**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2020-020803-CA-01
SECTION: CA43
JUDGE: Michael Hanzman

**Gorsoan Limited**
Plaintiff(s)

vs.

**Janna Bullock**
Defendant(s)
_____/

**ORDER**

## I. Introduction

Before the Court is Defendant Janna Bullock's ("Bullock") "Motion to Dissolve the Temporary Injunction and Dismiss the Case" (Docket entry "DE" 27), filed pursuant to Florida Rules of Civil Procedure 1.1610(d) and 1.140(b)(6) ("Motion). Bullock seeks an Order dissolving the Court's temporary injunction entered *ex parte* on October 8, 2020 (DE 8), and dismissing this case with prejudice. In support of the motion, Bullock submitted a supporting memorandum of law (DE 28), Plaintiff Gorsoan Limited ("Gorsoan") responded in opposition (DE 34), and Bullock filed a reply in further support of the Motion (DE 37). The Court entertained oral argument on February 17, 2021. Upon careful consideration of the record, and applicable legal authorities, the Court **DENIES** the Motion.

## II. Background

This case arises from Gorsoan's request that the Court give full faith and credit to an interim global asset freeze order entered by a Cypriot Court against Bullock's assets. Gorsoan is before this Court as the assignee of the rights of Gazprombank OJSC, a Russian bank (the "Bank"), that invested approximately $23 million in certain municipal bonds issued by entities affiliated with the Moscow Region government in Russia. The complaint alleges that those funds were diverted by Bullock and her then-husband, Alexey Kuznetsov, then-Minister of Finance in the Moscow Region government. (DE 2, Complaint at ¶¶ 6-7.) Bullock does not challenge Gorsoan's standing or the validity of the Bank's assignment of rights and claims to

Gorsoan.

In August 2012, Gorsoan initiated proceedings in the District Court of Limassol, Cyprus, seeking damages against Bullock and her alleged co-conspirators in excess of $20 million. On August 14, 2012, the Cyprus Court, upon an ***ex parte*** application by Gorsoan, issued interim orders against Bullock and her co-defendants, ordering that their assets anywhere in the world be frozen, up to the amount of $26 million (the "Interim Injunction Order"). (***Id.*** at ¶10.)[1] Bullock was personally served in New York with a copy of the Interim Injunction Order on September 17, 2012. (***Id.*** at ¶ 11.) That Interim Injunction Order was converted into what appears to be the Cypriot equivalent of a non-final, preliminary injunction in March 2013 (the "Preliminary Injunction Order"), and the Preliminary Injunction Order was served on Bullock in New York on April 24, 2013. (***Id.*** at ¶13.) In October 2013, Bullock and her co-defendants appeared before the Cyprus Court and moved to stay or set aside the Cyprus Proceeding arguing, ***inter alia***, lack of jurisdiction and improper service. (***Id.*** at ¶14.) That motion was denied on November 5, 2013. (***Id.***)

On September 25, 2020, Gorsoan filed a Verified Complaint for Recognition of Foreign Injunction before this Court, seeking recognition of the Cyprus Court's Preliminary Injunction Order and a freeze of all of Bullock's assets in the State of Florida. Gorsoan appears to be concerned about the risk of dissipation of one asset in particular: a condominium on Miami Beach's Fisher Island that a Bullock-owned entity purchased in 2017 for $7,000,000.

## III. **Analysis**

The Motion presents two issues. First, whether Florida courts give full faith and credit to a foreign court's non-final orders. Second, whether recognizing a foreign freeze order would offend "some paramount public policy" of our state. ***Belle Island Inv. Co., Ltd. v. Feingold***, 453 So. 2d 1143, 1145 (Fla. 3d DCA 1984) ("[i]n Florida, the rules of comity may not be departed from except to protect the citizens of our state or some paramount public policy"). The answer to the first question is yes. The answer to the second question is no.

### 1. *Florida Courts Recognize Foreign Interim Injunctions.*

As our appellate court pointed out just last month, recognizing "[t]he extraterritorial effect of a foreign decree 'depends upon what our greatest jurists have been content to call 'the comity of nations,'" ***Amezcua v. Cortez***, No. 3D20-1649, at 6 (Fla. 3d DCA Jan. 13, 2021) (quoting ***Hilton v. Guyot***, 159 U.S. 113, 163, 16 S. Ct. 139, 143, 40 L. Ed. 95 (1895)), and comity dictates that:

> [A]ny foreign decree should be recognized as a valid judgment, and thus be entitled to comity, where the parties have been given notice and the opportunity to be heard, where the foreign court had original jurisdiction and where the foreign decree does not offend the public policy of the State of Florida.

