House of Lords before Lord Keith of Kinkel Lord Brandon of Oakbrook Lord Templeman Lord Griffiths Lord Oliver of Aylmerton. 22nd May 1985

LORD KEITH OF KINKEL, My Lords,

The respondents ("Mundogas") are a Panamanian corporation having as its shareholders three very substantial and important commercial groups in different countries. Their business activities comprise trading in liquid petroleum gas (L.P.G.) and chemicals, shipowning and the chartering of ships. In 1979 the International Gas Corporation of Oslo were owners of an L.P.G. carrying ship, the M.T. Havfrost, later renamed Ocean Frost ("the vessel"). On 24 October 1979 they let the vessel on time charter to Mundogas for a period of 12 months. The charter party contained an option for Mundogas to purchase the vessel for delivery at the end of the charterparty period at the price of U.S.$5,200,000, the option to be exercised at the latest on 6 June 1980. A formal contract of sale, also dated 24 October 1979, was drawn up and signed on behalf of International Gas and of Mundogas. A Danish firm of shipbrokers called World Marine Chartering A.S., one of the partners in which was a Mr. Jon Tony Johannesen, acted as agents in connection with this transaction. The signatory on behalf of Mundogas was Mr. Harald Magelssen, their vice-president (transportation) and chartering manager.

Early in 1980 it appeared to Mundogas that there were prospects of selling the vessel at a profit over the option price, and negotiations were initiated with a number of parties, but nothing came of these. In May 1980 Mr. Johannesen interested the principals of a Danish shipowning concern called the Armada group in a possible purchase. These principals were Mr. Torben Gunnar Jensen and Mr. Jorgen Poulsen Dannesboe. These gentlemen informed Mr. Johannesen that they would not be prepared to purchase the vessel unless at the same time Mundogas agreed to charter it back for a period of three years at an appropriate rate of hire. What happened next, according to the findings of fact arrived at by the Court of Appeal [1985] 3 W.L.R. 640; 1 Lloyd's Rep. 1, which differed in certain respects from those of the trial judge, Staughton J., [1985] 1 Lloyd's Rep. 1 but are not challenged by the appellants, was that Mr. Johannesen and Mr. Magelssen entered into a fraudulent conspiracy to bring a spurious three year charterparty into existence and to deceive Mr. Jensen and Mr. Dannesboe into believing that the charter was genuine, so as to induce them to agree to the purchase of the vessel. Mr. Magelssen had authority from Mundogas to agree to a straightforward sale of the vessel. He had no authority to agree to a three year charter back of the vessel, and was well aware that it would be impossible for him to obtain such authority. Mr. Johannesen arranged with Mr. Jensen and Mr. Dannesboe that the transaction was to be with a company to be incorporated by the latter in which Mr. Johannesen's firm, World Marine, was to have a 49 per cent. interest. Mr. Johannesen offered Mr. Magelssen "a piece of the ship," and later transferred to him a one third share in World Marine's interest. In pursuance of the conspiracy Mr. Johannesen falsely represented to Mr. Jensen and Mr. Dannesboe that Mr. Magelssen had actual authority to agree not only to the sale of the vessel but also to its charter back by Mundogas for three years. They were told that he had no general authority from Mundogas to enter into such a transaction, but that he had sought and obtained specific authority for it. The transaction was not one which Mr. Jensen and Mr. Dannesboe believed to be within the usual authority of an employee in Mr. Magelssen's position.

