appellant's application would aid understanding of what follows.

The factual background and the relevant evidence before the learned judge

[4] The appellant acquired the title to number 2A in March 2007. It hoped to build the townhouses on the land, but several of the restrictive covenants endorsed on the registered title, proved an obstacle to the appellant's plan. One of the restrictive covenants stipulated that only one private dwelling house could be built thereon. The relevant covenants state as follows:

> "1. There shall be no sub-division of the said land."
>
> "2. No building of any kind other than one private dwelling house with appropriate out-buildings (of the nature of servants' quarters, garages of a garden tool room) appurtenant thereto and to be occupied therewith shall be erected on the said land and the value of such private dwelling house and out-buildings shall in the aggregate not be less than Three Thousand Five Hundred Pounds. Without limiting the foregoing no duplex or other multiple building or flats or any kind designed to or capable to being let separately shall be erected on the said land"
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> "3. No building shall be erected on the said land nearer than forty feet to any road boundary nor twenty feet to any other boundary of the said land. No buildings (whether attached to the main building or separate) shall be erected on the said land nearer to any road

boundary than the dwelling house to be erected thereon."

"9. No fence hedge or other construction of any kind, tree or plant of a height of more than four feet six inches above road level shall be permitted within fifteen feet of any road intersection and the Road Authority shall have the right to enter upon the said land and remove cut or trim any fence erection hedge tree or plant which may be placed or grown upon the said land in contravention of this restrictive covenant without liability for any loss of damage thence arising and the registered proprietor shall pay to the road Authority the cost incurred."

[5] Faced with these restrictions to its development plans, the appellant, very responsibly (nothing less would be expected from such an agency of the State), before taking any steps to develop the premises, applied to have the relevant covenants modified, in order to pave the way for what it wished to do. It filed its application in April 2008. In its amended fixed date claim form, filed on 28 October 2008, it sought to have the relevant covenants modified so that they would read as follows:

"1. There shall be no sub-division of the said land save and except with the approval of the relevant authority."

"2. No building of any kind other than private dwelling houses townhouses and/or apartments with appropriate out-buildings (of the nature of servants" quarters, garages or a garden tool room) appurtenant thereto and to be occupied therewith shall be erected on the said land **SAVE AND EXCEPT** for the erection of a guardhouse and garbage disposal receptacle which shall not be deemed a breach of the covenant and the value of such private dwelling houses, townhouses and/or apartments and out-buildings shall in the aggregate not be less than Three Thousand Five Hundred Pounds.

"3. Any dwelling structure or structures to be erected on the said land shall be erected at a distance of not less than Twelve point One metres from the centre line of the roadway. Provided however the erection of a Guardhouse and Garbage disposal receptacle, steps, party walls and eaves shall not be deemed to be a breach of this covenant."

"9. No fence hedge or other construction of any kind, tree or plant or a height of more than eight feet six inches above road level shall be permitted within fifteen feet of any road intersection and the road Authority shall have the right to enter upon the said land and remove cut or trim any fence erection hedge tree or plant which may be placed or grown upon the said land in contravention of this restrictive covenant without liability for any loss or damage thence arising and the registered proprietor shall pay to the Road authority the cost incurred." (Underlining as per the application).

[6] The Raynor's filed their notice of objection on 19 January 2009. They asserted that they were entitled to the benefit of the restrictive covenants that are endorsed on the appellant's certificate of title. The Raynors contended that the restrictive covenants were still relevant for protecting the character of the neighbourhood and that any development of the nature proposed by the appellants would injure them in their use and enjoyment of their property.

[7] Curiously, the Raynors did not file any affidavit deposing about any of the issues raised in their notice of objection. Consequently, the only evidence that was before the learned judge was that contained in the various affidavits filed on behalf of the appellant.

[8] The evidence revealed that there had been other developments of lands in Cherry Garden. Mr Dave Domville, in his affidavit filed on 29 December 2009, on behalf of the appellant, identified seven properties on which multi-unit housing had been constructed. In respect of several of those developments, Mr Domville deposed, the Supreme Court had authorised very similar modifications to the ones which the appellant sought.

[9] Mr Domville stressed the small size of the appellant's proposed development, stating that a six-townhouse development would be consistent with the general surroundings and the high tone of the area. He deposed that the proposed development would be of such a value and the units would be sold to "purchasers who are professionals with impeccable character and who are of similar background" as the existing residents of the area. Those circumstances would mean that the development would "not injure financially or otherwise the persons owning lots in the area and further will preserve the high quality and character of that area" (paragraph 12(f) and (n) of his affidavit).

