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IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO. 16/74

BEFORE: The Hon. Mr. Justice Edun - Presiding
The Hon. Mr. Justice Graham-Perkins
The Hon. Mr. Justice Hercules

BETWEEN DAISY BROWN - APPELLANT
AND
WILBERFORCE WALKER - RESPONDENT

July 26, 1974

H. Small, Esq. for the Appellant.

Wellesley Campbell, Esq. for the Respondent.

EDUN, J.A.

The learned Resident Magistrate had jurisdiction to commit for contempt a person, though not a defendant to an action for injunction and against whom the injunction has not been granted, but who, knowing of the injunction, aids and abets in committing the breach of the order, the person against whom the injunction has been granted.

In this matter, the learned Resident Magistrate committed the appellant for contempt of Court on the basis that she aided and abetted Philbert Brown in disobeying the order of the Court. It is against that particular order that the appellant has appealed.

We are of the view that there is no evidence that the appellant aided and abetted her husband, Philbert Brown, against whom there was the injunction. There is no doubt that Daisy Brown well knew of the act which Philbert Brown was restrained from committing. Neither is there any evidence that Philbert Brown was, on July 2nd, 1973, through the appellant contumaciously setting at naught the order of the Court. The only rational conclusion we can arrive at from the evidence before the learned Resident Magistrate is that the appellant had committed trespass and/or an assault. There is no evidence, however, whether that trespass or assault was committed by the appellant with the object of aiding and abetting Philbert Brown. It is quite clear that the appellant acted on her own.

We are also of the view that the judgment and reasons for decisions in Seaward v. Patterson (1897) 1 Ch. 545, would have been of greater assistance to the learned Resident Magistrate.

For those reasons, we allow the appeal and set aside the Resident Magistrate's order committing the appellant to the general penitentiary.

HERCULES, J.A.

I agree.

GRAHAM-PERKINS, J.A.

I agree.