In the result, a contract of sale was entered into dated 30 May 1980 under which Mundogas agreed to sell the vessel to a company to be named by the Armada group for the sum of U.S.$5,750,000. Delivery was to take place not earlier than 1 February and not later than 15 March 1981, in order to allow for the expiry of Mundogas's current charter with International Gas. The contract was signed by Mr. Johannesen on behalf of Mundogas, he having obtained telex authority to do so, and by Mr. Dannesboe on behalf of the purchaser. Shortly afterwards the appellant company Armagas Ltd. was incorporated by the Armada group and nominated as purchaser of the vessel. On 19 June 1980, in Copenhagen, Mr. Magelssen signed, purportedly on behalf of Mundogas, a charterparty dated 30 May 1980 whereby Armagas agreed to let the vessel to Mundogas for a period of 36 months, with delivery not before 1 February 1981, the rate of hire to be "as agreed." The charterparty was signed by Mr. Dannesboe on behalf of Armagas. At the same time Mr. Magelssen and Mr. Dannesboe signed an addendum to the charterparty agreeing that the rate of hire was to be a minimum of U.5.$350,000 per month and that the owners were to have an option exerciseable not later than 10 January 1981 of cancelling the charterparty. The reason for the option to cancel was that it had been agreed orally between Mr. Jensen and Mr. Johannesen that if Armagas could find a buyer for the vessel at $6.5 million or more, on or before 10 January 1981, the vessel would be sold, the charterparty cancelled and the profit divided equally between the Armada group, World Marine and Mundogas. It was further agreed that the three year charterparty was to be kept strictly private and confidential, not only in the ordinary sense, i.e. that outsiders were not to be allowed to learn of its terms, but also to the extent that its existence was to be kept a secret from the chartering and operations department of Mundogas.

At this time a rate of hire of $350,000 per month was a reasonable one having regard to the state of the market. Mr. Magelssen and Mr. Johannesen believed, mistakenly as it turned out, that the market would continue to be buoyant, and that they would be able to arrange with Mundogas a series of 12 month charters covering the period of the spurious three year charter party at monthly rates of hire not less than $350,000. This was essential to the success of their scheme. So in November 1980 they drew up a 12 month charter by Armagas to Mundogas at the monthly rate of $365,000 commencing when the vessel passed to Armagas early in 1981. This document, dated 28 November 1980, was signed by Mr. Johannesen on behalf of Mundogas, and he asked Mr. Jensen to sign it on behalf of Armagas, representing that it was required for the internal purposes of Mundogas. Mr. Jensen was willing to do so only if at the same time an addendum was made to the three year charter party reducing its period to two years, and produced the text of such an addendum. There followed a period when Mundogas was pressing Mr. Johannesen to obtain the signature of Armagas to the 12 month charter and Mr. Jensen was pressing him to obtain Mundogas' signature to the addendum. Neither was in

the event ever signed. In April 1981 the vessel completed her service under the charter by International Gas, and became the property of Armagas. She remained however in the service of Mundogas, as the latter believed, under the twelve month charter, and as Armagas believed, under the three year charterparty. The managers and master of the vessel were each provided with a copy of the 12 month charter unsigned by Armagas, Mr. Jensen and Mr. Dannesboe having been persuaded by Mr. Johannesen to do this on the ground that the three year charter had to be kept secret.

The fraudulent scheme blew up in April 1982. The freight market had fallen to such an extent that a rate of $350,000 per month was out of the question. There was no possibility of Mr. Johannssen being able to keep the ball in the air by negotiating with Mundogas a rate of at least that amount for the following 12 months. Furthermore, by this time Mr. Magelssen had left the employment of Mundogas. On 2 March Mundogas gave Mr. Johannssen notice of redelivery of the vessel on 2 April 1982, and on 8 April they tendered redelivery to Armagas. The latter refused to accept it, founding on the spurious three year charterparty. Mundogas disclaimed all knowledge of that charterparty, and asserted that they were redelivering in terms of the 12 month charter.

My Lords, the foregoing represents the minimum statement of the facts of the case necessary to enable the legal issues which arise to be examined. The judgment of Robert Goff L.J. in the Court of Appeal [1985] 1 Lloyd's Rep. 1, 49-64 contains a most impressive analysis of all the material evidence leading to detailed findings of facts to which reference may be made.