[10] He further deposed that the appellant had secured the approval for the development from the relevant planning agencies, including the National Works Agency, The National Environment and Planning Agency and the National Water Commission. He contended that the concerns of the Raynors, and other persons who had, at that time, filed objections, were unfounded.

[11] Mr Domville initially asked that the application to vary the covenants be granted on the basis that the appellant had satisfied all the provisions set out in section 3 of the Act. In his later affidavit he deposed that he was confident that the appellant had satisfied the provisions of section 3(1)(a), (b) and (d).

The provisions of section 3

[12] Although the appellant did not rely on all the provisions of section 3(1) of the Act, the relevant portion of the sub-section is set out below for convenience. It states:

> "A Judge in Chambers shall have power, from time to time on the application of the Town and Country Planning Authority or of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) on being satisfied–
>
> (a) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Judge may think material, the restriction ought to be deemed obsolete; or
>
> (b) that the continued existence of such restriction or the continued existence thereof without modification would impede the reasonable user of the land for public or private purposes without securing to any person practical benefits sufficient in nature or extent to justify the continued existence of such restriction, or, as the case may be, the continued existence thereof without modification; or
>
> (c) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction whether in respect of estate in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexes, have agree either expressly or by

> implication, by their acts or omissions, to the same being discharged or modified; or
>
> (d) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:
>
> …"

The decision

[13] The learned judge approached his task by first noting that the onus of proof rested on the appellant to satisfy him that it met one or more of the requirements of section 3 of the Act, in order for the covenants to be modified. He then considered the evidence, the objections by the Raynors, who were the only objectors to pursue their objection, and the submissions by counsel, who appeared before him.

[14] One of the first findings made by the learned judge was that the appellant had not provided sufficient evidence to properly identify the lands comprising the neighbourhood, for the purposes of the application. He rejected the appellant's contention that "all the land described as Cherry Garden ought to be considered the neighbourhood" (paragraph 27 of his reasons for judgment). The learned judge also found, in the context of section 3(1)(a) of the Act, that the appellant had provided no material to allow him to find that the restrictive covenants were obsolete.

[15] The learned judge went on to consider the requirements of section 3(1)(c) of the Act. He similarly found that the appellant had not provided any evidence that the persons who were entitled to the benefit of the restrictive covenants had agreed, either

expressly or by implication to the discharge or modification of the covenants. The learned judge was of the view that the objections were evidence of a contrary position.

[16] The learned judge then turned his attention to section 3(1)(d) of the Act. He found that the appellant had failed to negative the implication that injury would result from a change in the character of the neighbourhood.

[17] Although he did not specifically address the requirements of section 3(1)(b), the learned judge concluded that the appellant had "failed to satisfy the Court as to any entitlement to relief under [section 3] of the Act" (paragraph 33).

The appeal

[18] The appellant relied on two grounds of appeal:

> "(a) The learned Judge failed to specifically define the neighbourhood for the purposes of the Appellant's claim in the Court below after rejecting the Appellant's definition of the neighbourhood and acted in error by relieving the respondents (Objectors in the Court below) of the obligation to identify or delineate the boundaries of the neighbourhood.
>
> (b) The learned Judge erred in law and fact in failing to properly direct his mind to whether the proposed discharge or modification will injure the persons entitled to the benefit of the restrictive covenants."

Mrs Davidson placed more emphasis on ground (b) than on ground (a).

[19] The appellant sought an order setting aside the learned judge's judgment and an order allowing the modifications as were set out in the fixed date claim form.

Ground (a) - The approach to defining the neighbourhood for the purposes of section 3(1)(a)

[20] Mrs Davidson's decision to place her emphasis on ground (b) resulted from her acceptance that the appellant had failed to place any expert evidence before the learned judge as to the composition of the neighbourhood. She submitted that Mr Domville had, in his affidavits, attempted to delineate the neighbourhood, but she found it difficult to overcome the learned judge's observation that the appellant had not satisfied the 'real estate agent's test', which had commended itself to Downer JA in **Central Mining and Excavating Limited v Peter Crosswell and Others** (1993) 30 JLR 503, and from which the learned judge in this case, drew guidance. That test required an expert in the field to give an opinion to the court as to the expectations of a person who had purchased property in the neighbourhood affected by the covenants in question.

