

BRITISH VIRGIN ISLANDS COURT OF APPEAL

Veda Doyle -v- Agnes Deane

BVI - S. 11 EASTERN CARIBBEAN SUPREME COURT ACT - RECEPTION PROVISIONS - EXTENT AND SCOPE OF THE APPLICATION OF ENGLISH LAW TO BVI CASES COMPANIES - WINDING UP - TRANSACTION APPROVAL PROCEEDING COSTS

This Appeal concerned the construction of Section 11 of the West Indies Associated States Supreme Court (Grenada) (the Supreme Court Act), a provision which, for the most part, duplicated in the Supreme Court Acts of the other eight Eastern Caribbean Territories.

The Court held that the English law intended to be imported by Section 11(1) of the Supreme Court Act is the procedural law administered in the High Court of Justice in England and not English substantive law, nor English procedural law which is adjectival and purely ancillary to English substantive law. The wording of Section 11(1) indicates that the focus on the importation of any law, rule or practice from England is in respect of the exercise of the jurisdiction as distinct from the importation of English law so as to give jurisdiction. *Panacom International Inc. -v- Sunset Investments Ltd. and Another* (1994) 47 WIR 139 followed; *Dominica Agricultural and Industrial Development Bank -v- Mavis Williams Commonwealth of Dominica Civil Appeal No. 20 of 2005* (delivered 29 January 2007, unreported) distinguished.

This decision has injected much needed clarity into the interpretation of Section 11 which, hereinbefore, was said to either constitute the common law of England and not Statute or the entire laws of England including statute. This decision has clearly said that it is neither.

In the Learned Judges' views *"the notion that all Member States are subject to the importation of English substantive law by virtue of Section 11 would leave much to be desired in any sovereign*

State not to mention the state of uncertainty as to what laws a citizen of the State may be subject at any given point in time and without regard to its own parliament which is charged with the making of laws for the State as it may deem necessary for that State's good governance. Section 11 certainly could not have been intended to have this effect... the focus on the importation of any law, rule or practice is in respect of the exercise of the jurisdiction, as distinct from the importation of English law so as to give jurisdiction".

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