

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

VIDEOCONFERENCE
SAINT VINCENT AND THE GRENADINES
MONDAY, 4th MAY 2026 – THURSDAY, 7th MAY 2026

JUDGMENT

Case Name:

Michael Joseph

Appellant

v

1. Indra Hariphrashad Charles
2. William Charles
3.1st National Bank formerly RBTT
Caribbean Limited

Respondents

**[SLUHCVAP2023/0028]
(SAINT LUCIA)**

Date:

Monday, 4th May 2026

**Coram for
delivery:**

The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of
Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of
Appeal

Appearances:

Appellant:

Mr. Horace Fraser

Respondents:

**Mr. Dexter Theodore KC for the 1st and 2nd
respondents
Mr. Grahame Bollers holding papers for Mr. Mark
Maragh for the 3rd respondent**

Issues:

**Civil appeal – Agreement for sale of land – Breach of
agreement for sale of land – Appeal against mixed
question of fact and law – Waiver of rights – Whether**

inaction or delay can amount to waiver of right to rescind – Principal and agent – Irrevocable power of attorney authorizing agent to sell land – Agent entering into an agreement to sell land at a price lower than anticipated by principal – Whether on the evidence the learned judge in finding appellant in breach of agreement.

Result/Order:

IT IS HEREBY ORDERED THAT:

- (i) The appeal is dismissed.**
- (ii) The orders of the learned trial judge are affirmed.**
- (iii) Costs of the appeal are awarded to the respondents to be agreed within 21 days of the date of this order or if there is no agreement between the parties, to be assessed by a judge or master of the High Court, upon application.**
- (iv) No order as to costs in respect of the withdrawal of the Bank's cross appeal.**

Reason:

- 1. Determining an issue involving a mixed question of law and fact requires the appellate court to analyse the different components separately as a mixed question often arises when applying a legal standard to a set of established facts. The standard of review applied varies depending on the “mix” of the mixed question. If the mixed question is “essentially factual”, the appellate court will give significant deference to the trial judge's determination. If the mixed question turns primarily on a legal interpretation or the application of a legal rule, the appellate court's review is much closer to the *de novo* standard,**

allowing it to reverse the lower court's decision if it finds an error in the application of the law. For an appeal involving a mixed question to succeed, the appellant must therefore demonstrate a clear error in either the trial judge's reasoning or legal analysis.

Group Seven Limited v Notable Services LLP [2019] EWCA Civ 614 applied; *JSC BTA Bank v Ablyazov and another* [2018] EWCA Civ 1176 applied.

2. It is trite law that although a contractual clause making time of the essence makes deadlines critical conditions, a lawful excuse such as frustration or impossibility might excuse delay. In this case, the appellant alleged that the nonpayment of the purchase price was due to the existence of an un-radiated judicial hypothec or judgment debt against the second respondent. The learned judge observed that the evidence in support of the appellant was not altogether alien to the vagaries of local conveyancing practice and accordingly rejected the reasons advanced to explain or justify the delay or the contention that the cause of the delay lay at the feet of the second respondent or the Bank. The appellant has not advanced any cogent reason to depart from these findings and in the absence of the same, this Court is obliged to accept that the transaction involved a contemporaneous transaction representative of the style of conveyancing prevalent in St. Lucia. Moreover, by countersigning the Bank's letter of instruction, the appellant's attorneys would have agreed to assume the critical responsibility of searching the title to the Property at both registries; ensuring further that all rates; property and income taxes, employee income taxes and NIS have been paid up to date and providing certification of the same.

Minnevitich v Café de Paris (Londres) Limited [1936] 1 All ER 884 distinguished; *Metrolands Investments Ltd v JH Dewhurst Ltd.* [1986] 3 All

ER 659 distinguished; *Edward Wong Finance Co. Ltd. v Johnson Stokes & Master* [1984] A.C. 296 considered; *Mungalsingh v Juman* [2015] UKPC 38 applied.