[21] The learned judge found that Mr Domville did not purport to be an expert in the field and appeared to be acting on information provided to him by other persons (paragraph 26(iv) of the reasons for judgment). The learned judge, therefore, found that there was insufficient material placed before him to identify and make a ruling in respect of the lands comprising the neighbourhood.

[22] It is for those reasons that he found that the requirements of section 3(1)(a) had not been satisfied. The appellant cannot successfully challenge that finding.

Ground (b) - The approach to determining whether modification of the covenants would cause injury to the objectors

[23] For this second ground, Mrs Davidson submitted that the learned judge should have considered whether or not the proposed development would have injured, and not just affected, the Raynors. Learned counsel argued that there was a difference between the two concepts as was identified by Bertram-Linton J (Ag) (as she then was) in **Re Shaw Park** [2016] JMSC Civ 120. Mrs Davidson argued that the difference was that injury would occur where the situation would not otherwise occur but for the modification of the covenant. She rejected the contention that an application to modify a covenant, by itself amounts to an injury.

[24] Mrs Davidson submitted that although the burden of proof lies on the appellant to satisfy the court that no injury would be caused to the beneficiaries of a restrictive covenant, where a person objects to the modification of that covenant, the objector should adduce some evidence to support his position. She relied on the cases of **Stephenson v Liverant** (1972) 18 WIR 323 and **In the Matter of # 30 Dillsbury Avenue** ((2006) HCV 00856, judgment delivered 14 April 2011) in support of her submissions.

[25] Mr Pearson, on behalf of the Raynors, submitted that the absence of evidence from them, in support of their objection, was of no moment. He argued that there was a strong parallel between the circumstances of **Stephenson v Liverant** and the present case, in that in both cases there was no evidence from the objectors. He

submitted that in this case the injury to the Raynors would be the removal of the tranquillity and calm of the neighbourhood.

[26] Learned counsel argued that, not only was the burden of proof on the appellant, but that the Raynors had sufficient material in the appellant's application, at which to point, in order to show that they would be injured by the proposed development. He gave as an example paragraph 12(i) of Mr Domville's affidavit filed on 28 December 2009 in which Mr Domville indicated that the sewage for the proposed development would "be treated on site in a method being pursued by Kingston and Saint Andrew Corporation for treatment of same". Learned counsel was undaunted by the fact that the learned judge did not mention that factor at all in his reasons for judgment.

[27] In analysing these contending submissions it should be noted, as was pointed out above, that section 3(1)(d) requires a judge to be satisfied "that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction". There is no contest that the Raynors are among the persons who are entitled to the benefit of the restrictive covenants affecting the appellant's title. Nor is it contested that the onus of proof of satisfying the requirements of section 3(1), including paragraph (d), lies on the appellant.

[28] Russell LJ in the English Court of Appeal gave an opinion as to the juridical basis for section 84(1)(c) of the Law of Property Act 1925 of England. That was a provision which was very similar to section 3(1)(d). In **Ridley and Another v Taylor** [1965] 2 All ER 51, Russell LJ said at page 58:

> "My own view of para *(c)* of s 84(1) is that it is, so to speak, a long stop against vexatious objections to extended user... The view expressed by the late Mr W A Jolly in his work on Restrictive Covenants Affecting Land (2nd Edn), p 120, was that para *(c)* was intended by its reference to injury to modify the extent to which, in its ordinary jurisdiction, the court would grant injunctions. In that jurisdiction injunctions would be granted even if the plaintiff could not be personally interested in enforcement save out of a sense of duty or moral obligation to others; under para *(c)* the objection must be related to his own proprietary interest. Both this passage in Jolly and the corresponding passage in Preston And Newsom [On Restrictive Covenants Affecting Freehold Land (3rd edition)] suggest that para *(c)* may be designed to cover the case of the, proprietorially speaking, frivolous objection. For my part I would subscribe to that view."

[29] In the High Court of Barbados, Sir Denys Williams CJ, in **Re System Sales Ltd's Applications** (1992) 43 WIR 19, at page 27, not only endorsed the views expressed by Russell LJ but interpreted them to mean that the applicant had to establish "that the objections raised are trifling and insubstantial and can be dismissed as no more than frivolous". He went on to say at page 28, that the section equivalent to section 3(1)(d) only required him to be "concerned with whether [the applicant] has established that the objectors, as persons who have bought into the development, have raised only insubstantial matters". The learned authors of Preston and Newsom's Restrictive Covenants Affecting Freehold Land opine, at paragraph 13-55 of the 10th edition (2013) of their work, that a decision in favour of the application on the ground equivalent to section 3(1)(d), "involves a finding that the unsuccessful objections were "proprietorially speaking, frivolous".

