SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

Claim No. SLUHCV 2003/0960

BETWEEN:

DEVELOPMENT CONTROL AUTHORITY

Claimant

AND

1. MICHEAL RAMJEAWAN
2. RITIE RAMJEAWAN

Defendants

Appearances:

Cynthia Hinkson-Oulha for the Development Control Authority
Leonard Ogilvy for Defendants

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2005: MAY 13, 17, 20

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JUDGMENT

Introduction

[1] This was the trial of a claim by the Development Control Authority for an injunction under section 42 of the Physical Planning and Development Act 2001, which gives the Authority power to "institute a civil action for an injunction to prevent any person from violating the provisions of [the] Act". The injunction sought by the Authority is to prevent the use of a building at a site at Careffe, Gros Islet owned by the Defendants for any purpose other than residential and in particular to prevent it being used for the conduct of religious services or choir practice. The claim raises issues under section 9 of the Constitution of St Lucia, which protects freedom of religion.

Factual background

[2] In 1997 the Defendants applied to the Authority for permission to build a Bethel Pentecostal Church on the site. This was refused on the grounds that "the proposed use (church) is inconsistent and non-conforming with the existing uses (residential) in the area". The Authority's views as planning authority that the existing land use in the area is residential and that use of the site for a church would be inconsistent with that use have not been challenged and, unless they were shown to be unreasonable, probably could not be challenged in these proceedings.

[3] In 2002 the Defendants applied and were granted approval for a residential building on the site. On 17 October 2002 the Authority served a letter on the First Defendant informing him that the building being constructed was deviating substantially from the approved plans in particular because its floor area was 2,501 sq ft rather than 588. In due course the Defendants submitted a new set of plans which were consistent with the part built structure. Approval was given for these plans. The Authority's letter of approval dated 10 January 2003 expressly stated that the "Authority would like to reiterate that this approval is for residential used (sic) only and that change of use must first receive prior written approval from the Authority".

[4] Not surprisingly in the meantime the Authority staff had taken the view during 2002 that the Defendants were intending to use the building which they were constructing for purposes other than only residential and they brought a pre-emptive claim under section 42 to stop them using it as a church. An application for an interlocutory injunction was heard by Charles J on 4 December 2002. According to the building officer's affidavit at para 11 Charles J expressed the view that one could use one's home as a temple if one so desired and consequently dismissed the application. I deduce from the award of $500 costs to the Defendants that any argument was fairly attenuated.

[5] The building was finished in about August 2003. By December 2003 the Authority had come to the view that it was being used frequently for the holding of noisy religious services and choir practices which were causing a nuisance to neighbours. The Defendants say that they were using the building as a dwelling house and that they

have used it only for private prayer meetings in a controlled setting with family and friends which has caused no nuisance to neighbours. I shall return in a moment to this factual dispute but I will first complete the procedural history.

[6] On 22 December 2003 the Authority started this claim under section 42 on the basis of the Defendants' alleged breach of the condition as to use of the building contained in their letter of 10 January 2003. On 14 January 2004 Master Cottle granted an interim injunction after a hearing attended by representatives of both sides restraining the Defendants from using the building for any purpose other than residential and forbidding them from conducting religious services or choir practice there until trial or further order.

[7] On 19 November 2004 the Defendants applied to set aside the Master's order. He refused the application and the Defendants appealed to the Court of Appeal. On 8 February 2005 Alleyne JA ordered by consent that the matter should be fixed for an early trial, that the Defendants should file and serve an affidavit in response to the Authority's evidence within 14 days, that the Authority should file any answer seven days thereafter and that deponents should make themselves available at trial for cross-examination.

[8] On 13 April 2005 the case came to me for directions with Mr Horace Fraser acting for the Defendants. I fixed a date for the trial and ordered that cross-examination be dispensed with. The notes do not show the precise basis for that order but I am sure that I would not have made it in the face of the order of Alleyne JA unless either I was familiar with all the issues in the case (which I certainly was not) or both parties had indicated to me that they did not believe cross-examination was necessary and that they were content for the court to proceed without it.

