

West Tankers, and Worldwide Freezing Orders

There are two casenotes in the new issue of the *Cambridge Law Journal* worthy of mention. Firstly, Richard Fentiman (*Cambridge*) has written on “Arbitration and the Brussels Regulation” - discussing the recent House of Lords decision (and reference to the ECJ) in *West Tankers Inc v. RAS - Ras Riunione di Sicurata SpA* [2007] UKHL 4. The introduction reads:

WHEN, if at all, may English courts restrain claimants from suing in other Member States? The European Court of Justice has declared such relief to be inconsistent with the principle of mutual trust embodied in Regulation 44/2201, governing jurisdiction in national courts: Case C-281/02 Turner v. Grovit [2004] ECR I - 3565. But when does the Regulation engage, so that the ban imposed in Turner applies? Perhaps it does so whenever the foreign proceedings are within the Regulation’s material scope. If so, civil proceedings in the courts of Member States can never be restrained. Alternatively, perhaps the Regulation only engages when it governs jurisdiction in both the foreign and the English proceedings. Judicial proceedings in other Member States could thus be restrained, provided relief is sought in English proceedings beyond the Regulation’s reach.

Louise Merrett (*Cambridge*) has written a note on “Worldwide Freezing Orders in Europe” (C.L.J. 2007, 66(3), 495-498). Here’s the abstract:

Examines the Court of Appeal decision in Banco Nacional de Comercio Exterior SNC v Empresa de Telecomunicaciones de Cuba SA on whether the court had jurisdiction under Regulation 44/2001 Art.47 (Brussels Regulation) or the Civil Jurisdiction and Judgments Act 1982 s.25 to grant a worldwide freezing order over the defendant’s assets where it was not connected to, nor resident in, England and the court had no jurisdiction over the subject matter of the proceedings.

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