[30] The Privy Council also addressed the matter of the onus of proof imposed by section 3(1)(d). In **Vayden McMorris v Claude Brown and Another** [1998] UKPC 34; [1999] 1 AC 142, which was an appeal from a decision of this court, their Lordships held that in considering the matter of injury under section 3(1)(d), the applicants for modification or discharge of a restrictive covenant, has a burden "to show that a first relaxation of that covenant would not constitute a real risk as a precedent, so disturbing the pattern of a block of family homes in exceptionally extensive grounds" (page 151). Their Lordships stated that the principle is known as "the thin edge of the wedge argument" (page 151). They confirmed that each case must be considered on its own facts.

[31] In **Stephenson v Liverant**, Smith JA, as he then was, opined that an applicant relying on section 3(1)(d) has to show, in order to succeed, that neither the mere existence of the order for modification or discharge, nor the implementation of the project which the order authorises, will cause injury to the beneficiaries of the relevant covenant (see page 337). The learned judge of appeal was, at that time, commenting, with approval, on a quote from the 4th (1967) edition of Preston and Newsom's Restrictive Covenants Affecting Freehold Land. In the 10th edition of that work, the learned authors have cited authority which maintains that stance as being the law. They concluded their discussion on the English equivalent of section 3(1)(d) by saying, in part, at paragraph 13-58:

> "If, then, the proposed development would injure the objector, the application fails….If it would not, then the application might still fail if an order for modification would undermine an intact system of restrictions. But the mere fact

> that the control given by the restrictions is no longer absolute because of the existence of the legislation is not, for the purposes of Ground (c), an injury to the persons entitled to the benefit of the restrictions."

[32] Smith JA found that injury to the objectors could be inferred from the nature of the proposed changes. He said at pages 338-339:

> "The benefit of the restrictions is a proprietory [sic] right vested in the owner of each lot of land in the subdivision which can be enforced in order to preserve the private residential character of the subdivision. **In my judgment, there can be no doubt that a project which, if implemented, will destroy or cause a change in this character is bound to cause injury to any owner who objects to the change**. The objectors brought no evidence to prove their allegation that the project will change the character of the neighbourhood. The burden was, however, on the applicants to negative injury to the objectors…. Though one can sympathise with the contention that all the applicants seek is an intensification of the user to which the majority of houses in the subdivision have been put, it cannot be doubted, in spite of the architect's evidence, that the apartment buildings and a business office intended to be used for persons on holiday are out of character in a private residential neighbourhood. There is not much practical difference between this complex and an hotel. **In my opinion, there was evidence on which the learned judge could find that the applicants' project will cause a change in the character of the subdivision and consequent injury to the objectors**." (Emphasis supplied)

[33] Continuing with the relevant principles of law to be observed in applying section 3(1)(d), it must be noted that Mrs Davidson is not on good ground with her submissions that the objector to an application to modify or discharge a restrictive covenant, on the basis of injury, should adduce some evidence of that injury. In **Ridley and Another v Taylor**, Harman LJ disapproved a view akin to that expressed by Mrs Davidson. He

opined that even if there was no damage proved, the court had a discretion as to whether it would allow the application. In considering legislation which was very similar in import to section 3(1)(d) of the Act, he said at pages 55-56:

> "...there remains the fact that the exercise of the power to modify is discretionary. Here I think that the [Lands] tribunal erred, because the opinion was expressed that the modification should be allowed unless damage was proved. That is not the right view of the section. Even if no damage be proved, the question of discretion remains, and there is, in my opinion, a reason why it should not be exercised in this case."

[34] Based on the learning to be gleaned from those cases, the following principles may be enumerated:

1. The onus of proof lies on the applicant to satisfy the requirements of section 3(1)(d).
2. The objector is not obliged to adduce evidence of the injury that he complains about.
3. The injury to the objector must be related to his own proprietary interest.
4. The onus is on the applicant to show that the objection is frivolous.
5. The applicant must show that granting the application would not amount to a relaxation of that covenant which would constitute a real risk as a precedent, of disturbing

the pattern that the covenant was designed to protect. In other words, the applicant must show that the mere existence of an order modifying the covenant would not undermine an intact system of restrictions.

6. Even if no injury to the objector is proved, the court still has the discretion to refuse the application to modify or discharge the covenant.
7. Each case turns on its own facts.