No. 3D20-1649, at 6 (Fla. 3d DCA Jan. 13, 2021) (quoting *Nahar v. Nahar*, 656 So. 2d 225, 229 (Fla. 3d DCA 1995)). The *Amezcua* court also approved of – and adopted – the standard set forth under the Restatement (Second) of Conflict of Laws:

> [A] decree rendered in a foreign nation which orders or enjoins the doing of an act will be enforced in this country provided that such enforcement is necessary to effectuate the decree and will not impose an undue burden upon the American court and provided further that in the view of the American court the decree is consistent with fundamental principles of justice and of good morals.

*Id.* at 5 (quoting Restatement (Second) of Conflict of Laws § 102 cmt. g (Am. Law Inst. 1971)). In this case, the parties do not dispute that Bullock was given notice and an opportunity to be heard, or that the Cyprus Court had original jurisdiction. Indeed, Bullock appeared before the Cyprus Court, challenged jurisdiction, and lost.

Bullock nevertheless insists that the Court cannot recognize a foreign interim injunction, arguing that Florida courts are ***only*** permitted to give full faith and credit to foreign interim injunctions in domestic relations cases or creditors rights cases. (DE 28 at 7) (citing *Cardenas v. Solis*, 570 So. 2d 996, 999 (Fla. 3d DCA 1990)). What Bullock fails to recognize is that the Third District has expressly "recede[d] from *Cardenas* to the extent that it conflicts with" the more permissive standard set forth in "the Restatement (Second), Conflict of Laws, § 98 (1988)." *Nahar v. Nahar*, 656 So. 2d 225, 229 (Fla. 3d DCA 1995). That standard, recently applied in *Amezcua*, dispenses with the narrow exceptions to the general rule against recognizing foreign interim injunctions and focuses on notice by, and the jurisdiction of, the foreign tribunal, and consistency with Florida's public policy. In the decades since *Cardenas* and *Nahar* were decided, the Third District has "repeatedly approved the enforcement in Florida of temporary injunctions issued by foreign courts as a matter of international comity," *Cermesoni v. Maneiro*, 144 So. 3d 627, 629 (Fla. 3d DCA 2014), most recently in *Amezcua*, a "red cow" which forecloses Bullock's argument.[2],[3]

1. *Recognizing the Foreign Injunction Is Consistent with Florida's Public Policy.*

Florida has an affirmative and "obviously [] strong public policy in favor of enforcing, where practicable, foreign court decrees, final or interlocutory . . . ." *Cardenas*, 570 So. 2d 996

(Fla. 3d DCA 1990) *abrogated on other grounds by Nahar*, 656 So. 2d 225, 229 (Fla. 3d DCA 1995). In *Amezcua*, the Third District approved recognition of a foreign interim injunction because of the

> weighty need to preserve assets, along with the pervasive sentiment that debtors ought 'not be able to walk away from their foreign court-imposed obligations by spiriting away their money or assets; in the United States, the foreign decree neither offends the public policy of our State nor emburdens our courts.

*Amezcua* at 6 (citing *de Pacanins v. Pacanins*, 650 So. 2d 1028, 1029-30 (Fla. 3d DCA 1995) (citation omitted)). Despite these compelling reasons to give full faith and credit to foreign injunction/freeze orders, Bullock argues that it would offend Florida's public policy to recognize a foreign injunction in the absence of a showing of irreparable harm as required by Florida common law. (DE 28 at 9.) The Court disagrees. Enforcement of a foreign injunction is not against Florida public policy simply because a Florida court would have applied a different legal standard and *may* not have granted similar relief. *See, e.g., Konover Realty Associates, Ltd. v. Mladen*, 511 So. 2d 705, 706 (Fla. 3d DCA 1987) ("[i]t is entirely settled by a long and unbroken line of Florida cases that in an action at law for money damages, there is simply no judicial authority for an order requiring the deposit of the amount in controversy into the registry of the court").

As *Amezcua* makes clear, a recognizing court's duty is to ensure that the foreign proceedings were "under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court, or in the system of laws under which it was sitting, or fraud in procuring the judgment . . . ." *Amezcua* at 5 (citation omitted). *Amezcua* specifically acknowledged that the foreign judgment shall be recognized in accordance with "the system of laws under which [the foreign tribunal] was sitting"—*not* the system of laws under which the recognizing tribunal sits. *Id.* There is no claim of impartiality or other impropriety in the Cyprus proceedings and the Court declines Bullock's invitation to revisit the threshold injunction question that was before the Cyrus Court, as "the merits of the case should not . . . be tried afresh." *Id.* To the contrary, "[c]omity is meant to solve the dilemma that no law has any effect of its own force, beyond the limits of the sovereignty from which its authority derived." *Amezcua* at 4 (citation and alterations omitted). Indeed the very purpose of comity is to give effect to the foreign laws of a separate sovereign.