[9] At the trial Mr Ogilvy suggested that there were factual issues between the parties arising from the affidavits filed which required cross-examination before they could be resolved. In light of my order of 13 April 2005 and the position I find the parties must have taken on that date I was not prepared to allow cross-examination (which apart from anything else would inevitably have resulted in further delay) and I propose to do my best to make findings of fact based on the material I have. As it turns out, on

analysis I think the factual position is clear from the affidavits standing alone and I do not believe materially different conclusions would have been reached if there had been cross-examination. I should say that I did adjourn the case over the long weekend to allow for more detailed submissions on both sides on the constitutional issues raised by Mr Ogilvy and on the application rejected by Charles J and so that facilities could be organized for the court and the parties to view a video taken by one of the neighbours which had been put in evidence by being exhibited to her affidavit.

What happened between August and December 2003?

[10] I turn to the issue of what was going on at the building between August and December 2003. The evidence filed in December 2003 by the Claimants with their claim form consisted of affidavits from the Authority's building officer Angela Cherubin and neighbours called Joanne Charles and Davis Felix. Mr Felix says in his affidavit that from the end of August 2003 religious services had been held at the property on a regular basis on Sunday mornings and Friday evenings when there is chanting. He says that there are mini-van loads of people coming to the property every Sunday and that the Sunday morning preaching is so loud that he cannot hear his television or make phone calls and that people attending the services stare into his bedroom.

[11] Ms Charles's evidence is to similar effect. She also says that the Friday evening meetings involve loud chanting which goes on to the small hours of the morning. She says that the services are attended by 40 to 50 people. She mentions specific dates on which services have been held, including two days when she recorded events on a video recorder (17 August and 5 September 2003) and one (a Thursday 27 November 2003) when she was suffering a migraine and the noise prevented her from sleeping. Like Mr Felix she says the position is becoming unbearable.

[12] I viewed the video evidence. The first section showed open doors framed by two white pillars with people clearly dressed up standing around holding books and chatting and shaking hands. It then showed a number of people and vehicles leaving. The second section was mostly filmed through an open window behind which were rows of chairs as shown in the building officer's photograph which I mention below. There was chanting and singing coming from within. For a long period a woman walked up and

down outside apparently comforting a baby. People emerged again looking well dressed and clutching books. The irresistible overall impression is that this was a church being filmed during and immediately after the holding of religious services. Mr Ogilvy submitted that the first section in fact showed a group of people who had come for breakfast after church at another venue and that the second section (which he said was earlier in time) showed the service of dedication which I mention below. In the absence of any evidence on the point I can give these submissions only the very slightest of weight.

[13] The building officer's affidavit states that there had been reports of services and prayer meetings being conducted sometimes into the small hours. She describes visiting the property on 24 September 2003 and finding no-one there and nothing to indicate it was being used for residential purposes. She somehow managed to take a photograph of the area which ought to have been the living room. There was no internal wall dividing the kitchen from the living room as shown on the approved plans. As shown by the photograph which she exhibits to the affidavit, there were rows of chairs facing a table, which look to me very like the arrangement of the inside of a church.

[14] The Defendants' evidence in reply was not filed until 16 February 2005, over a year after the Authority's evidence was filed and Master Cottle's order. It is significant that it takes the form of an affidavit sworn not by the Defendants but by their son Franklyn Ramjeawan, who says he is a businessman from Marisule and that he was the "financier/investor" in the development which is the subject matter of the claim. Much of the affidavit consists of argument but the factual allegations are as follows. He makes the point that the building was constructed in accordance with the plans and that no objection had been taken to the way it was constructed and he says that at all times it has been occupied as a dwelling house (though he does not say who by) with all attendant amenities in place. He admits (para 14) that the Defendants do use the building for prayer meetings on Sundays and at other times but says that all these activities have been in a private and controlled setting with family and friends and with the doors and windows closed in a civic and considerate manner. He directly denies the allegations that a noise nuisance has been caused and that activities have gone on to the early hours. He says no complaints have been received from neighbours. He says that the picture taken by the building officer actually shows the furniture layout

that was used when the building was "dedicated by service in August 2003 and no more".