3. A waiver of a "time is of the essence" clause, under common law, occurs when a party, through express words or clear conduct, indicates that they do not intend to enforce the strict agreed deadline. The defence of waiver however must be pleaded, with all facts upon which the allegation of waiver is based clearly stated. Moreover, although delay (silence or inaction) can amount to a waiver at common law, it does not automatically mean a waiver of rights. Whether a delay amounts to a waiver will depend on the terms of the contract in question and the circumstances of the case. Case law makes it clear that mere silence or inaction can contribute to a waiver by conduct only if it is combined with other actions or a pattern of behaviour that clearly shows an intent to give up a known right. The appellant failed to show in his pleadings or by way of cogent evidence that there was some unambiguous representation by the Bank that amounted to a waiver. There was no prolonged inaction which could be said to have been misleading, neither was there any course of dealing on the part of the parties advanced from which a court could imply waiver. Therefore, on this issue, the appellant's case, as pleaded, would fail.

Barclays v Messenger (1874) 43 L.J.Ch. 449 applied; *Banning v Wright* [1972] 2 All ER 987 applied; *Tele2 International Card Co SA v Post Office Ltd* [2009] EWCA Civ 9 applied; *Essex County Council v UBB Waste (Essex) Ltd* [2020] EWHC 2387 (TCC) considered; *Prakash Industries Ltd v Peter Beck und Partner Vermögensverwaltung GmbH* [2022] EWHC 754 (Comm) applied.

4. Courts refuse to entertain appeals which would effectively be of no utility to the parties

because they waste judicial resources. Given the findings in respect of ground 1, the parties' respective pleaded cases in the court below and given the posture adopted by the first and second respondents in respect to ground 2, it is clear that there is no practical utility afforded by the second ground of appeal. Ultimately, if this Court were to conclude that the Bank acted outside the scope of the POA and was therefore liable to indemnify the first and second respondents, that conclusion could only inure to the benefit of the first and second respondents who have conceded that the learned Judge did not err in his disposal of their ancillary claim. This Court would therefore be engaged in a fruitless exercise essentially providing an advisory opinion with no practical impact.

MacNaughton v MacNaughton's Trustees 1953 SC 387 applied.

APPLICATIONS & APPEALS

Case Name:

Brenton Carr

Appellant

v

Glenroy John

Respondent

**[SVGMCVAP2021/0007]
(SAINT VINCENT & THE GRENADINES)**

Date:

Tuesday, 5th May 2026

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Appellant/Respondent: No appearance

Respondent/Applicant: Ms. Tonya Da Silva

Issues: Application to strike out appeal – Part 62 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 - Whether the appeal should be struck out due to the appellant's failure to file skeleton arguments in support of his appeal in compliance with CPR 62.14

Type of order: Oral decision

Result/Order: IT IS HEREBY ORDERED THAT:
1. The application to strike out the appeal is dismissed.
2. The Chief Registrar is directed to list the appeal for hearing.

Reason: Before the Court was a Notice of Application to strike out the appeal filed by the respondent on 19th December 2024 pursuant to Part 62 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 on the ground that the appellant has failed to file skeleton arguments in support of his appeal. The application was supported by the affidavit of Julicia Matthews. The applicant also filed written submissions in support of the application on 17th January 2025.

The Court noted that pursuant to paragraph 5.1 of Practice Direction 62D No. 2 of 2024 (Re-Issue) litigants in person 'are not obliged to send to the court skeleton arguments in support of their applications and appeals but are strongly encouraged to do so.' The Court also noted that the Status Hearing Order of this Court dated 9th September 2024 was not couched in mandatory terms in that it indicated that the 'appellant is at liberty to file and serve written submissions with authorities on or before 31st October 2024.' Accordingly, the Court dismissed the application to strike out the appeal.

Considering that the appeal has not progressed since the Notice of Appeal was filed on 2nd March 2021, the Court directed the Chief Registrar to list the appeal for hearing.

Case name:

Sylvia Sutherland

Appellant

v

Floyd Patterson

Respondent

**[SVGHCVAP2019/0022]
(SAINT VINCENT & THE GRENADINES)**

Date:

Monday, 4th May 2026

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal**

Appearances:

Appellant: Mrs. Kay Bacchus-Baptiste

Respondent: Mr. Grahame Bollers

Issues:

Civil appeal – Partnership Act Cap. 155 - Whether the learned trial judge erred by failing to consider all the evidence of the agreement between the parties leading up to the partnership and what the parties projected on a 50/50% basis – Whether the learned trial judge erred by ignoring the clear indication that the appellant consistently drew down \$8000.00 monthly plus regular monthly deductions to meet her monthly expenses thereby drawing down equal amounts of \$13,000.00 like the respondent and by ignoring evidence that the experts' analysis was correct – Whether the learned trial judge erred in finding that the appellant is only entitled to 1/3 of the partnership instead of a 50% share – Whether the learned trial judge erred by holding that the appellant

was not entitled to any goodwill despite the clear agreement between the parties that she was entitled to goodwill – Whether the learned trial judge was wrong when she found that the Arnos Vale property was partnership property instead of a separate entity to which the appellant is entitled to 50% of the equity as the parties clearly agreed – Whether the learned judge erred in ordering the appellant to pay 80% of the second respondent's costs.

