

CHAMBER HEARING

Tuesday 1st July 2008

CORAM Hon. Dane Hamilton Justice of Appeal (Ag)

SAINT LUCIA

Case Name The Attorney General v Michel Magloire a.k.a Michel Mgloire
and
Michel Magloire a.k.a. Michel Magloire v Attorney General
[Civ. App. 19 & 20 of 2008]

Appearances

Appellant In Person No objection

Respondent Mr. Leslie Prospere: Seeking guidance as to whether to hear an oral objection

Issue: Case Management to decide which appeal will stand as the appeal

Result: It was ordered that:

1. Civil Appeal No. 19 of 2008 will stand as the appeal in this matter.
2. Civil Appeal No. 20 of 2008 will be the counter appeal.
3. No order as to costs.

Reason: No. 19/2008 was first filed and entered on the Court list

**SAINT
VINCENT &
THE
GRENADINES**

Case Name Hans King v Frank Dasilva
[Civil Appeal No. 6 of 2008]

Appearances:

Appellant: Marks, Martin & Associates

Respondent: Mr. Frank Dasilva

Issue: Application for leave to appeal and stay of execution.

Result: It was ordered that:

1. Leave to appeal the Order of Master Cheryl Mathurin dated the 28th day of April, 2008 is granted to the Defendant/Applicant.
2. A stay of execution granted pending the hearing of the appeal.
3. The Defendant/Applicant shall file the Notice of Appeal together with written submissions within 14 days of the date hereof.
4. The defendant/Applicant shall serve the said Notice of Appeal and submissions on the Claimant/Respondent within seven (7) days of receipt of the Notice of Appeal.
5. The Claimant/Respondent shall file and serve written submissions within seven (7) days of receipt of Notice of Appeal and the Defendant Applicant written submissions.

Reason: The Order of Master Mathurin was made on April 28th 2008. The Application for leave was filed on the 9th May, 2008 well within the period of time limited for so doing by C.P.R.

**SAINT
CHRISTOPHER
& NEVIS**

Case Name St. Christopher Club et al v St. Christopher Club Ltd. et al
[Criminal Appeal No. 6 of 2008]

Appearances:

Appellant: Hamilton & Co.

Respondent: Mr. Sylvester Anthony

Issue: Application for leave to appeal

Result: It was ordered that:

1. Leave to appeal the Order of the Hon. Justice Francis Belle is granted to the applicant.
2. The applicants shall file the Notice of Appeal together with written submissions within 14 days of the date hereof.
3. The Applicant shall serve the said Notice of Appeal and submissions on the Respondent within seven (7) days of the date of the filing of the Notice of Appeal.
4. The Respondent shall file and serve written submissions within seven (7) days of receipt of the Notice of Appeal.

Reason: The Application was brought within the time limited for so doing. The Legal Practitioner for the Respondent gave a written indication of opposition to the application, but no skeletal submissions was filed by either side. In the circumstances being a procedural appeal, it is my view that this matter can be best disposed of by a single Judge of the Court on written submissions.

The application is adjourned to a date to be determined by the Chief Registrar.

Reason: Mr. Dougherty, legal practitioner for the applicant informed the Court by telephone that service of the application has not yet been effected.

Case Name Attorney General et al v Wendell Nichols
[Civil Appeal No. 18 of 2007]

Appearances:
Appellant: Mrs. Jo Ann Williams-Roberts in the Attorney General's office.
Respondent: Farara Kerins

Issue: Application to strike out appeal.

Result: It was ordered that:
The Notice of Appeal is struck out for want of prosecution with costs to the applicant in the sum of \$1500.00

Reason: The Appellant having filed the Notice of Appeal on 24th July, 2007 on the issue of liability decided by the trial Judge failed to take any further step. The Chief Registrar was informed by the Solicitor General that the application to strike out the Notice of Appeal is unopposed.

**ANTIGUA
AND
BARBUDA**

Case Name Lynroy Ephraim v Reginald Wallace Williams
[Civil Appeal No. 12 of 2008]

Appearances:
Appellant: Watt & Associates
Respondent: Mr. Reginald Wallace Williams

Issue: Application for leave to appeal.

Result: It was ordered that:
1. The applicant shall file and serve written submissions supported by authorities on the respondent within 14 days of the date hereof.
2. The respondent shall file and serve written submissions in reply on the

- applicant within 14 days of the receipt of the applicant's submissions.
3. Further hearing of this application adjourned to a date to be fixed by the Chief Registrar.