[15] It seems to me that on analysis very little if anything of what Mr Ramjeawan says is necessarily inconsistent with the Authority's evidence. It is notable that he does not say that he has personally been present at all relevant times. The fact (if it be so) that the Defendants have received no complaints from neighbours and do not believe they have caused a nuisance does not mean that they have not in fact caused a nuisance. The statement that the services are only attended by "family members and friends" tells one little without an indication of what is intended by the word "friend" and it is notable that there is no express challenge to the figure of 40-50 people given by Ms Charles. The video and the photograph speak for themselves. Even if the furniture layout shown in the photo was used in August 2003 I have no reason to doubt the building officer's evidence that it was still like that on 24 September 2003 and it seems to me significant that Mr Ramjeawan says that the building was "dedicated by service" in August: that only serves to confirm the impression that the building was intended for use as a place of worship. The fact (if it be so) that the building is used as a residence by someone does not mean it is not also be used as a church or place of worship.

[16] Taking account of all the evidence I find as facts (a) that the building was being used regularly by the Defendants for holding religious services such that it was effectively being used as a church between August and December 2003 and (b) that its use as such caused a nuisance to neighbours.

Did what happened amount to a violation of the 2001 Act?

[17] The next issue is whether that use of the building amounted to a violation of the provisions of the Physical Planning and Development Act 2001. Ms Hinkson-Ouhla referred me to section 29 of the 2001 Act which says that any development shall be carried out in accordance with "any conditions subject to which permission was granted" and to the letter of 10 January 2003 which expressly states that the approval is for residential use only. I also note section 16(1) of the 2001 Act which prohibits the development of any land without the prior written permission of the Authority and the definition of "development" in section 2(1) which includes "the making of any material

change of use". It follows from these provisions in my judgment that the 2001 Act will have been violated in this case if the use made of the building was materially different from residential use and not merely ancillary thereto.

[18] I was referred to the decision of the English Court of Appeal in *Thames Heliport plc v London Borough of Tower Hamlets* [1996] EWCA Civ 1063 and to Chapter 2 of a text book called Planning Law Practice and Precedents. Based on this material it is possible to deduce the following propositions: (a) the question whether a change of use is material is imprecise and is a matter of fact and degree which is normally one for the planning authorities (b) in assessing materiality the character of the uses and their consequences in terms of planning factors (such as noise and traffic generation) are both important (c) emanation of sound by reason of an activity on land is potentially highly material as seen through the eyes of neighbours (see *Thames Heliport* case per Schiemann LJ at p6). It is also worthy of note that among the stated objects of the 2001 Act are ensuring the appropriate use of privately owned land, maintaining and improving the quality of the physical environment and securing human health (see section 3(1)(a), (b) and (d)).

[19] Taking account of the evidence filed by the Authority and giving some weight to its own implicit view of the matter, it seems to me clear that the use of the site during the period August to December 2003 was materially different from pure residential use and not merely ancillary thereto. The character of the use (as a church) was quite different to use as a residence and the consequences in terms of noise and nuisance to neighbours were significant. It follows from this in my view that the use of the site during the period August to December 2003 involved breaches of sections 16 and 29 of the 2001 Act.

The proper approach to a section 42 claim

[20] Ms Hinkson-Oulha referred me to the case of *Wrexham Borough Council v Berry* [2003] UKHL 26 in which the House of Lords comprehensively reviewed the law in relation to claims under section 187B of the English Town and Country Planning Act 1990. Section 187B is broadly equivalent to section 42 of the St Lucian Physical

Planning and Development Act 2001and I am satisfied that I should adopt the approach set out in the judgments in that case for the purposes of this claim.

[21] Adapting the House of Lords guidelines the correct approach can therefore be summarized as follows:

(1) The court has an absolute discretion as to whether to grant an injunction;

(2) The discretion must be exercised judicially having regard to the purpose of the jurisdiction and all relevant factors and granted only if it is just and proportionate in all the circumstances;

(3) The purpose of the jurisdiction is to prevent violations of the 2001 Act;

(4) Issues of planning policy and judgment under the Act are within the exclusive purview of the planning authority and it is not for the court to question the authority's views on these although it can investigate the facts (thus in this case it is not for the court to question whether the existing land use in the area is residential or whether use of the site as a church would be inconsistent with this use, although the court can investigate what the site is in fact being used for);

