

IN THE COURT OF APPEAL

COURT OF APPEAL REFERENCE A2/2021/0841

CIVIL DIVISION

Lady Justice Asplin, Lady Justice Carr, Sir Nicholas Patten

30 July 2021

IN THE MATTER OF MBI INTERNATIONAL & PARTNERS INC (IN LIQUIDATION)

AND IN THE MATTER OF THE CROSS-BORDER INSOLVENCY REGULATIONS 2006

BETWEEN

(1) SHEIKH MOHAMED BIN ISSA AL JABER

(2) MASHAEL MOHAMED AL JABER

(3) JJW HOTELS & RESORTS UK HOLDINGS LIMITED

Appellants

and

(1) GREIG WILLIAM ALEXANDER MITCHELL

(2) KENNETH MELVIN KRYS

(As Joint Liquidators of MBI INTERNATIONAL & PARTNERS INC)

Respondents

ORDER

UPON THE APPEAL BY Mohamed Bin Issa Al Jaber, Mashael Mohamed Al Jaber and JJW Hotels & Resorts UK Holdings Limited from the order of the Honourable Mrs Justice Joanna Smith dated 21 April 2021 by Appellant’s Notice dated 11 May 2021.

AND UPON HEARING Clare Stanley QC and Lemuel Lucan-Wilson of Counsel for the Appellants hearing and Reuben Comiskey of Counsel for the Respondents

AND UPON THE PARTIES agreeing that the following paragraphs of the Re-Re-Amended Points of Claim filed and served on 23 April 2021 (“**RRAPOC**”) fall outwith the immunity from suit prohibition, that is to say paragraphs 55A, 55B, 55C, 55M, 55P and 82B

IT IS ORDERED THAT

1. The appeal is allowed.
2. Paragraph 1 of the Order of Mrs Justice Joanna Smith dated 21 April 2021 granting the Respondents permission to make the claims in paragraphs 55D, 55E, 55F, 55G, 55I, 55J, 55K, 55L, 55N, 55Q, 82A and paragraph 96 (insofar as that paragraph makes consequential references to the alleged false representations of the First Appellant) of the RRAPOC is set aside.
3. There be remitted back to the Judge any dispute as to whether the amendments in paragraph 55H and paragraph 96 (and any other amendments which are disputed) should be permitted or refused on the grounds that they fall within the doctrine of immunity from suit.
4. The Respondents shall pay the Appellants' costs of the Appeal, to be assessed and paid forthwith on the standard basis if not agreed.
5. An interim payment shall be made by the Respondents on account of those costs in the sum of £50,000 plus VAT, by 4pm on 13 August 2021.

Service of this Order

The Court has provided a sealed copy of this order to the serving party:

Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London EC3A 7AR