In June 1982 Armagas commenced proceedings against Mundogas claiming damages for breach of the three year charter partys, by wrongfully repudiating it. It was alleged that Mr. Magelssen had actual authority to bind Mundogas to that charterparty. In the course of the trial before Staughton J., and in the light of the way in which the evidence was developing, Armagas amended its pleadings so as to claim alternatively damages in tort for Mr. Magelssen's deceit in falsely representing that he had authority to enter into the three year charterparty, Mundogas being alleged to be vicariously liable for that deceit. Mundogas contended that if it was bound by the three year charter it was entitled to bring the contract to an end by reason of alleged bribery of Mr. Magelssen by Armagas, and counter-claimed for damages. The basis of this claim was the offer by Mr. Johanssen to Mr. Magelssen of "a piece of the ship", to which Mr. Jensen and Mr. Dannesboe were said to be party. Staughton J. held that Mr. Magelssen had no actual or ostensible authority from Mundogas to conclude the charterparty, but he went on to hold that he had ostensible authority from Mundogas to communicate the latter's approval of his concluding it, and he therefore found that Mundogas were bound by the charterparty and liable in damages for breach of it. In case, however, that decision might be wrong, Staughton J. went on to consider the issue of Mundogas' vicarious liability for Mr. Magelssen's deceit, and to decide that issue against Armagas. On the issue of bribery, he decided against Mundogas.

The Court of Appeal (Stephenson, Dunn and Robert Goff L.J.) [1985] 1 W.L.R. 640 reversed the decision of Staughton J. on liability for breach of contract and agreed with him that Mundogas was not vicariously liable for Mr. Magelssen's deceit. Opinions in favour of Mundogas were expressed upon the bribery issue. Armagas now appeal, with leave, to this House.

Upon the issue of Mr. Magelssen's authority to conclude the three year charterparty on behalf of Mundogas, counsel for Armagas accepted that he did not have actual or ostensible general authority to enter into contracts of such an onerous character, but argued that he had ostensible specific authority to enter into this particular contract. Ostensible authority comes about where the principal, by words or conduct, has represented that the agent has the requisite actual authority, and the party dealing with the agent has entered into a contract with him in reliance on that representation. The principle in these circumstances is estoppel from denying that actual authority existed. In the commonly encountered case, the ostensible authority is general in character, arising when the principal has placed the agent in a position which in the outside world is generally regarded as carrying authority to enter into transactions of the kind in question. Ostensible general authority may also arise where the agent has had a course of dealing with a particular contractor and the principal has acquiesced in this course of dealing and honoured transactions arising out of it. Ostensible general authority can, however, never arise where the contractor knows that the agent's authority is limited so as to exclude entering into transactions of the type in question, and so cannot have relied on any contrary representation by the principal: ***Russo-Chinese Bank v. Li Yau Sam*** [1910] A.C. 174.

It is possible to envisage circumstances which might give rise to a case of ostensible specific authority to enter into a particular transaction, but such cases must be very rare and unusual. Ex hypothesi the contractor knows that the agent has no general authority to enter into the transaction, as was the position here. The principal might conceivably inform the contractor that, in relation to a transaction which to the contractor's knowledge required the specific approval of the principal, he could rely on the agent to enter into the transaction only if such approval had been given. In such a situation, if the agent entered into the transaction without approval, the principal might be estopped from denying that it had been given. But it is very difficult to envisage circumstances in which the estoppel could arise from conduct only in relation to a one-off transaction such as this one was. That, however, was the case which Armagas sought to make out, and which the trial judge accepted as having been made out. The way he put it was that although Mr. Magelssen did not have ostensible authority to conclude the three year charterparty, yet he did have ostensible authority to notify to Mr. Jensen and Mr. Dannesboe approval by Mundogas of the transaction. He took the view that by appointing Mr. Magelssen to be vice-president (transportation) and chartering manager Mundogas represented that he had authority to convey such approval. This conclusion appears to have originated in an idea which the judge himself had in the course of the trial. Armagas had not pleaded any such representation nor reliance on it by Mr. Jensen and Mr. Dannesboe, and naturally there had been no evidence by the latter that they did rely on it. The truth clearly was that they relied on the knowingly false representation made by Mr. Johannesen, in implementation of his fraudulent conspiracy with Mr.

