

B. MAREVA INJUNCTIONS

A further development in this area of the law would appear to have arisen with the decision of Mr Justice Rogers in *Glebe Island Terminals Pty Ltd v. Malaysian International Shipping Corporation Berhad and Another*.¹

The decision relates to an application for a mareva injunction which, after being granted *ex parte*, was subsequently discharged on the grounds that there was no hard evidence to show that there was a real danger that the defendant — the owners of the vessels “Bunga Toratai” and “Bunga Ansana” — would dissipate its assets and, further, that the rights of third parties — the cargo interests — could have been prejudiced.

The judgment refers to the recent unreported decision of Mustill J. in *Ninemia Maritime Corporation v. Trave Schiffahrtsgesellschaft mbH. und Co. KG*. where his Lordship observed that

[i]t is not enough for a plaintiff to assert a risk that the assets would be dissipated. He must demonstrate it by solid evidence. That evidence might take a number of different forms. It might consist of direct evidence that the defendant had previously acted in a way which showed that his probity was not to be relied on. Or the plaintiff might be able to found his case on the fact that inquiries about the defendant's characteristics has led to a blank wall. Precisely what form the evidence might take would depend on the particular circumstances of the case. It would not be enough merely to prove that a company was incorporated abroad and to allege that there were no reasonable assets in the United Kingdom apart from those which it was sought to enjoin.

¹ Unreported, Supreme Court of New South Wales, Common Law Division, Commercial List, 22 June 1983.