

COURT OF APPEAL SITTING

**ANGUILLA
12th to 16th December 2016**

JUDGMENTS

Case Name:

**Hassan Hadeed
v
Nahla Hadeed**

**[GDAHCVAP2014/0012]
(GRENADA)**

Date:

Thursday, 15th December 2016

Coram:

**The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Devin Hodge holding papers for Dr. Francis Alexis QC

Respondent: Mr. Kerith Kentish holding papers for Ms. Celia Edwards QC

Issues:

Interlocutory appeal – Divorce – Postnuptial agreement – Jurisdiction – Whether postnuptial agreement which concerns matrimonial property can be enforced in civil jurisdiction of High Court – Whether learned judge erred in so ruling – Whether learned judge erred in failing to hold that enforcement of postnuptial agreement may only be pursued as ancillary relief on divorce proceedings in matrimonial jurisdiction of High Court – Rule 2.2(3) of the Civil Procedure Rules 2000

Result and Reason:

Held: dismissing the appeal; ordering that the decision of the learned judge dated 10th March 2013 is upheld, that the civil suit GDAHCV2012/0229 be

remitted to the High Court for case management and trial in accordance with the Civil Procedure Rules 2000, and that costs be awarded to the respondent in the sum of \$1,666.67, being two-thirds of the costs in the court below, that:

1. Mrs. Hadeed was free to seek to enforce the Written Agreement in the court's general civil jurisdiction. Mr. and Mrs. Hadeed entered into an enforceable Written Agreement and Mr. Hadeed allegedly failed to comply with its terms. There is no indication in the Written Agreement of anything which restricted its enforcement to ancillary relief on the divorce proceedings in the matrimonial jurisdiction of the High Court. Since Mrs. Hadeed's avenues for relief in the event of a breach were not limited by the Written Agreement, she was well within her rights to seek to enforce the contract in the civil court – there were no terms in the Written Agreement which indicated that it could only be enforced in the matrimonial division of the court and neither was there anything in the Written Agreement which mandated that the provisions of the MCA must be applied if the Written Agreement is enforced in the civil jurisdiction of the court. Accordingly, the learned judge was correct to hold that Mrs. Hadeed could sue in the civil jurisdiction of the High Court.

Roderick Alexander MacLeod v Marcia Renee Kalb MacLeod [2008] UKPC 64 applied; Radmacher (formerly Granatino) v Granatino [2010] UKSC 42 applied.

2. A contract executed by the parties as a postnuptial agreement stands to be enforced like any other contract and due to the court's multifaceted jurisdiction, its power to review such a document is not confined to the MCA. The fact that divorce proceedings are occurring does not mean that enforcement of the postnuptial agreement must be dealt with in those proceedings and that parties cannot sue on the agreement in civil proceedings. In the

present case, even if the parties were suing in the civil jurisdiction, there was nothing in the Written Agreement which mandated the application of the MCA. The fact that divorce proceedings are pending does not necessarily mean that ancillary proceedings can only be brought as part of the divorce proceedings. A party has a discretion whether to invoke the court's matrimonial jurisdiction or the general civil jurisdiction of the court. There is nothing in the MCA that dictates that all ancillary claims which are brought on the dissolution of marriage are only cognisable under that Act. Neither is there any bar to a party to a Written Agreement that has been made during or after the dissolution of a marriage seeking to enforce the agreement as a civil suit without recourse to the MCA. This is fortified by the fact that Mrs. Hadeed excluded her claim for ancillary relief from the matrimonial suit once she had entered into the Written Agreement with Mr. Hadeed.

Joseph Jackson, Rayden and Jackson's Law and Practice in Divorce and Family Matters (15th edn., Butterworth & Co 1988) paragraph 1 cited.

Sigma Marina & Resorts Limited

v

Alban Redhead

Case Name:

**[GDAHCVAP2011/0024]
(GRENADA)**

Date:

Thursday, 15th December 2016

Coram:

**The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Kerith Kentish holding papers for Sir Richard Cheltenham Q.C.

Respondent: Mr. Devin Hodge holding papers for Dr. Francis Alexis Q.C.

Issues:

Civil appeal – Property – Adverse possession – Trespass – s. 4, Limitation of Actions Act, Cap. 173 – Claim for trespass by squatter – Whether appellant’s paper title sufficient to defeat respondent’s possessory claim – Whether appellant had right to make entry on disputed land

Result and Reason:

Held: dismissing the appeal and awarding costs to the respondent fixed at two thirds of the costs awarded in the court below, that:

1. In Grenada, pursuant to section 4 of the Limitation of Actions Act, where a person other than the Crown seeks to make an entry or distress or to take action to recover land in the possession of a squatter, he must do so within 12 years from the date that the right could first have been exercised by one of his predecessors in title, or if not, by himself. If he fails to do so his title to the land will be extinguished. If he subsequently attempts to enter upon the land to assert his right of beneficial ownership, he will be a trespasser. The right to make an entry on the disputed land having accrued to the Crown more than twelve years before Sigma itself made an entry upon the land, Sigma had no right to make such an entry and was therefore, at that point in time, a trespasser.

Sections 2 and 4 of the Limitation of Actions Act Cap. 173 of the Revised Laws of Grenada 1990 applied.