Magelssen, that the latter had obtained specific authority from Mundogas. Mr. Magelssen purported to conclude the charterparty in Copenhagen on 19 June 1980, and may thus be taken to have made a direct representation of his own that he was empowered to do so. But no representation by Mr. Magelssen can help Armagas. They must be in a position to found upon some relevant representation by the responsible management of Mundogas as to Mr. Magelssen's authority: ***Freeman & Lockyer v. Buckhurst Park Properties (Mangal) Ltd.*** [1964] 2 Q.B. 480, 505 per Diplock L.J. Counsel for Armagas sought to find such a representation in the appointment of Mr. Magelssen as vice-president (transportation) and chartering manager, the circumstance that he had some general authority to enter into charterparties and that on two previous occasions he had entered into charterparties, with the specific approval of Mundogas conveyed by him, which were beyond his ostensible general authority, and the fact that it would have been unreasonable to expect Armagas to obtain direct confirmation from Mundogas of its approval, particularly in view of the shortness of time. But the nature of Mr. Magelssen's appointment was known not to carry general authority to conclude a charterparty such as this one, the two previous transactions referred to, though known to Mr. Johannesen the fellow conspirator, were not known to Mr. Jensen or Mr. Dannesboe, and the difficulty of obtaining confirmation from Mundogas is irrelevant.

In support of the view taken by the trial judge, reliance was placed upon ***Berryere v. Fireman's Fund Insurance Co.*** (1965) 51 D.L.R. (2d) 603, a decision of the Manitoba Court of Appeal. The facts were that one Kariotis applied to an insurance agent for automobile insurance, and was told that because of a previous accident the application would have to be approved by the defendant insurance company. Kariotis later asked the agent whether the application had been approved. The agent wrongly told him that it had been and issued him with the equivalent of a temporary cover note. Shortly afterwards, and before the defendants had reached a decision on whether to approve the application, Kariotis was responsible for a driving accident resulting in injury to the plaintiff, who obtained judgment for damages against him. The plaintiff then sued the defendants under legislation providing that the proceeds of a policy of motor insurance should be applied in payment of a judgment for damages obtained against the insured. The question was whether the agent had bound the defendant insurance company to the policy. The trial judge answered this question in the affirmative, and the Court of Appeal by a majority affirmed his decision. Schultz J.A., with the concurrence of Monnin J.A., held that the agent, having been provided with a supply of cover notes and given wide powers to bind the company by issuing them, had been clothed with indicia of authority which impliedly included authority to convey to Kariotis the result of the reference to the company of his application. He distinguished ***Russo-Chinese Bank v. Li Yau Sam*** [1910] A.C. 174 on the ground that there the fraudulent employee was never held out as having any authority beyond the limited one he was known to the plaintiff to have. Guy J.A. dissented upon the ground that Kariotis knew of the limitations upon the agent's authority to enter into a policy of insurance with him and that the cover note which the agent issued was neither itself a policy of insurance nor any guarantee that insurance was in force. **Berryere's case** was referred to in two other Canadian decisions, Jensen v. South Trail Mobile Ltd. (1972) 28 D.L.R. (3d) 233, in the Alberta Supreme Court Appellate Division, and ***Cypress Disposal Ltd, v. Inland Kenworth Sales (Nanaimo) Ltd.*** (1975) 54 D.L.R. (3d) 598, in the British Columbia Court of Appeal. Both of these were majority decisions. In the first of them the dissenting judge applied ***Berryere's case,*** but the two majority judges did not. In the second the majority distinguished ***Berryere's case*** as decided on its own particular facts, while the dissenting judge would have followed it and distinguished the Cypress Disposal case. It may well be that ***Berryere's case*** was rightly decided on its facts, having regard to the wide powers ostensibly given to the agent to bind the insurance company, although there is much force in the dissenting judgment of Guy J.A. But however that may be I do not regard the case as authority for the general proposition that ostensible authority of an agent to communicate agreement by his principal to a particular transaction is conceptually different from ostensible authority to enter into that particular transaction. Robert Goff L.J. said of the learned trial judge's view in this case [1985] 3 W.L.R. 640, 651-652:

". . . the effect of the judge's conclusion was that, although Mr. Magelssen did not have ostensible authority to enter into the contract, he did have ostensible authority to tell Mr. Jensen and Mr. Dannesboe that he had obtained actual authority to do so. This is, on its face, a most surprising conclusion. It results in an extraordinary distinction between (1) a case where an agent, having no ostensible authority to enter into the relevant contract, wrongly asserts that he is invested with actual authority to do so, in which event the principal is not bound; and (2) a case where an agent, having no ostensible authority, wrongly asserts after negotiations that he has gone back to his principal and obtained actual authority, in which event the principal is bound. As a matter of common sense, this is most unlikely to be the law."

I respectfully agree. It must be a most unusual and peculiar case where an agent who is known to have no general authority to enter into transactions of a certain type can by reason of circumstances created by the principal reasonably be believed to have specific authority to enter into a particular transaction of that type. The facts of the present case fall far short of establishing such a situation. I conclude that the Court of Appeal rightly rejected the claim based on ostensible authority.

The next matter for consideration is the claim on the ground of vicarious liability on the part of Mundogas for Mr. Magelssen's deceit. The broad proposition of law founded upon is that an employer is vicariously liable for the torts of his employee committed in the course of his employment. "Course of employment" is a concept which has engendered much disputation and spawned a plethora of reported decisions. The starting point should be to consider the fundamental principles which govern vicarious liability in the field of intentional wrongdoing by the servant, particularly by way of dishonest conduct. It is unnecessary to consider the development of the basis of vicarious liability in relation to torts such as negligence or trespass, which has followed a somewhat different line. Dishonest conduct is of a different character from blundering attempts to promote the employer's business interests, involving negligent ways of carrying out the employee's work or excessive zeal and errors of judgment in the performance of it. Dishonest conduct perpetrated with no intention of benefiting the employer but solely with that of procuring a personal gain or advantage to the employee

is governed, in the field of vicarious liability, by a set of principles and a line of authority of peculiar application. The genesis of these principles is to be found in the statement of Holt C.J. in ***Hern v. Nichols*** (1700) 1 Salk 289: *"Seeing somebody must be a loser, by this deceit, it is more reason that he that employs and puts a trust and confidence in the deceiver should be a loser than a stranger."* In ***Lickbarrow v. Mason*** (1787) 2 Term Rep. 63, 70, Ashhurst J. spoke to similar effect: "That, whenever one of two innocent persons must suffer by the acts of a third, he who has enabled such third person to occasion the loss must sustain it." These broad statements do, however, fall to be confined within the limits that justice truly requires. In ***Farquarson Brothers. & Co. v. C. King & Co.*** [1902] A.C. 325, 342 Lord Lindley observed that the doctrine enunciated by Ashhurst J. was far too wide. "*So far as I know, the doctrine has never been judicially applied where nothing has been done by one of the innocent parties which has in fact misled the other.*" That was a case where the issue was estoppel by ostensible authority, a fraudulent clerk in the employment of the plaintiffs having procured a purported sale of their timber to the defendants, the value of which the plaintiffs sought to recover. But the question of ostensible authority in. the contractual field is closely intertwined with that of vicarious liability for the fraud of a servant. Then in ***Slingsby v. District Bank Ltd.*** [1932] 1 K.B. 544, 560, Scrutton L.J., under reference to the passage quoted from Lord Lindley, explained "enabling" in the dictum of Ashhurst J. as meaning that the employer has in some way held out or represented the servant as having authority to do the acts complained of. It is well settled that a master is not liable for the dishonest tort of his servant merely because the latter's employment has given him the opportunity to commit it: ***Morris v. C. W. Martin & Sons Ltd.*** [1966] 1 Q.B. 716 per Diplock L.J. at 737.