(5) The section 42 jurisdiction exists above all to permit abuses to be curbed and urgent solutions to be provided where these are called for: in this context the court will consider whether a breach of the Act is likely to occur or continue unless and until restrained by injunction and whether anything short of an injunction will provide effective restraint; the Defendants' behaviour (in particular any history of unsuccessful enforcement or persistent non-compliance or evidence of playing the system) will be highly relevant, as will other possible means of enforcement (though section 42 makes it clear that the jurisdiction can be invoked even if other means have not been used);

(6) The personal circumstances of the Defendants and any hardship to them which may result from the grant of an injunction must be taken into account: the court should not make an injunction if it would not in due course be willing to enforce it by imprisonment if necessary, so that an injunction should only be granted if it is one which the Defendants can and ought reasonably to comply with;

(7) An injunction cannot be granted if it would be incompatible with the Defendants' constitutional rights (in this case their rights under section 9 of the Constitution) and in particular the court must consider whether the grant of an injunction is "reasonably justifiable in a democratic society" (to adopt the wording of section 9(5)).

Should an injunction be granted in this case?

[22] As I have said, I am quite satisfied (a) that from August to December 2003 the Defendants were using the building for a purpose other than residential, effectively as a church, and that such use caused a nuisance to neighbours and (b) that such use represents a materially different use from residential for the purposes of the Physical Planning and Development Act 2001 and that it was therefore in violation of the 2001 Act. Further, in the light of the history I have outlined above at paras 2 to 16 and the Defendants' reaction to this claim, I am satisfied that there is a substantial risk that, unless they are prevented by an injunction, the Defendants will continue to use the building in this way hereafter. There was no suggestion that the grant of an injunction would cause any hardship to the Defendants separate from the infringement of their constitutional rights under section 9. I would therefore be of the view that, subject to the constitutional point, this is a clear case for an injunction.

Mr Ogilvy's points

[23] However, Mr Ogilvy for the Defendants with characteristic determination took not only the constitutional point but every other conceivable point, including some that were almost inconceivable. I will deal with these other points first. They can be summarized as follows:

(1) The Authority's claim is not properly constituted and an abuse because there is no statement of claim and no certificate of truth;

(2) There is no substantive cause of action as required by the *American Cyanimid* guidelines;

(3) The fact that the building was constructed in accordance with the plans for which consent was given in January 2003 means that there can be no breach of the 2001 Act by anything done in the building;

(4) The Authority ought to institute other enforcement proceedings under the 2001 Act;

(5) The neighbours can sue the Defendants in nuisance and the Authority lacks sufficient interest;

(6) The rejection of the Authority's application for an injunction by Charles J in December 2002 means this claim is barred by *res judicata* or is an abuse under the rule in *Henderson v Henderson*;

(7) It is an abuse of the process for the Authority to have obtained the interim injunction from Master Cottle and then left the matter in abeyance since this indicates it had no intention of proceeding with the case;

(8) The fact that there is no evidence of any breach of Master Cottle's order over the last 16 months means that the court ought not to grant a final injunction now;

(9) The Master had no jurisdiction to grant the interim order.

Statement of claim

[24] Strictly speaking I think Mr Ogilvy is right to say that there ought to have been a statement of claim in this case. Ms Hinkson-Oulha submitted that the claim was properly brought by fixed date claim form and that such a claim form is properly served with affidavit evidence and no statement of claim. I am afraid I disagree with both those propositions. The cases where a fixed date claim form is required are listed in CPR 8.1(5). The only potentially relevant one in the list is (d) which refers to cases where an enactment requires proceedings to be started by originating summons or motion. I have not been referred to or found any provision in the 2001 Act which requires the "civil action" referred to in section 42 to be started by originating summons or motion. Further, even if the claim was rightly brought by fixed date claim form, the only circumstances in which either type of claim form need not be accompanied by a statement of claim is if a rule or practice direction requires an affidavit or other document (see CPR 8.1(1)). I was not referred to and am not aware of any rule or practice direction which requires the claim form in this case to be supported by an affidavit rather than a statement of claim.

[25] However, although I think Mr Ogilvy is strictly right to say there should have been a statement of claim, I agree with Ms Hinkson-Oulha that the procedure adopted was in accordance with the general understanding based on the old practice and makes perfectly good sense. Furthermore the point is of the utmost technicality, has been raised at the last possible moment and will cause no prejudice to the Defendants as far as I can see. It seems to me that the consent order of Alleyne JA made on 8 February 2005 must operate implicitly as approving the procedure adopted by the Authority. If that is not right I now exercise my case management powers to direct that the statement of claim is dispensed with in this case and that the case should proceed on the basis of the affidavit evidence which has already been filed in accordance with the court's directions.