Type of Order:

Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The hearing of this appeal is vacated.
2. The parties shall file an agreed hearing bundle of documents within twenty-one (21) days, that is, on or before 26th May 2026.
3. The parties shall provide the Court with a copy of the record of appeal filed on 9th December 2022.
4. The appeal shall be re-listed for hearing on a date to be fixed by the Chief Registrar.

Reason:

Upon the application of the respondent that the hearing of this appeal be adjourned on the basis that upon closer perusal of the hearing bundles he found that vital documents to the appeal were not included therein.

And upon counsel for the appellant accepting that those documents which the respondent seeks to have included are in fact necessary for the effective disposition of the appeal.

And upon the Court not having had sight of the previously filed hearing bundles in this matter, the hearing of the appeal was vacated to a date to be fixed by the Chief Registrar.

Case Name:

Vendie Mc Caul

Appellant

v

Gailon Mathews

Respondent

**[SVGHCVAP2023/0001]
(SAINT VINCENT & THE GRENADINES)**

Date: Monday, 4th May 2026

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal

Appearances:

Appellant: Mr. Richard Williams with Mr. Arthur Williams

Respondent: Mrs. Patricia Marks-Minors

Issues: Civil Appeal – Land Matter – Possessory Title – Section 2 of the Possessory Titles Act, Cap. 328 of the Laws of Saint Vincent and the Grenadines (Revised Edition 2009) – Whether the learned trial judge erred in her application of the principles of adverse possession, in particular by misapplying the requirement of actual occupation coupled with the requisite intention to possess, and consequently erred in concluding that the appellant intended to own only the house constructed and not the parcel of land described in the schedule - Whether the learned trial judge further erred in finding that the appellant failed to establish exclusive and undisturbed possession of the subject land - Whether the learned trial judge erred in identifying and placing undue weight on alleged gaps, inconsistencies, and imprecision in the appellant’s case, including findings relating to a purported second house, the delineation and demarcation of the land, and discrepancies in boundary descriptions - Whether the learned trial judge erred in concluding that the appellant failed to establish a link between the land described in the schedule and the land depicted on

Survey Plan G63/113, and in finding that she was unable to determine that the appellant's house fell within the boundaries of the subject land, thereby failing to properly consider the appellant's evidence - Whether the learned trial judge erred in raising and determining, without inviting submissions from counsel, the issue of a statutory trust under the Administration of Estates Act, including the possibility of the appellant acting as executor de son tort - Whether the learned trial judge erred in failing to find, in the absence of contrary evidence, that the appellant's deceased father died in 2020 - Whether, in all the circumstances, the learned trial judge erred in concluding that the appellant failed to establish entitlement to possessory title under section 2 of the Possessory Titles Act.

Type of Order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

Judgement is reserved.

Reason:

N/A

Case Name:

The King

Appellant

v

Shannel Hansen

Respondent

[SVGHCVAP2019/0002]
(SAINT VINCENT & THE GRENADINES)

Date:

Monday, 4th May 2026

Coram:

The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal

Appearances:

Appellant: Ms. Renee Simmons

Respondent: No appearance

Issues:

Criminal Appeal - Robbery - Assault occasioning actual bodily harm - Prosecution appeal against acquittal - Elements of offence - Directions to jury - Sections 216 and 193 of the Criminal Code, Chapter 171 - Whether lack of consent is a separate element requiring express proof - Whether use of force or intimidation inherently vitiates consent - Whether the learned trial judge failed to direct the jury on the principles of joint enterprise and secondary liability - Whether the learned trial judge usurped the function of the jury by directing a formal verdict of not guilty on a count where there was a case to answer - Whether such a direction was required by the evidence - Effect of omission where the evidence suggests that there were multiple assailants acting in concert - Whether a retrial should be ordered.