The leading case in this field is ***Lloyd v. Grace, Smith & Co.*** [1912] A.C. 716, the facts of which are too well known to require recapitulation. The proposition established by that case is epitomized in the speech of Earl Loreburn at p. 725:

"If the agent commits the fraud purporting to act in the course of business such as he was authorised, or held out as authorised, to transact on account of his principal, then the latter may be held liable for it.

Lord Shaw of Dunfermline said at pp. 739-740:

"The case is in one respect the not infrequent one of a situation in which each of two parties has been betrayed or injured by the fraudulent conduct of a third. I look upon it as a familiar doctrine as well as a safe general rule, and one making for security instead of uncertainty and insecurity in mercantile dealings, that the loss occasioned by the fault of a third person in such circumstances ought to fail upon the one of the two parties who clothed that third person as agent with the authority by which he was enabled to commit the fraud."

Later he equiparates ostensible authority with actual authority. The principal importance of the case lies in its having dispelled misunderstanding of certain observations by Willes J. in Barwick v. English Joint Stock Bank (1867) L.R. 2 Ex. 259, and having established that it is not necessary to a master's liability for the fraud of his servant that the fraud should have been committed for the master's benefit. It was argued for Armagas that in Lloyd v. Grace, Smith & Co. the fraudulent clerk was not acting within the scope of his actual or ostensible authority but was acting in the course of his employment, and that it was the latter which made the employer liable. In the present case, so it was maintained, Mr. Magelssen was acting in the course of his employment though not within the scope of his actual or ostensible authority, so Mundogas was liable. In my opinion the attempted distinction has no validity in this category of case. Lord Macnaghten, in ***Lloyd v. Grace, Smith & Co.*** [1912] A.C. 716, 736, regarded the two expressions as meaning one and the same thing. The essential feature for creating liability in the employer is that the party contracting with the fraudulent servant should have altered his position to his detriment in reliance on the belief that the servant's activities were within his authority, or, to put it another way, were part of his job, this belief having been induced by the master's representations by way of words or conduct. In ***Uxbridge Permanent Benefit Building Society v. Pickard*** [1939] 2 K.B. 248, 254-255, Sir Wilfrid Greene M.R., rejecting the argument that the actings of the fraudulent solicitors' clerk who had induced the building society to advance money to a non-existent client, were analogous to "a frolic of his own" said:

"With all respect to that argument, I cannot accept it. It appears to me to be drawing an analogy where no analogy exists, because in the case of the servant who goes off on a frolic of his own, no question arises of any actual or ostensible authority upon the faith of which some third person is going to change his position. The very essence of the present case is that the actual authority and the ostensible authority to Conway were of a kind which, in the ordinary course of an everyday transaction, were going to lead third persons, on the faith of them, to change their position, just as a purchaser from an apparent client or a mortgagee lending money to a client is going to change his position by being brought into contact with that client. That is within the actual and ostensible authority of the clerk."

In further pursuance of the argument, reliance was placed on a dictum of Denning L.J. in ***Navarro v. Moregrand Ltd.*** (1951) 2 T.L.R. 674, 680 a case where a house agent had obtained an illegal premium from a tenant and the landlord was found liable for its repayment, who after referring to ***Lloyd v. Grace, Smith & Co.*** and the ***Uxbridge case***, as authority for the view that a servant acting within his actual or ostensible authority was acting in the course of his employment, continued:

"But the judge inferred from those cases the converse proposition - namely, that if a servant or agent is not acting within his actual or ostensible authority, then he is not acting in the course of his employment. I do not think that that is correct: it is a confusion between the responsibility of a principal in contract and his responsibility in tort. He is only responsible in contract for things done within the actual or ostensible authority of the agent; but he is responsible in tort for all wrongs done by the servant or agent in the course of his employment, whether within his actual or ostensible authority or not. The presence of actual or ostensible authority is decisive to show that his conduct is within the course of his employment, but the absence of it is not decisive the other way."