[26] Mr Ogilvy had a related point to the effect that the lack of a statement of claim meant that there was no certificate of truth supporting the claim as required by CPR 3.12(1). Instead there are sworn statements setting out all the evidence on which the Authority relies in support of its claim, which is on any view more substantial verification than would be provided by a statement of claim and a certificate of truth.

No substantive cause of action

[27] This point with respect to Mr Ogilvy is utterly misconceived: first because this is the trial of the claim and the *American Cyanimid* guidelines therefore have nothing to do with it; and second because the jurisdiction to grant an injunction is a purely statutory one given by section 42 of the 2001 Act and one looks to the section to see if the court has jurisdiction in a particular case and not to whether there is an existing substantive "cause of action".

The building complied with the planning consent

[28] Planning regulation is not just about the form and structure of buildings but also the use that is made of them. A material change of use requires permission as much as the construction of a new building (see section 16(1) read with the definition of "development" in section 2(1) of the 2001 Act). If, as I have found, the use of the building as a church involved a breach of the condition in the letter of 10 January 2003

and of section 16 then the fact that the building itself was in accordance with the plans which were ultimately submitted is neither here nor there.

The Authority should bring other enforcement procedures

[29] Mr Ogilvy is correct to say that the availability of other means of enforcement is a relevant factor as I mention in para 21(5) above. However, it is in no way decisive since section 42 itself makes clear that an injunction can be applied for whether or not the Authority is exercising any other power under the 2001 Act. In this case, given my clear conclusion that there is a substantial risk that the Defendants will continue to violate the 2001 Act unless restrained by injunction and the fact that other enforcement measures are bound to be time consuming and, on current form, vigorously opposed by the Defendants, I am quite sure that the fact that there may in theory be other means of enforcement available should not stop me granting an injunction.

The neighbours

[30] The fact that the neighbours may themselves be able to sue the Defendants for nuisance is beside the point in my view: the Authority brings this claim to prevent a violation of planning law on behalf of the whole community regardless of whether or not there is a nuisance caused to specific individuals. The suggestion that the Authority "lacks sufficient interest in the matter" (see para 4.4 of Mr Ogilvy's skeleton argument) is absurd.

Res judicata and *Henderson v Henderson*

[31] I deal with the hearing before Charles J at para 4 above. As I say, the application which she dismissed was for an interlocutory injunction and it was made at a time when the building was not even complete and had not been used for any purpose at all. In the circumstances I do not believe that there is any question of *res judicata* or *Henderson v Henderson* applying. A decision on an application for an interlocutory injunction is not a final decision on the merits and in any event it is always open to the Authority to bring a new claim for an injunction if the circumstances change as they clearly have since December 2002 (see the comments of Lord Clyde in a different

context at para 72 of the *Wrexham* case). Further, I am not at all sure on the evidence that the view expressed by Charles J was necessarily the judicial reason for her decision; as I have already noted it was certainly an expression of view made after only short argument when the specific point on which she expressed a view probably merited rather more.

Abuse of process not to proceed with claim

[32] I accept Mr Ogilvy's proposition that in general it is an abuse of process to issue proceedings with no intention of taking a case to trial. This arises most often in the context of freezing orders where Claimants are found only to have intended to cause difficulties to their opponents by freezing their assets when they issued their claim and to have had no intention of obtaining any substantive relief from the court. This case is very different. I do not deduce from the fact that the Authority did nothing after obtaining the interim injunction that they had no intention of bringing the case to trial when they issued the claim. But once they had obtained the interlocutory injunction which gave them all the relief they were seeking in the claim and which the Defendants could always apply to set aside (as they in due course did), there was little incentive on the Authority to bring the matter to trial and I can well understand that the view may have been taken that it was not worth expending public money and time on a purely procedural step when the Defendants had not taken any steps themselves. In any event I am not satisfied that the Authority acted in such a way as to amount to an abuse of the process of the court.