Type of Order:

Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The respondent is to produce to the Registrar of the High Court a medical certificate in respect of her absence at today's hearing within 7 days of today's date, that is, on or before 11th May 2026.**
- 2. The hearing of this appeal is vacated on account of the indication that the respondent reported ill and at one stage was hospitalized but has since been discharged.**
- 3. The hearing of this appeal is adjourned to a date to be fixed by the Chief Registrar.**

Reason:

Before the Court was a Criminal Appeal filed by the Director of Public Prosecutions on 27th February 2019 on account of the trial judge's direction to the jury to return a formal verdict of not guilty in respect of the offence of robbery on the basis that the Crown had not led evidence of lack of consent and that the learned judge failed to adequately direct the jury in respect of the law relating to joint enterprise.

The Court noted that the respondent was absent and information provided to the Court by the Registrar of the High Court indicated that the respondent is unwell and was at one stage hospitalized but had since been discharged. In light of this information, the Court considered it appropriate to vacate the hearing.

The appeal was therefore vacated and adjourned to a date to be fixed by the Chief Registrar.

Case Name:

Patrick Lovelace

v

The King

**[SVGHCRAP2009/0017]
(SAINT VINCENT & THE GRENADINES)**

Date:

Tuesday, 5th May 2026

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Appellant:

**Mr. Paul Bowen KC with him, Mrs. Kay
Bacchus-Baptiste**

Respondent:

Ms. Renee Simmons

Issues:

Criminal appeal - Appeal against death sentence for the offence of murder - Section 159(1) of the Criminal Code Cap. 171 of the Laws of Saint Vincent and the Grenadines - Whether the offence met the first limb of the test in *Trimmingham v R* [2009] UKPC 25 - Whether the learned judge failed to address the second limb of the test in *Trimmingham v R* [2009] UKPC 25 namely whether there was any prospect of reform - Whether the appellant should have an opportunity to deploy up to date evidence as to whether there is any prospect of reform.

Type of order:

Oral decision

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The appeal is allowed.
2. The sentence of death imposed on the appellant on 26th February 2010 is quashed.
3. The case is remitted to the High Court for re-sentencing of the appellant.
4. The Registrar of the High Court is directed to list the case on an expedited basis upon consultation with the parties.
5. The Superintendent of Prisons is directed to file and serve a report on the conduct of the appellant during the period of his incarceration inclusive of, if any, participation in the prison rehabilitation programs. The said report is to be filed on or before 5th June 2026.
6. The parties are to indicate on or before 12th June 2026 whether there are any disputed issues of fact arising from any of the reports requiring oral evidence.
7. The Registrar shall list a directions hearing before a judge of the High Court on receipt of the aforementioned report.
8. Written reasons for the decision allowing the appeal will be provided.

Reason:

N/A

Case Name:

Okkert Arthur

Appellant

v

The Commissioner of Police

Respondent

**[SVGMCRAP2024/0010]
(SAINT VINCENT & THE GRENADINES)**

Date:

Tuesday, 5th May 2026

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal

Appearances:

Appellant: Ms. Shackell Bobb

Respondent: Mrs. Maria Jackson-Richards

Issues:

Criminal Appeal - Appeal against sentence - Procedural fairness - Whether the learned Magistrate denied the Appellant due process of law by failing to invite or afford the Appellant an opportunity to mitigate before imposing sentence - Whether in all the circumstances the sentence of six (6) months' imprisonment imposed by the learned Magistrate ought to be set aside.

Type of order:

Directions

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The parties shall file and exchange written submissions on the issue of the appropriateness of a suspended sentence on or before 15th May 2026.**
- 2. Judgment is reserved pending the receipt of the written submissions.**

Reason:

Before the Court was Notice of Appeal against sentence filed on 27th March 2024 on the basis that the appellant was not afforded an opportunity to mitigate prior to sentencing. Counsel for the appellant contended that this amounted to a procedural irregularity rendering the sentence void.

Counsel for the respondent properly conceded that the appellant was not invited to mitigate. While it was submitted that the learned magistrate had regard to the Eastern Caribbean Supreme Court's Sentencing Guidelines, the Court was not satisfied that this cured the defect, as there was no indication of what, if any, mitigating factors were considered.