Reason: This application was filed within the time limited by the rules for so doing. The issue decided against the Applicant by the Master is that the draft defence disclosed no real prospect of successfully defending the Claim, given that the Statement of Claim establish the doctrine of res ipsa loquitur. The default Judgment as entered by the Respondent is for liquidated damage and ought to have been for damages to be assessed. There is need to hear the parties on both issues.

Case Name George Pigott v Viola Buntin
[Civil Appeal No. 11 of 2008]

Appearances:

Appellant: Watt & Associates

Respondent: In Person

Issue: Application for leave to appeal.

Result: It was ordered that:

1. Leave is granted to the applicant to appeal against the Order of Master Cheryl Mathurin made on the 2nd June 2008.
2. The Applicant shall file The Notice of Appeal together with submissions within 14 days of the date hereof.
3. The Respondent shall file and serve written submissions in reply within seven (7) days of receipt of the Notice of Appeal.
4. The execution of the Default Judgment is consequently stayed pending a determination of the appeal.
5. The costs of the application be cost in the appeal.

Reason: The Application was made within the time limited by the rules for so doing. A review of the provisions of the Town and Country Planning Act indicates that no statutory duty arises with regard to the applicant

DOMINICA

Case Name Glenis Isles v Tony Isles
[Civil Appeal No. 8 of 2008]

Appearances:

Appellant: Don Christopher & Co.

Respondent: Ms. Zena Dyer

Issue: Procedural Appeal

Result: It was ordered that:

1. An injunction is hereby granted and the respondent /defendant is hereby restrain whether by himself, his servants or agents or howsoever otherwise from picking, reaping, harvesting taking away any of the produce or crops on the land in dispute and further from causing or permitting to be destroyed or causing any waste thereto of any of the appellant seedbeds crops or plants on the said land until the determination of the claim herein or further order.
2. The costs of the application be the costs in the cause.

Reason: This is an action in trespass. The Appellant has been in possession of the lands in dispute. The Respondent returned to Dominica after an absence of 22 years and claimed a one-twelfth share in the land. The Appellant has cultivated lands and has in my view alleged sufficient evidence to show that the Respondent has committed several acts of trespass to his crops. It is clear that the type of injury alleged by him will be difficult to quantify and if his fruit trees are being destroyed by the Respondent adequate compensation difficult to assess, given that both parties are presently in occupation of the disputed land which is the subject matter of the claim, the duty of the Court should be to minimize friction and maintain the status-quo.

Case Name Byron Smith v British Virgin Island Electricity Corporation
[Civil Appeal No. 10 of 2008]

Appearances:

Appellant: Mr. Lewis S. Hunte Q.C.

Respondent: Mr. O'Neal Webster

Issue: Application for leave to appeal.

Result: It was ordered that:

This application is adjourned for hearing before the full Court of Appeal at its next sitting in the BVI in September 2008.

Reason: It is felt that this application ought to be heard before the full Court given the issue of law that is being canvassed on behalf of the Appellant.

GRENADA

Case Name Keith Mitchell et al v Capital Bank International Ltd.
[Civil Appeal No. 7 of 2008]
Capital Bank International Ltd. v Keith Mitchell et al
[Civil Appeal No. 9 of 2008]

Appearances:

Appellant: Cajeton A.K. Hood for (Capital Bank International Limited)

Respondent: Attorney General's Chambers for (Attorney General & Keith Mitchell)

Issue: Application for leave to appeal and Notice of appeal respectively.

Result: It was ordered that:

1. Further consideration of these appeals is adjourned for hearing before the full Court of Appeal sitting in Grenada on the 14th July 2008.
2. The respondent in Civil Appeal No. 9 of 2008 shall file and serve written submissions on or before 10th July 2008.

Reason: Because of the great public interest these appeals ought to be heard by the full court.

ANGUILLA

Case Name Viola Richardson et al v Albert Hughes
[Civil Appeal No. 2 of 2008]

Appearances

Appellant Mr. Alex Richardson & Associates

Respondent Caribbean Juris Chambers

Issue Application for leave to appeal.

Result It was ordered that:

1. The applicant shall file and serve written submissions in support of their application together with authorities within 14 days of the date hereof.
2. Further hearing of this application is adjourned to a date to be fixed by the Chief Registrar.

Reason

No submissions were filed by the Applicant.