No breach of Master's order

[33] It is right that there is no evidence that the Master's order has been breached. This is only as it should be. It does not cause me to revise the view I have already reached that in view of the history and the Defendants' response to these proceedings there is a substantial risk that they will violate the 2001 Act if I do not grant an injunction against them.

Master's jurisdiction

[34] I need not consider this point since I am not concerned with whether the Master was right to grant the interim injunction but with whether a final injunction should be granted hereafter.

Constitutional point

[35] I turn finally to the point that by its nature deserves of close attention. The relevant parts of section 9 provide as follows:

> (1) Except with his own consent, a person shall not be hindered in the enjoyment of his …freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion …in worship, teaching, practice and observance…
> (5) Nothing…done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-
> (a) in the interests of …public safety, public order,…or public health; [or]
> (b) for the purpose of protecting the rights and freedoms of other persons…
> and except so far as…the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

[36] Mr Ogilvy says that an injunction preventing the Defendants from using their building to conduct religious services hinders them in the enjoyment of their freedom to propagate their religion by worshiping with others. In the absence of evidence that there is no other convenient venue for holding services I think it is a moot point whether in fact they are hindered as alleged but I am prepared to assume in the Defendants' favour that Mr Ogilvy is right in this submission. The real questions, it seems to me, are (a) whether the 2001 Act makes provision which is reasonably required for one of the purposes specified in section 9(5) and (b) whether the grant of an injunction under the authority of the Act is "reasonably justifiable in a democratic society".

[37] On the first question Mr Ogilvy submitted simply that it was for the Authority to satisfy the court and that they had presented no evidence on the point. Ms Hinkson-Oulha referred me to section 3 of the 2001 Act which sets out its objects and purposes and submitted that the Act was obviously in the public interest and that no further evidence was required to show that it makes provision which satisfies the test in section 9(5). She may be right in that submission but I think the point requires a little more analysis.

[38] On analysis it seems to me that a law regulating the use of land (or, to put it more narrowly, allowing for the preservation of certain areas for residential use) must be reasonably required in the interests of public health and for the purposes of protecting the rights and freedoms of others. It is clearly in the interests of public health if people are able to live in residential areas away from the noise and other pollution caused by other forms of land use. And I think the rights and freedoms of others would include the right and freedom to live in such an environment. It is reassuring to note that the European Court of Human Rights in *Chapman v United Kingdom* (2001) 33 EHRR 399 proceeded on the basis that planning legislation is designed for the protection of the "environmental rights" of others, a view apparently accepted by the House of Lords in the *Wrexham* case (see in particular *Wrexham* at paras 34 and 88). I conclude that the 2001 Act is reasonably required under section 9(5). I therefore turn to the second question.

[39] Once it is established that the law in question is reasonably required, the onus is on the Defendants to show that the injunction is not "reasonably justifiable in a democratic society". Mr Ogilvy, maintaining his position that the onus lay on the Authority in relation to section 9(5), did not really address the second question. Having considered it myself, I am quite satisfied, regardless of the onus of proof, that an injunction would be reasonably justified in a democratic society. Weighing the public interest in enforcing the planning legislation in this case against the Defendants' rights under section 9(1) I am quite clear that the balance comes down in favour of the public interest in enforcement. The Defendants have been aware all along that the Authority were not going to give them permission to use the site as a church but they went ahead and used it as such anyway and there is no evidence that they cannot worship conveniently somewhere else. On the other hand the Authority is seeking to enforce the planning legislation and to preserve a residential area as such and it is important that they are allowed to perform this valuable task on behalf of the community as a whole.

Conclusion

[40] For all these reasons I propose to make an injunction under section 42 of the 2001 Act and I reject the Defendants' case that this would infringe their constitutional rights under section 9 of the Constitution. I will order as follows:

(1) The Defendants, whether by themselves their servants or agents, may not use the parcel of land registered as 1253B 365 for any purpose other than residential;

(2) In particular, the Defendants, whether by themselves their servants or agents, may not use the land or any building thereon for holding religious services or choir practice;

(3) The parties may apply to court if there is a material change of circumstances.

[41] I make clear that the order is not designed to prohibit the Defendants or the residents of the building engaging in private worship which is purely ancillary to its use as a residence.

Murray Shanks
HIGH COURT JUDGE (Ag)