None of the cases cited by the parties that recognized foreign injunctions sought to

supplant the legal standards of the foreign tribunal with Florida's own injunction standard. On the contrary, and consistent with the fundamentals of comity, the Florida courts ***deferred*** to the legal standards of the foreign tribunals. In ***Nahar***, the Third District squarely addressed this question when it rejected an argument that "Florida law was controlling" over questions of survivorship and instead deferred to the finding of a Dutch court that the estate in question "was governed by Dutch law." 656 So. 2d 225, 228. If comity principles supersede Florida's public policy interest in the administration of a deceased's Florida property, then, ***a fortiori***, Florida's general irreparable harm standard in this commercial case can yield to the determination of a Cyprus Court. Similarly, in ***Intrinsic Values Corp. v. Superintendencia de Administracion Tributaria***, 806 So.2d 616 (Fla. 3d DCA 2002), the Third District approved an order recognizing a Guatemalan court's injunction against payment on a letter of credit with nary a mention of irreparable harm. On the contrary, ***Intrinsic Values*** rested on "principles of comity" finding that *Id.* because "Florida's jurisdiction and due process requirements had been met, the Guatemala injunction [was] entitled to comity." *Id.* at 619. And in ***Amezcua,*** which like this case involved a claim for money damages in the foreign jurisdiction, the Third District did not concern itself with whether the foreign order prohibiting the alienation of the Aventura Condominium could have been secured here applying ***our*** law. What this authority teaches is that crediting, and giving deference to, foreign legal standards is the very point of comity. Put another way, comity is not limited to orders/judgments that could have been secured in a Florida court, applying Florida law.

Finally, Florida's irreparable harm standard, while an element that must be satisfied to secure common law injunctive relief ***in Florida*****,** is not enshrined in the state's overall public policy. For example, Florida Statute § 78.068(2), applicable to replevin actions, expressly provides that a "prejudgment writ of replevin may issue if the court finds . . . that the defendant is engaging in, or is about to engage in, conduct that may place the claimed property in danger of" dissipation. The statute makes no mention of irreparable harm. But even if Florida did ***categorically*** bar all equitable relief in the form of pre-judgment attachment (*i.e.*, injunction/freeze orders) absent a showing of irreparable harm (which it does not), Bullock's argument would still fail. Gorsoan is not asking the Court to enter an injunction in the first instance. There is no injunction hearing to be had or evidence of irreparable harm to be considered. The injunction proceedings already took place in Cyprus and the asset freeze was already issued. The task at hand for the Court is purely ancillary and limited to the comity inquiry. And if Bullock's position were correct, then a Florida court could not recognize another sovereign's judgment unless that foreign court applied an equivalent to Florida law. That turns comity, and respect for foreign tribunals, on its head. The bottom line is that recognizing a

foreign injunction/freeze order does not offend a "paramount public policy" of the state merely because the threshold showing needed to secure such relief may be lower in the foreign jurisdiction that entered the order/judgment. ***Feingold, supra.***

## IV. **Conclusion**

For the foregoing reasons, the Court **DENIES** the Motion. The Court does, however, **STRIKE** the words "and/or anywhere else in the world" from paragraph 11 of its October 8, 2020 temporary injunction.

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[1] Such injunctions are commonly referred to as "Mareva" injunctions. Named after the second English case to issue one, a Mareva injunction is a freezing order "designed to prevent a defendant from dissipating or hiding his assets at the outset of a case thus making any judgment subsequently rendered against him either worthless or difficult to enforce." *Guinness PLC v. Ward*, 955 F. 2d 875, 900 (4th Cir. 1992) (citing *Mareva Compani Naviera, S.A. v. Int'l Bulk Carriers, S.A.*, 2 Lloyd's Rep. 509 (Eng. C.A. 1975)).

[2] At oral argument, Bullock's counsel attempted to distinguish this proverbial "red cow," pointing out that the Mexican freeze order at issue in *Amezcua* was directed at "certain assets, including a condominium in Aventura, Florida," whereas the Mareva injunction here attached to all of Bullock's assets up to a specified dollar value. This is an irrelevant distinction for purposes of comity/full faith and credit. Assuming the foreign decree was issued by a court of competent jurisdiction, after notice and an opportunity to be heard, it is entitled to recognition unless offensive to our public policy. And it matters not whether that foreign decree freezes assets in general or specific assets.

[3] *See Corn v. City of Lauderdale Lakes*, 997 F.2d 1369 (11th Cir. 1993) ("[a] red cow is a term proverbially used to describe a case directly on point, a commanding precedent").

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 17th day of February, 2021.

2020-020803-CA-01 02-17-2021 7:14 PM
Hon. Michael Hanzman

**CIRCUIT COURT JUDGE**
Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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