

**BARBADOS**

**[Unreported]**

**IN THE SUPREME COURT OF JUDICATURE**

**HIGH COURT**

**CIVIL JURISDICTION**

**No. 893 of 2002.**

**BETWEEN:**

**RANDY HALL**

**(Plaintiff)**

**AND**

**FURNITURE LIMITED**

**(Defendant)**

**Before the Honourable Mr. Justice Lionel Greenidge, Judge of the High Court. In Chambers.**

**2004: June 21**

**Mr. Deighton Rawlins Attorney-at-Law for the Plaintiff.**

**Mr. Clement E. Lashley Q.C. Attorney-at-Law for the Defendant.**

**DECISION**

**THE ISSUE.**

[1] This is my decision on a preliminary objection taken by Counsel for the plaintiff against a Summons for further and better particulars filed by the defendant's Counsel on the 1st April 2004.

**BACKGROUND.**

[2] Counsel for the defendant appeared on the record on March 15, 2004 pursuant to a notice of change of attorney-at-law. On the same day he filed a request for further and better particulars of the Statement of Claim. On the 22nd July 2003 the plaintiff's attorney filed a certificate of readiness and a motions day on 5th August 2003 notice on the then Attorney for the defendant. So that it appears that as soon as the new attorney came on the record he sought to establish what case the defendant had to meet and he filed the request for further and better particulars. The plaintiff's attorney did not reply to the request and consequently plaintiff's attorney applied by Summons and supporting affidavit to the Court. Mr. Rawlins for the defendant objects to the application on the ground that the pleadings were closed two years ago and he is not aware of any rule which gives the defendant the right to have further and better particulars at this late stage.

[3] Mr. Lashley for the defendant said it is his understanding that Mr. Rawlins objection is that the defendant's application came late. He noted that there is no complaint of any prejudice caused to the plaintiff.

[4] I adjourned the matter so that Counsel would be better prepared to support their positions. On the 21st June Mr. Rawlins stated that the pleadings were closed since the 14th June 2002 and submitted that the Court had no jurisdiction to entertain the request for Further and Better Particulars. Mr. Rawlins further submitted that the defendant's request is without merit; that the pleadings adequately state the case the defendant has to meet and that the defendant's delay is inexcusable.

[5] Mr. Lashley refers to Order 18 of the Rules of the Supreme Court and says the Court can order particulars at all time. Moreover the application has not been shown to be oppressive or unreasonable on the plaintiff; and the defendant must know precisely what case he has to meet. Mr. Lashley cites the *Astrolanis Compenia Naviera S.A. v Linard* [1972] QB 611. There the application was refused because it was made just twelve days before the trial. In the instant case the

matter was set down for hearing on the 14th and 15th July whereas the application for further and better particulars were made on the 1st April

2004 as soon as Mr. Lashley came on the record as attorney for the defendant.

## **CONCLUSION**

[6] The Court certainly has jurisdiction under Order 18 to make the order sought. While there has been delay by the defendant the Court considers that the request by Mr. Lashley was not unreasonable as soon as he went on record for the defendant.

[7] Further the Court agrees with *Trenton Mutual Life & Fire Insurance v Perrine* 23 NJ LAW 402 referred to Mr. Gattey Libeland Shander 2004 at paragraph 26-30 note 27 that "the general rule certainly is that where the plaintiff alleges, by way of special damage the loss of customers in the way of trade or the refusal of friends or acquaintances to associate with him..... must be stated". Moreover there was adequate time for the plaintiff to give the particulars.

Consequently the Court ordered the plaintiff to give the particulars sought in seven days with costs reserved to the plaintiff to be taxed or agreed.

Judge of the High Court.