



Judicial Sales: Extracts of Judgments

1. Dr Lushington "*The Tremont*" (1841) 1 Wm. Rob. 163 at p.164:

"The jurisdiction of the Court [-that is, the Admiralty Court-] in these matters is confirmed by the municipal law of this country and by the general principles of the maritime law; and the title conferred by the Court in the exercise of this authority is a valid title against the whole world, and is recognized by the courts of this country **and by the courts of all other countries.**"
2. Belinda Ang Saw Ean J "*The Turtle Bay*" (2013) SGHC 165

"Dr Lushington's statements in "*The Tremont*" are fundamental to admiralty Judicial sales. Indeed many legal systems continue to give effect to admiralty Judicial sales of foreign Courts as a matter of comity. **This recognition of the legal consequences of an admiralty Judicial sale is important to a purchaser who intends to register the vessel in a different jurisdiction.**"
3. *The Norsland* (1972) Carswell Nat 18 FC 430. The Court order in Canada read in part:

"...the Republic of Panama, after filing a caveat for \$2,585.15, refuses to comply with the proceedings for sale of this ship, and observe the order of this Court giving the purchaser a clear title. I do not for the moment wish to characterize this action by that country, **I would say nevertheless that the refusal to comply with a judgment of this Court after filing a claim, in addition to being an affront to a Canadian court, represents a refusal by that country to abide by the decisions of a court in another country, and an exception to a rule honoured by every nation in the world. Indeed, if other countries, or other debtors, decided to follow this bad example, it would create confusion in an area which can be effectively controlled only with the good faith of all seafaring nations**".
4. Hewson J "*The Acrux*" (1962) 1 Lloyds Rep. 405 at p.409:

"It would be intolerable, inequitable and an affront to the Court if any party who invoked the process of this Court and received its aid and, by implication, assented to the sale to an innocent purchaser, should thereafter proceed or was able to proceed elsewhere against the ship under her new and innocent ownership. This Court recognizes proper sales by competent Courts of Admiralty, or Prize, abroad - **it is part of the comity of nations as well as a contribution to the general well-being of international maritime trade.**"

5. Justice Rouleau *The "Galaxias"* (1988) LMLN No. 240 (p.2):

"However, admiralty lawyers and all lay people in the shipping world, involved in any way in the purchase and sale of ships, will invariably feel that this would greatly reduce the amounts which can be obtained from Court sales of vessels and render some ships completely unsaleable. [If a sale made by a Court is not described as being free and clear of all encumbrances.] ...**the legitimate claims of many Canadian and foreign creditors would thus be defeated by the resulting ridiculously low payments into court of purchase prices.**"

6. Sheen J *The "Emre II"* (1989) 2 Lloyds Rep. 182 at p.185:

"There is one other matter to which I must refer. During the course of the hearing I was told by the defendants that if the ship is sold by order of this Court the Turkish authorities may not delete the name of the ship from the register in Istanbul. When a ship is sold by order of this Court the purchaser gets a clean title. **As a matter of comity between nations it is important that the Courts of one nation should recognize the validity of the orders of another nation. If it be correct that the Turkish authorities will not delete from their register a ship which is sold by order of this Court the effect is to diminish the value of the ship. When the ship is advertised for sale it will have to be made clear to any potential purchaser that there may be some difficulty in having the name of the ship deleted from the Turkish register.** That would be unfortunate for the parties in this litigation and would adversely affect all other Turkish shipowners. In this country effect will be given to the order of a Turkish Court. If it becomes necessary for the Admiralty Marshal to sell "*Emre II*" the solicitors for the defendants should obtain clear instructions from the relevant authority in Turkey as to whether that authority will recognize and act upon a sale by order of this Court. Those instructions should be communicated to the Marshal so that he may advertise the ship appropriately."

7. Sheen J "*Cerro Colorado*" (1993) 1 Lloyds Rep. 58 at p.61:

"I can only express the hope that the Spanish court will, as a matter of comity, recognise the decrees made by this Court, which endeavour to give effect to the International Arrest Convention. **From time to time every shipowner wants to borrow money from his bank and give as security a mortgage over his ship. The value of the security would be drastically reduced if when it came to be sold by the Court there was any doubt as to whether a purchaser from the Court would get a title free of encumbrances and debts.**"