This dictum, which was not concurred in by the other two members of the Court of Appeal, may have some validity in relation to torts other than those concerned with fraudulent misrepresentation, but in my opinion it has no application to

torts of the latter kind, where the essence of the employer's liability is reliance by the injured party on actual or ostensible authority.

Reference was also made to an observation of Lord Oaksey, delivering the advice of the Judicial Committee of the Privy Council in ***United Africa Co. v. Saka Owoade*** [1955] A.C. 130, 144, a case where the defendants were held liable to the plaintiffs for the conversion of their goods by the defendants' servants, to whom the goods had been entrusted for carriage. He said:

"There is in their Lordships' opinion no difference in the liability of a master for wrongs whether for fraud or any other wrong committed by a servant in the course of his employment. It is a question of fact in each case whether the wrong was committed in the course of the servant's employment ..."

This observation appears unexceptionable so far as it goes, but it was not uttered in the context of a consideration of the basis of liability for a servant's fraudulent misrepresentation and does not, in my opinion, provide any assistance in elucidating that basis.

Many other cases were cited, but none of them, in my view, provides any further certain guidance. In the end of the day the question is whether the circumstances under which a servant has made the fraudulent misrepresentation which has caused loss to an innocent party contracting with him are such as to make it just for the employer to bear the loss. Such circumstances exist where the employer by words or conduct has induced the injured party to believe that the servant was acting in the lawful course of the employer's business. They do not exist where such belief, although it is present, has been brought about through misguided reliance on the servant himself, when the servant is not authorised to do what he is purporting to do, when what he is purporting to do is not within the class of acts that an employee in his position is usually authorised to do, and when the employer has done nothing to represent that he is authorised to do it. In the present case Mr. Magelssen was not authorised to enter into the three year charterparty, to do so was not within the usual authority of an employee holding his position, and Armagas knew it, and Mundogas had done nothing to represent that he was authorised to do so. It was contended for Armagas that concluding the contract for the sale of the vessel was within Mr. Magelssen's actual authority, and that inducing the sale by falsely representing that he had authority to enter into the charterparty amounted to no more than an improper method of performing what he was employed to do, such as in other contexts was sufficient to attract vicarious liability. But the sale of a ship backed by a three year charterparty is a transaction of a wholly different character from a straightforward sale, even if the charterparty is not to be regarded as a transaction separate and distinct from the sale, and Mr. Jensen and Mr. Dannesboe knew that Mr. Magelssen had no authority to enter into a transaction of that character on his own responsibility.

I conclude that the Court of Appeal rightly held that Mundogas were not vicariously liable in English law for Mr. Magelssen's deceit. It is, therefore, unnecessary to consider two other issues upon which opinions were expressed by the trial judge and by the Court of Appeal, namely the position under the law of Denmark, where the tort was committed, as regards the vicarious liability of Mundogas, and the matter of bribery. By reason of the views which your Lordships formed, in the course of the hearing, upon the two primary issues, no argument was required to be advanced upon those subordinate questions.

My Lords, for these reasons I would dismiss the appeal with costs.

LORD BRANDON OF OAKBROOK, My Lords,
I have had the advantage of reading in draft the speech prepared by my noble and learned friend, Lord Keith of Kinkel. I agree with it, and for the reasons which he gives I would dismiss the appeal.

LORD TEMPLEMAN, My Lords,
For the reasons given by my noble and learned friend, Lord Keith of Kinkel, I would dismiss this appeal.

LORD GRIFFITHS, My Lords,
I have had the advantage of reading in draft the speech prepared by my noble and learned friend, Lord Keith of Kinkel. I agree with it, and for the reasons which, he gives I would dismiss the appeal.

LORD OLIVER OF AYLMERTON, My Lords,
I have had the advantage of reading in draft the speech prepared by my noble and learned friend, Lord Keith of Kinkel. I agree with it and for the reasons which he gives I too would dismiss the appeal.