COMMERCIAL COURT OF PONTOISE

# JUDGEMENT OF THE 20th of July 2005 7th Court

N° PCL 1998J00252

Mr. Gholam ZANDIAN JASI against Me CANET ES QUAL LJ M. ZANDIAN JASI GHOLAM BANK MELLI IRAN UNION OF CO-OWNERS OF THE DEFENSE RESIDENCE 2000

N° RG: 2002L00750

### **APPLICANT**

M. Gholam ZANDIAN JASI 6 Rue E. Fournier 75016 PARIS appearing in court SCP HYEST 39 Ave Victor Hugo 75116 PARIS

#### **DEFENDANTS**

- 1°) Me CANET 1 Rue de la Citadelle 95300 PONTOISE, exofficio of the judicial liquidator of Mr. ZANDIAN JASI GHOLAM appearing in court SCP GAYRAUD Résidence de la Gare 95400 ARNOUVILLE LES GONESSE
- 2 ) BANK MELLI IRAN 43 av Montaigne 75008 PARIS person appearing in court Master OTTO 32 av de l'Opéra 75002 PARIS and through Master BOSQUET 6 pl Notre Dame 95300 PONTOISE
- 3°) UNION OF THE CO-OWNER OF THE DEFENSE RESIDENCE 2000 23 rue Louis Pouey 92 PUTEAUX represented by its trustee Cabinet LOISELET & DAIGREMONT Centre Commercial Charras 92400 COURBEVOIE person appearing in court Me RUIMY-CAHEN 22 rue de Paris 75002 PARIS

COMPOSITION OF THE COURT
Contradictory decision and in last resort

Debates, closure of debates and deliberation of the hearing of the 8th of July 2005 in the Council Chamber where sat Mr. SAHLER, President, Mr. MAYER, MR. BOURGET Judges, assisted by Mr. GAUDICHEAU, Hearing Registrar

Deliberated by the same judges.

Pronounced at the public hearing of the 20th of July 2005 by Mr. MAYER President, Mr. ROUX, MR. SAHLER Juges assisted by Master HEQUET Registrar

The formal judgement is signed by the President and by the Registrar

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## **PROCEEDINGS**

By minutes regularized from the Tribunal Registry of Commerce of PONTOISE dated 3 July 2002, Mister ZANDIAN JAZY Gholam, appealed on the basis of Article 25 of the amended decree of 27th of December 1985, with an order by Judge Commissioner of the judicial liquidation of Mr. ZANDIAN JAZY Gholam dated the 21st of June 2002 on the basis of Article L.622-16 of the Commercial Code on request of Master CANET in his capacity as Judicial Liquidator of Mr. ZANDIAN JAZY Gholam, authorizing the public auction of property at 23 rue Louis Pouey in PUTEAUX (92800) depending on the assets of the aforesaid liquidation,

The appeal is based on reasons stated in the hearing,

Following, the BANK MELLI IRAN, as well as the Union of Co-Owners of the DEFENSE 2000 residence in their role as reigstered creditors, were regularly notified by the Registry of the present proceedings

The matter was discussed at the hearing on the 6th of September 2002, and after reference to the hearing of the 8th of July 2050, Mr. ZANDIAN JAZI Gholam was absent and not represented,

## STATEMENT AND CONCLUSIONS OF THE APPLICANT TO THE OPPOSITION

Mr. ZANDIAN JAZY Gholam, represented by SCP HYEST & ASSOCIATES exposes in its pleadings that it is not justified that it is necessary to proceed with the ppublic auction of the property in question, in the state of the active/passive position of its liquidation,

It states in this regard that the MELLI IRAN Bank's debt of an alleged 19 millions francs is without basis,

The applicant also explains that the LLOYD'S bank must justify the deduction of interest on its established claims, calculation is likely to significantly reduce the amount of the liability to be charged,

He added that the debt statement of the company S.A. COMPUTER WORLD is not justified;

Mr. ZANDIAN JAZY Gholam sollicits the court to declare that it is not justified to sell the apartment at 23 rue Louis Pouey in PUTEAUX (92800), belonging to him, accordingly reverse the order that authorized Master CANET ex-officio to proceed with the sale; RESPONSE AND CONCLUSIONS OF MASTER CANET EX-OFFICIO

Master CANET ex-officio, represented by Master GAYRAUD concluded the necessity of the sale of the aforementioned property;

Thus Master CANET ex-officio, concluded in the rejection of the appeal and confirmation of the criticised ordinance in its entirety

RESPONSE AND CONCLUSIONS OF THE UNION OF CO-OWNERS DEFENSE 2000

The UNION OF CO-OWNER DEFENSE 2000, represented by Master RUIMY-CAHEN intends to oppose the claimes of Mr. ZANDIAN JAZY Gholam which, according to him are purely dilatory and unfounded,

The defendant believes that the only way to settle with the creditors is to realise the existing assets and be active partners with Master CANET ex-officio by asking the Court to dismiss Mr. ZANDIAN JAZY Gholam of all of its requests for findings and conclusions,

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# RESPONS AND CONCLUSIONS OF THE MELLI IRAN BANK

The MELLI IRAN BANK, represented by Master OTTO and Master BOSQUET concluded that the sale is necessary.

## ON WHAT, THE PROCEEDINGS

## ON THE MAIN APPLICATION

It follows from the explanations of the parties and the documents produced in the case, notably that Mr. ZANDIAN JAZY Gholam was placed in receivership by judgement of Céans Court on the 3rd of April 1998;

By order dated the 2lst of June 2002, the Commissioner of the aforementioned proceedings authorized Master CANET ex-officio to continue the public auction of a property located at 23 rue Louis Pouey in Puteaux (92) belonging to Mr. ZANDIAN JAZY Gholam;

That Mr. ZANDIAN JAZY Gholam formed an appeal against this decision on the basis of Article 25 of the amended Decree of the 27th of December 1985,

The applicant indicates that the estimated liabilities of the liquidation may vary sharply;

That the defendants do not put forth any arguments to challenge the validity of this analysis,

The passive situation of the debtor is not clearly established,

Consequently, it does not seem justified, at that date, to sell the property belonging to Mr. ZANDIAN JAZY Gholam, 23 rue Louis Pouey in Puteaux (92),

It is therefore appropriate to set aside the order dates 21st of June 200 authorizing the sale of real estate;

## ON COSTS

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It is appropriate to order the use of privileged fees in collective proceedings.

## FOR THESE REASONS

The Court, having deliberated in accordance with the law, publicly rule, by contradictory judgement and as a last resort,

Declare Mr. ZANDIAN JAZZY Gholas Déclare Monsieur ZANDIAN JAZY prima facie and well founded in his appeal against the order dated the 2lst of June 2002,

Said there were no grounds for the sale of the property belonging to Mr. ZANDIAN JAZY Ghola, at 23 rue Louis Pouey in Puteaux (92)

The Ordinance infirm,

Said that the costs of this judgement will be used in privileged expenses liquidation,

The formal judgement is signed by the President and Registrar

By judgement of the 21st of September 2006, pel VERSAILLES ordered the reopening of debates and invited the parties to submit their comments on the following questions:

- Is the appeal admissible under the provisions of Articcle L 623-4 ?

- May the inadmissibility of the appeal be raised to office ?

THE REGISTRAR:

Cour d'AD