

CHAMBER HEARING
Tuesday 6th November, 2007

CORAM The Hon. Hugh Rawlins, Justice of Appeal

SAINT LUCIA

Case Name Rachel Atkinson v Gertrude Mathurin
[Civil Appeal No. 2 of 2007]

Appearances

Appellant Mr. Ermin Moise

Respondent Mrs. Lydia Faisal

Party present Mr. Nathaniel Thomas who has Power of Attorney for the 1st Defendant also attended.

Issue: Application to determine whether a stay of execution should be granted.

Result: It was ordered that:

- (1) The Order dated 8th October 2007 granting a stay of execution of the judgment of the Honourable Justice Sandra Mason, QC, is hereby discharged.
- (2) The Application by the Respondent for an Order that the Appellant shall forthwith satisfy the prescribed costs Order and that the costs estimated in the High court at \$32,165.56 be paid by the Respondents into an Escrow Account pending the determination of the Appeal is granted, in part.
- (3) The Appellant shall pay the sum of \$32,165.56 into an escrow account in a bank in St. Lucia, which is to be in the names of Solicitors for the Appellant and Respondent.
- (4) The continuation of the Appeal shall be conditional upon the Appellant meeting the requirements of paragraph 3 of this Order.
- (5) Costs on these applications are reserved pending the determination of the Appeal, or upon the matter being brought up for mention by solicitors for the Respondent.

Reason: The stay was granted as a holding measure pending the hearing of further submissions with respect to whether the stay should continue because the appellant might not be able to prosecute the appeal for financial reasons if the stay is not granted. However, the court lifted the stay and granted the application by the respondent to order the appellant to satisfy the costs order as a precondition to continuing to prosecute the appeal because it found that the appellant has not sufficiently particularized the financial hardships pleaded to the satisfaction of the court.

CORAM The Hon. Denys Barrow, SC, Justice of Appeal

DIRECTIONS

ANGUILLA

Case Name Jeffrey A. Carty v. Raphael Edwards
[Civ. App. No. 1 of 2004]

Appearances:
Appellant: Mr. Thomas Astaphan
Respondent: In person

Issue: Application for security for costs

Result:

1. The Appellant shall give security for costs of the appeal in the sum of US\$22,000 either in cash or by a bond or guarantee given by a licensed financial institution or insurance company not later than 2nd December, 2007 provided that the parties shall be at liberty to agree on some other form of security.
2. Costs of this Application in the sum of EC\$500 to the Applicant.

Reason: In principle the applicant was entitled to an order for security for costs.

ANTIGUA AND BARBUDA

Case Name Romaneta Francis v Fitzroy Spaulding
[Mag. Civ. App. No. 1 of 2007]

Appearances:
Appellant: Ms. E. Deniscia Thomas
Respondent: Dane Hamilton & Associates

Issue: Application for extension of time to appeal

Result: The Application was refused.
Costs to the Respondent in the sum of \$500.

Reason: No good reason was given for the delay in applying for the extension of time.

Case Name Caribbean Development (Antigua) Ltd. trading as Jolly Harbour Marina v Ian Ferguson et al
[Civ. App. No. 15 of 2007]

Appearances:
Appellant: Watt & Associates
Respondent: Hill & Hill

Issue: Application for Stay of Execution

Result:

1. The Appellant shall pay to the Respondents their costs of \$73,087.35 on or before the 19th day of October, 2007 and enter into a bond with a local bank in the sum of \$490,746.98 and deposit same with the Registrar on or before the 16th day of November, 2007 and that upon such actions no proceedings will be taken to enforce the Judgment pending the Appellant's appeal.
2. The Respondents undertake to repay the Appellant the said costs of \$73,087.35 if they are unsuccessful in their appeal.

Reason: Terms agreed.

DOMINICA

Case Name Luke John v Curtis George
[Mag. Civ. App. No. 10 of 2007]

Appearances:
Appellant: In person
Respondent: In person

Issue: Application for extension of time to file Notice of Appeal

Result: The Application was adjourned.

Reason: Service had not been effected.

GRENADA

Case Name Sandra Claudia Roberts v Glenford Thomas
[Civ. App. No. 19 of 2005]

Appearances:
Appellant: Mr. Michael J. St. B. Sylvester
Respondent: Mr. Anselm B. Clouden

Issue: Application for Discharge Order

Result:
1. The Application was dismissed without prejudice to any renewed application which the Applicant may wish to make after he has applied to dismiss the appeal for want of prosecution or otherwise, if the Applicant indeed has a proper basis for so applying.
2. No order as to costs.

Reason: The proper course for the applicant is to have the entire appeal dismissed, if the factual assertions are true

Case Name Volker Stevin Construction Europe B.V v Vos Limited
[Civ. App. No. 13 of 2007]

Appearances:
Appellant: Seon & Associates
Respondent: Wilkinson, Wilkinson & Wilkinson

Issue: Application for paragraphs to be struck out from Notice of Appeal

Result:
It was directed that:
1. Skeleton Argument in support of the Application to strike out the specified paragraphs in the Notice of Appeal is to be filed by the Appellant on or by 16th November, 2007.
2. Skeleton Argument in opposition is to be filed by the Respondent on or by

30th November, 2007.

3. The Application shall thereafter be considered on the written arguments by a single judge of the Court of Appeal.

Case Name Dr. The Hon Keith Mitchell v Lloyd Noel et al
[Civ. App. No. 23 of 2007]

Appearances:
Appellant: Mr. A. Olowu
Respondent: No appearances

Issue: Application for Leave to Appeal

Result:
1. Leave to Appeal was granted.
2. Each party shall file an affidavit as to the facts surrounding the entry and the setting aside of the judgment along with its Skeleton Argument.
3. The Appellant shall file a Notice of Appeal on or before 20th November, 2007.

Reason: Leave to Appeal was granted notwithstanding the non-service on the Respondent as it was not necessary to hear him. The nature of the Order indicates that the Master made a decision of her own initiative and without an application. In the circumstances, it was the more efficient use of the court's time to permit this matter to proceed as a procedural appeal.

**SAINT KITTS &
NEVIS**

Case Name Debbie Gumbs v Stanley Franks
[Civ. App. No. 2 of 2007]

Appearances
Appellant Mr. John Cato
Respondent Dublin & Johnson

Issue Application for extension of time

will be taken. The ultimate object of this principle is to have matters settled in certain time limits and therefore produce certainty in litigation and in the lives of parties. The Application, having been made a year out of time, was accordingly refused.