The Court noted the well-established principle that the failure to allow an accused to address the court in mitigation constitutes a material procedural irregularity and an error in principle. In the circumstances, the Court was of the view that the sentence cannot stand and must be set aside.

The Court considered whether the matter should be remitted to the magistrate's court for re-sentencing but, having regard to the unavailability of the magistrate, the time already spent in custody, and the need for finality, determined that it was appropriate to re-sentence the appellant.

At the conclusion of submissions, counsel for the appellant raised the issue of a suspended sentence. The Court did not have the benefit of full submissions from both parties on this issue. Accordingly, the Court invited written submissions on the appropriateness of a suspended sentence and reserved judgment pending receipt of those submissions.

Case Name:

Ennis Hector

Appellant

v

The Commissioner of Police

Respondent

**[SVGMCRAP2024/0008]
(SAINT VINCENT & THE GRENADINES)**

Date:

Tuesday, 5th May 2026

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Appellant: In person

Respondent: Mrs. Maria Jackson-Richards

Issues: Magisterial appeal against sentence – Section 193 of the Criminal Code – Whether the learned magistrate erred in not imposing a fine instead of a custodial sentence of 1 year 6 months – Whether the learned magistrate erred in not giving the appellant the option of payment of a fine – Whether the punishment imposed by the learned magistrate is too excessive in all of the circumstances.

Type of order: Oral decision

Result/Order: IT IS HEREBY ORDERED THAT:

1. The appellant's appeal against sentence is dismissed and the sentence of 1 year and 6 months imposed by the magistrate is affirmed, except that the time served in custody of 2 months and 5 days is deducted.
2. The appellant's bail is revoked forthwith.

Reason: This was an appeal filed by Ennis Hector on 27th February 2024 against the sentence of 1 year and six months imprisonment imposed by the learned Magistrate on 26th February 2024 in respect of his conviction for assault occasioning actual bodily harm. Mr. Hector was charged for the offence contrary to section 193 of the Criminal Code Cap. 171 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009. He pleaded guilty and was convicted of the offence.

The background facts were not in dispute. The conviction and sentence arose out of an incident that took place on 15th February 2024 in which the appellant accosted the virtual complainant Augustus Richards at his house, argued with him and struck him with a concrete block in his abdomen, injuring him. The virtual complainant received medical treatment for his injury. The appellant was subsequently arrested and charged.

Bail pending appeal

The appellant, Mr. Hector, served 2 months and 5 days of the term of imprisonment imposed by the Magistrate before he was released on bail pending appeal by order of a High Court judge dated 30th April 2024. He listed three grounds of appeal which may conveniently be condensed into one, namely, whether the sentence was manifestly excessive and should be substituted with a fine.

Discussion

The Court heard oral submissions from the appellant and from learned Crown Counsel Mrs. Maria Jackson-Richards on behalf of the Commissioner of Police the respondent. The Court also had before it the written submissions on behalf of the respondent filed on 28th August 2025 and in the hearing bundle, among the documents considered by the Court were the reasons for decision by the learned magistrate.

When considering an appeal against sentence the Court is guided by principles of law which has been well-established and have been enunciated by this Court repeatedly in numerous decisions. Among them, it is well established that an appellate court will interfere with the sentencing decision of a magistrate only if satisfied that the sentence was manifestly excessive or wrong in principle. It is also settled law that an appellate court will not disturb the sentence of a lower court even if it would have imposed a different sentence, as enunciated in *R v Ball* (1951) 35 Cr App R 164. In considering its decision in this case at the appeal bar, the Court considered and applied those principles.

Among the documents considered by the Court were those in the Hearing Bundle filed on 9th October 2025. Having heard the parties and having read the reasons for decision authored by the learned magistrate, the Court was satisfied that the learned magistrate did

not err in principle in arriving at the sentence in that he properly considered and applied the applicable law including the Sentencing Guidelines 2024. The Court also took into account the fact that the appellant had eight (8) previous convictions for violent offences similar to the one with which he was charged and which was under consideration by the Court. In light of those factors the Court was not persuaded that this was an appropriate case in which the sentence of the magistrate should be disturbed, the court was satisfied that the appellant did not meet the threshold for appellate interference with the sentence.

