

GRENADA

IN THE COURT OF APPEAL

CIVIL APPEAL NO.8 OF 2006

BETWEEN:

ATTORNEY GENERAL

Applicant

and

SPICE ISLE RETREADERS

Respondent

Before:

The Hon. Mr. Brian Alleyne, SC

Chief Justice [Ag.]

On written submissions

Attorney General's Chambers for Applicant

Mrs. Celia Edwards for the Respondent

2006: April 26.

JUDGMENT

- [1] ALLEYNE, C.J.[AG.]: On 10th March 2006 the claimant/respondent (hereinafter the respondent) filed a fixed date claim against the defendant/applicant (hereinafter the applicant) seeking a declaration that it is entitled to possession of the property in issue, and a further declaration that the applicant is not entitled to evict or otherwise force the respondent from possession of the premises.
- [2] Simultaneously, the respondent filed an application without notice seeking certain injunctive relief (*quia timet* injunctions). The learned trial judge granted the injunctions on 10th March 2006, and made an order pursuant to Part 17.4(5) fixing the date for further consideration of the application at 17th March 2006.

- [3] On the return date both parties appeared and made submissions. The learned judge ordered that the interim injunction be continued until the hearing and determination of the substantive claim, and awarded costs of those interlocutory proceedings to the respondent, the claimant in the action. In order to expedite the matter, presumably in recognition of the undoubted urgency of the matter as urged by the applicant, the learned judge gave directions for the respondent to file and serve a statement of claim or affidavit in support of the claim on or before 28th March 2006, and fixed the hearing of the claim for 6th April 2006, at which time it would have been expected that the fixed date claim would have been heard and disposed of, and relevant declarations and injunctions granted or refused.
- [4] On 29th March 2006, approximately one week before the scheduled hearing of the claim, the applicant filed an application for leave to appeal the interlocutory order. This application inevitably resulted in a delay in the disposition of the substantive claim.
- [5] On 30th March 2006, I gave directions for the disposal of the application for leave to appeal. These directions were intended to facilitate the determination of the application on 6th April 2006, thereby minimising the delay in the disposal of the substantive issues raised by the claim. Unfortunately, this objective could not be realised because on 10th April 2006 the applicant filed an application, supported by affidavits, seeking an extension of time to comply.
- [6] On 10th April 2006 the applicant filed an application for an extension of time to file written submissions.
- [7] On 20th April 2006, learned counsel for the respondent wrote a letter to the Chief Registrar, which the Chief Registrar copied to the applicant under faxed copy of a letter to the Attorney-General's Chambers dated 21st April 2006, indicating that the respondent does not object to the application for an extension of time, although counsel considered that the entire exercise was a waste of time in view of her

opinion that leave to appeal is not needed in this case, in light of the provisions of section 33(2)(g)(ii) of the West Indies Associated States Supreme Court Act Cap. 336. I make no finding on this, the issue not having been argued on the part of the applicant.

- [8] In the circumstances an extension of time to file submissions on or before 2nd May 2006 is granted. Nevertheless, I must comment that, whatever the outcome of the appeal, if leave to appeal is granted, the effect of all these interlocutory appeal proceedings is to delay the disposition of the principal issue, a most regrettable fact in light of the statements in paragraphs 4, 5 and 6 of the affidavit of the Permanent Secretary in the Ministry of Works, filed on 10th April, to the effect that delay in the obtaining of possession of the land 'may prove to be disastrous to the State's obligation in hosting world cup matches in Grenada.' Had the applicant not sought to appeal the interlocutory order, the matter might have been disposed of on 6th April 2006, and the applicant might have obtained an order favourable to his case, as early as that date. (I am not to be taken to be expressing any view on the merits of the claim of the respondent.) As it is, any appeal is unlikely to be heard before 29th May 2006 at the earliest, and regardless of the outcome of the appeal, the issue raised in the claim will still need to be heard and determined by the High Court, with the possibility of appeals therefrom. Such a process could conceivably tie up the parties in litigation, and prevent the applicant obtaining an order for possession of the land, up to and beyond the date of cricket world cup, a situation which clearly cannot benefit the applicant. (Again, I am not to be taken to be expressing any view on the merits of the claim.)

- [9] I make no order as to costs.

Brian Alleyne, SC
Chief Justice [Ag.]