[35] In applying those principles to this case, it must first be acknowledged that the learned judge did make an error in his reasons for judgment when he stated that the Raynors had produced an affidavit. As was mentioned above, they had not done so. They only had a notice of objection before him.

[36] The absence of evidence is, however, not fatal to their objection. A similar situation existed in **Stephenson v Liverant**. In that case, Smith JA pointed out, that the objectors had failed to bring evidence to contradict positive evidence which had been adduced by the applicants concerning the issues of the values of the properties in the area, traffic hazards and the amenities of quiet and privacy.

[37] The learned judge of appeal ruled that in that scenario, there was "no evidence on which the [judge at first instance in that case] could decide [those] issues in favour of the objectors and find that injury will be caused" (page 337). Despite that finding, Smith JA also found that there was evidence on which the judge at first instance could

have decided that the applicants' project would have caused "a change in the character of the subdivision and consequent injury to the objectors" (page 339).

[38] As was the case in **Stephenson v Liverant**, it was the appellant's responsibility to satisfy the learned judge that the proposed construction of six townhouses (the National Water Authority's comments suggested that eight units were being proposed) next door to the objector's home was not such a change as would have caused them injury. He found that the appellant had not produced the necessary proof. His decision cannot be faulted.

[39] Whereas in **Stephenson v Liverant**, the applicants produced opinions from experts including architects, the appellant in this case has not done so. Mr Domville's attempts at assuring the court that there would be no injury to the objectors, were not supported by any expert evidence, and the learned judge opined that Mr Domville was not at all familiar with the area in which the proposed development was to be placed. He therefore rejected Mr Domville's evidence in that regard.

[40] Even without evidence, it would have been open to the learned judge to find that there would have been increased noise and density. He would also have been entitled to find that there would have been a reduction in privacy for the objectors. None of these factors were successfully dismissed by Mr Domville's evidence.

[41] Mrs Davidson's reliance on the cases of **In the Matter of # 30 Dillsbury Avenue** and **Re Shaw Park** does not provide the assistance she advocates for. Learned counsel herself pointed out that, as the authorities stipulate, each case turns

on its own facts. Those cases may be distinguished, at least on the basis of the decision in each.

[42] In **In the Matter of # 30 Dillsbury Avenue**, the application was for the modification of a restrictive covenant to allow for the construction of townhouses instead of a single family dwelling. Lawrence-Beswick J, decided the case on the basis that the neighbourhood had permanently changed and that the restrictive covenants ought to be deemed obsolete. She therefore decided, at paragraph 19 of her judgment, not to consider the application along the lines of sections 3(1)(b) and (d) of the Act. The learned judge did consider some of the objector's complaints of injury that he would suffer. She however found each one without merit. This case does not help Mrs Davidson.

[43] Bertram-Linton J (Ag), in **Re Shaw Park**, also decided that case on the basis that the restrictive covenant, preventing commercial use of premises, was obsolete. Her examination of the other provisions of section 3(1) may, therefore, be considered a commentary. Nonetheless, her views in respect of the issue of injury to the objector were somewhat contradictory. She eschewed the use of the word "injured" as required by the Act. She was of the view that the word "affected" was more appropriate to the objectors' situation. Nonetheless, she expressly did not find the objection to be frivolous. As was mentioned in **Ridley and Another v Taylor**, in order for an application under section 3(1)(d) to succeed there must be a finding that the objection was "proprietorially speaking, frivolous". **Re Shaw Park** is not helpful in this regard.

Conclusion

[44] Although Mrs Davidson is of the view that the Act needs to be amended to reflect the realities resulting in the changes in society since 1960, when the Act was passed, its provisions must still be observed by applicants. In this case the appellant failed to provide the essential evidence required to satisfy the requirements of section 3(1) of the Act. It is for that reason that the learned judge cannot be faulted for refusing the application that was before him. The appeal must fail and the Raynors paid their costs of the appeal.

MCDONALD-BISHOP JA

[45] I have had the opportunity to read in draft the judgment of my brother Brooks JA. I agree with his reasoning and there is nothing that I could usefully add.

F WILLIAMS JA

[46] I too have read the draft judgment of Brooks JA and agree with his reasoning and conclusion. I have nothing to add.

BROOKS JA

ORDER

1. The appeal is dismissed.
2. The judgment of Rattray J made herein on 9 March 2012 is affirmed.
3. Costs to the respondents to be taxed if not agreed.