Disposition

In the circumstances, the Court dismissed the appeal against sentence and affirmed the sentence of 1 year and six months imposed by the learned magistrate, except that the time served in custody of two (2) months and five (5) days is deducted. The Court ordered further that the appellant's bail be revoked forthwith.

Case Name:

The Commissioner of Police

Appellant

v

Orlando Browne

Respondent

**[SVGMCRAP2023/0002]
(SAINT VINCENT & THE GRENADINES)**

Date:

Tuesday, 5th May 2026

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal**

Appearances:

Appellant: Mr. Cornelius Tittle

Respondent: In person

Issues:

Magisterial Criminal Appeal – Section 212 of the Criminal Code of Saint Vincent and the Grenadines Abuse of Process - Whether the learned magistrate erred in her decision to dismiss the matter during the case for the prosecution without conducting an inquiry into the alleged misconduct of prosecution witnesses in the precincts of the court and obtaining facts that lead to a conclusion of abuse of process.

Type of order:

Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for an adjournment is granted and today's hearing is vacated.**
- 2. The respondent is advised that this is the last occasion on which the Court will grant an adjournment on account of an indication of attempts to secure legal representation.**
- 3. The respondent is to ensure that on the next occasion on which this matter is set for hearing, that he is represented by counsel, or he shall have to proceed to argue the appeal himself.**
- 4. The hearing of this appeal is adjourned to a date to be fixed by the Chief Registrar.**

Reason:

Before the Court was an appeal filed by the appellant on 17th January 2023 on the grounds that the learned magistrate erred in ending the trial and dismissing the charges against the respondent in the interest of justice and fairness.

At the hearing of the appeal, the respondent, Mr. Orlando Browne, indicated that he contacted a lawyer

whom he intends to retain in these proceedings but that he only handed the papers to the lawyer on or about 28th April 2026, in substance, seeking an adjournment of the appeal.

Counsel for the appellant, Mr. Tittle, indicated that he would not stand in the way of the respondent's efforts to secure legal representation for this appeal.

The Court was of the view that it would benefit from full submissions from counsel on behalf of the respondent on the issues arising in the appeal and considered it appropriate in the circumstances to grant an adjournment.

Case Name:

Sabina Alcide

Appellant

v

[1] Marguerite Desir

**[2] Marguerite Desir Qua Executrix of the
Will of the late Alberta Bella Butcher**

Respondents

**[SLUHCVAP2023/0004]
(SAINT LUCIA)**

Date:

Wednesday, 6th May 2026

Coram:

**The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

Appearances:

Appellant: Mr. Dexter Theodore KC

Respondents: Mrs. Diana Thomas-Hunte with Ms. Iyka Dorival

Issues:

Civil appeal – Estate administration – Accounting between estate and beneficiary – Shareholding in CWL – Dividends declared and paid by CWL – Whether the learned judge erred in holding that dividends received by Mrs. Desir did not form part of the estate and therefore need not be accounted for – Whether the learned judge erred in concluding that prior courts had not determined the issue of shareholding in CWL and that Mrs. Desir could not be deprived of dividends received in – her personal capacity – Whether the learned judge erred in ruling that Mrs. Desir was entitled to share equally with the estate in dividends declared by CWL in the sum of \$1,460,000 – Whether the learned judge erred in ordering that the estate pay to Mrs. Desir the sum of \$180,000 said to represent an overpayment of dividends to the estate – Whether the learned judge erred in failing to find that Mrs. Desir was only entitled to dividends attributable to the one quarter share in CWL bequeathed to her under the will and ought to repay the alleged overpayment of \$185,000 – Whether the learned judge erred in law in ordering that Mrs. Desir repay only one half of the legal expenses incurred by her in her personal capacity in the sum of \$310,739.77 - Counter notice of appeal – Accounting exercise following earlier orders of the court – Loans and liabilities said to be attributable to the deceased – Whether the learned judge misdirected herself in concluding that debts that were repaid from the proceeds of a loan of \$881,000 secured by the asset of CWL were not debts of the deceased's estate – Whether the learned judge erred in taking into account the absence of a demand and the existence of a liquidation in determining that those debts were not attributable to the deceased's estate – Whether the learned judge erred in law in making orders requiring Mrs. Desir to pay interest accrued on the loan and other sums to CWL when CWL was not a party to the proceedings – Whether the learned judge erred in law in awarding compensation to CWL on the taking of an account when such relief had not been claimed – Whether the learned judge erred in making orders inconsistent with the order of the Judicial Committee of the Privy Council concerning the transfer of the property to CWL – Whether the learned judge erred in fact and

