"Without Guarantee" Charter Periods - Time Charter

The "Lendoudis Evangelos II" was chartered for one time charter trip "duration about 70/80 days without guarantee. However, redelivery took place after 103 days, 12 hours and 40 minutes and the owners sought to claim damages for wrongful detention of the vessel by the charterers for 23 days, 12 hours and 40 minutes.

The matter was initially referred to arbitration. The owners' assertion was that the charterers must be treated as having contracted on the basis of an estimate of the voyage duration which was made by them in good faith and on reasonable grounds. Whilst the owners accepted that the charterers had not acted in bad faith, they argued that the charterers had been negligent in making their voyage estimate. Against this, the charterers asserted that the inclusion of the words "without guarantee" merely required their estimate to have been made in good faith. The arbitrator ruled that the test of good faith was whether the charterers' voyage estimate could be said to have been reasonable at the time the charter was concluded. Since the arbitrator concluded that the charterers had no reasonable grounds for making the voyage estimate, he awarded damages to the owners.

The award was appealed to the High Court on a point of law. The Court ruled that, if the owners were right in claiming that the charterers' voyage estimate had to be made in good faith and on reasonable grounds, the inclusion of the words "without guarantee" must exclude the "reasonable" aspect of that obligation. The net result of this would be that the charterers' only obligation would be to make the estimate in good faith. Alternatively, if the owners were right in claiming that the obligation as to duration would have been absolute (requiring the vessel to be redelivered after 80 days plus whatever margin was attributable to the word "about") if the words "without guarantee" had been omitted, their inclusion had the effect of turning the obligation into nothing more than one to make the voyage estimate in good faith. The Court then concluded that the test of good faith was whether the charterers genuinely believed at the time of fixing that the trip would last between 70 and 80 days. Since this was the case on the owners' own pleadings, the appeal was allowed.

1 [1997] 1 Lloyd's Rep 404