

## SC Rolinay Sea Star Srl v Owners and/or demise charterers of the Bumbesti, The Bumbesti

[2000] QB 559, [2000] 2 WLR 533, [1999] 2 All ER (Comm) 187, [1999] 2 Lloyd's Rep 481, [2000] 2 All ER 692

**Court:** QBD

**Judgment Date:** 22/06/1999

### Catchwords & Digest

#### **ADMIRALTY - JURISDICTION - ACTION IN REM - ARREST OF SHIP - WHETHER COURT HAVING JURISDICTION IN REM TO HEAR AND DETERMINE A CLAIM TO ENFORCE AN ARBITRATION AWARD - SUPREME COURT ACT 1981, S 20(2)(H).**

The claim form in the action was issued on 8 June 1999 and stated that the claimants brought their action founded on an arbitration award dated 10 November 1998 in respect of the premature termination of the charterparty dated March 1995 of the vessel Dacia at that time owned by the defendants. On the following day, 9 June, the vessel Bumbesti was arrested in Liverpool. The sworn evidence to lead the arrest stated that the arbitration award remained wholly unsatisfied, that the aid of the court was sought to enforce payment of or security for the same and that security of US \$300,000 was sought. The defendants applied to set aside the proceedings and/or release the vessel from arrest. The principal issues for the court's determination were: (i) whether the court had jurisdiction in rem to hear and determine a claim to enforce the arbitration award made by the Constanza Court, Romania. The only basis of the court's in rem jurisdiction relied on by the claimants was s 20(2)(h) of the Supreme Court Act 1981, under which the court had jurisdiction to hear and determine 'any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of the ship'; and (ii) assuming that the court had jurisdiction, whether the Bumbesti should be released from arrest because the claimants already had adequate security for their claim to enforce the arbitration award because of the detention of two vessels in Constanza, so that the arrest of the Bumbesti was an abuse of the process of the court. *Held:*

(1) On the true construction of para (h), an action on an award was not one on an agreement which was 'in relation to the use or hire of a ship'. Therefore the court had no jurisdiction to consider the claim under para (h) of s 20(1) of the 1981 Act. Accordingly, the action and the claim form would be struck out and the service of the claim form in rem would be set aside. It followed that the arrest of the vessel could not be maintained in respect of the claim.

(2) Having regard to the evidence, the court concluded that the sale value of the vessels at Constanza was enough to meet the claimants' claim. Accordingly, subject to an undertaking being given by the defendants, the court would release the Bumbesti from arrest in the action.

#### **Cases considered by this case**

**Annotations:** All Cases **Court:** ALL COURTS

**Sort by:** Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	CaseSearch
Followed	Beldis, The	[1936] P 51, 53 LI L Rep 255, 106 LJP 22, 18 Asp MLC 598, [1935] All ER Rep 760, 154 LT 680, 52 TLR 195	CA	circa 1936	CaseSearch Entry