law in construing the account and ordering payment of \$180,000 to Mrs. Desir – Whether the learned judge erred in her findings regarding the liquidation of IFL and the possible role of the liquidator in settling the debt on behalf of the deceased as surety – Whether the learned judge erred in rejecting credits claimed by Mrs. Desir in the account and thereby exceeded the permissible scope of the accounting exercise – Whether the learned judge erred in ordering repayment of sums already accounted for by Mrs. Desir – Whether the learned judge erred in ordering repayment of director’s fees and management fees by Mrs. Desir and thereby effectively granting relief in favour of CWL – Whether the learned judge erred in treating those payments as benefits improperly obtained rather than legitimate remuneration or allowances – Whether the learned judge erred by allowing considerations arising from prior judicial criticism of Mrs. Desir’s conduct to influence the proper assessment of the account.

Type of order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

1. Judgment reserved.
2. The Chief Registrar shall notify the parties when the judgment is ready for delivery.

Reason:

N/A

Case Name:

[1] Wesley Edwards

[2] Barry Lynch

Appellants

v

Jeongmin Hwang

Respondent

[BVIHCMAP2026/0001]

(Territory of the Virgin Islands)

Date:

Thursday, 7th May 2026

Coram: The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag]
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag]

Appearances:

Appellants: Mr. Andrew Ayres KC with him Mr. Matthew Freeman, Ms. Samantha Hollingworth and Ms. Laura Savio

Respondent: Mr. Micheal Fay KC and Ms. Tana’ania Small Davis KC with them Mr. Brian Child

Issues: Interlocutory appeal - Conflict liquidators - Appeal against decision of the learned judge to remove the appellants as the joint liquidators of Bybit Fintech Limited - Costs - Appeal against decision of the learned judge ordering *inter alia* that the appellants be personally liable to pay the respondent’s costs of the removal application and to make an interim payment in the sum of \$78,945.53 - Whether the learned judge erred law in finding or stating that conflict liquidators cannot be appointed to companies in liquidation - Whether the learned judge erred in concluding that there was a sufficient risk, or a reasonable perception of a conflict of interest which precluded the appellants from remaining as the joint liquidators of the Company - Whether the learned judge erred in his approach to the proper management of conflicts of interest or any potential conflict of interests that may arise in liquidation - Whether the learned judge erred in finding that a liquidator is bound during the conduct of liquidation, by a judge’s earlier determination that there was no substantial debt dispute when considering the application for a liquidation order - Whether the learned judge erred in proceeding on the assumption that it was common ground that the respondent’s claim contained undisputed elements - Whether the learned judge erred in concluding that the status of a creditor is sufficient to ground standing on a removal application, without more - Whether the learned judge erred in holding that until a liquidator has recovered sufficient assets to satisfy all unsecured creditors, a liquidator has limited commercial discretion in

relation to getting in the estate - Whether the learned judge was wrong to criticize the appellants for defending the Removal Application - Whether the learned judge was wrong to reject the appellants' case concerning the position of Creditor IV in relation to the Removal Application - Whether the learned judge erred in finding that the appellants did not take protective measures to obtain control of the assets of the Company and that their delay in applying for protective measures was the reason for protective measures not being granted and were grounds to order their removal as joint liquidators of the Company - Whether the learned judge erred in holding that there was sufficient disharmony to force the appellants out of office - Whether the learned judge erred by deciding that the appellants were personally liable for the costs of the removal application and that the costs could not be recovered from the assets of the Company - Whether the appellants received a fair hearing at the Ancillary Matters Hearing - Whether the learned judge was wrong in failing to consider the significant risk that the appellants would not be able to recover any interim payment if the Cost Order was varied or overturned on appeal - Whether the learned judge erred in his approach to the proper management of the claim by failing to declare his potential conflict from inception, as the judge having conduct of this matter, and electing to do so at the assessment of costs stage, after having ruled against the appellants on every point in issue – Whether such late disclosure of a conflict amounts to error of judgment and perceived bias, sufficient to vitiate the entire judgment.

Type of order:

N/A

Result/Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason:

N/A