2. The 60 year period during which the Crown would have been entitled to make an entry or bring an action to recover possession of the

land from Mr. Redhead ceased to be applicable when the Crown divested itself of title to the land by conveying same to Sigma. At that time, more than 12 years having already passed 3 since the Crown could have challenged Mr. Redhead's occupation of the land, in the absence of a provision equivalent to paragraph 12 of Schedule 1 Part II of the English Limitation Act 1980, Sigma's title to the disputed land was extinguished by the operation of section 27 of the Limitation of Actions Act.

Julian Ashton v Veronica Forbes SVGHCVAP2000/0012 (delivered 25th July 2000, unreported) distinguished; Sections 2, 4 and 27 of the Limitation of Actions Act Cap. 173 of the Revised Laws of Grenada 1990 applied.

3. Sigma produced a conveyance from the Governor General and the learned trial judge found that it was a valid paper title to Lot 22 (which included the disputed land). In the circumstances, it ought to have been presumed that the land had been vested in the Crown prior to its transfer to Sigma and Sigma ought to have been treated as a purchaser from the Crown in possession of a valid paper title to the disputed land.

Ocean Estates Ltd. v Norman Pinder [1969] 2 AC 19 applied

STATUS HEARING

Case Name:

**Bernard Richardson
Lorna Gumbs Scott
v
Andrea Lisandro**

[AXAHCVAP2015/0001]

Date: Monday, 12th December 2016

Before: The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Tara Carter, instructed by Carter & Associates

Respondent: Mrs. Keesha Carty, instructed by KCW et al

Issues: Status of the matter

**Type of Oral
Result / Order
Delivered
(if applicable):** N/A

Result / Order: The matter is adjourned to the next status hearing of the Court of Appeal in Anguilla during the week commencing 24th of April 2017.

Reason: A portion of the matter before the master was recorded and counsel indicated they were awaiting the transcript.

Case Name: Erica Liana Percelle Edwards
v
Attorney General

[AXAHCVAP2015/0005]

Date: Monday, 12th December 2016

Before: The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Navine Fleming, holding papers for Mr. Thomas

Astaphan QC

Respondent: **Mr. Ivor Greene, Senior Crown Counsel (Attorney General's Chambers)**

Issues: **Status of the matter**

**Type of Oral
Result / Order
Delivered
(if applicable):** **Directions**

Result / Order: **[Oral delivery]**

- 1. The parties to agree a note of the proceedings before the High Court judge by no later than the 16th of January 2017.**
- 2. The appellant to file and serve written submissions with authorities by no later than the 16th of February 2017.**
- 3. The respondent to file written submissions with authorities by the 3rd of March 2017.**
- 4. The appellant, if necessary, to file and serve written submissions in reply to the respondent's submissions by no later than the 16th of March 2017.**
- 5. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Anguilla during the week commencing the 24th of April 2017.**

Reason: **A notice that no transcript was available was given to the parties. Accordingly, the Court ordered that the parties agree a note as to what transpired.**

Case Name: **Deloris Antoinette Hodge-Griffith**
v
Charles Griffith

[AXAHCVAP2015/0008]

Date: **Monday, 12th December 2016**

Before: **The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. Samantha Wright, instructed by Wright & Co
Respondent: Mrs. Jacinth Jeffers, instructed by Caribbean Juris Chambers

Issues: Status of the matter

Type of Oral Result / Order Delivered (if applicable): Directions

Result / Order: [Oral delivery]
1. The matter is adjourned to the next status hearing of the Court of Appeal in Anguilla during the week commencing 24th of April 2017.
2. The appellant is to be served by the Registrar with a notice of the status hearing at least 21 days before the hearing.
3. Costs of today's hearing is reserved.

Reason: Counsel for the appellant informed the Court that the appellant is currently out of the jurisdiction. Counsel for the appellant filed an application to be removed from the record. Accordingly, the Court ordered that the appellant be served personally with the notice of status hearing.

Case Name: James Bryson
v
Carol Liddie

[AXAMCVAP2013/0001]

Date: Monday, 12th December 2016

Before: The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Kerith Kentish, instructed by Joyce Kentish & Associates

Respondent: Ms. Navine Fleming, instructed by Libran Chambers

Issues:

Status of the matter – Oral contract – Whether decision erroneous on a point of law – Insufficient evidence to sustain decision

**Type of Oral
Result / Order
Delivered
(if applicable):**

Oral Judgment or Decision

Result / Order:

[By Consent]

1. The appellant to pay the balance of the judgment debt of US\$1500.00 plus cost of the proceedings in the court below of EC\$2,375.00 plus the cost of the appeal of US\$300.00 by the 17th of January 2017.
2. Failure to pay the total amount due by the 17th of January 2017 will result in the appeal standing dismissed.
3. Liberty to the appellant to apply.

Reason:

The parties consented to the order made by the Court.

Case Name:

**Jamila William
v
Commissioner of Police**

[AXAMCRAP2015/0002]

Date:

Monday, 12th December 2016

Before:

The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: No appearance

Respondent: Ms. Erica Edwards, Crown Counsel for the Attorney General's Chambers

Issue: Status of the matter

**Type of Oral
Result / Order
Delivered
(if applicable):** N/A

Result / Order: The matter is adjourned to the next status hearing of the Court of Appeal in Anguilla during the week commencing 24th of April 2017.

Reason: The appellant had not been served with notice of the status hearing

APPLICATIONS AND APPEALS

Case Name:

Jenny Lindsay
Jenny Lindsay & Associates
v
Thomas Edward Carty
[AXAHCVAP2015/0007]

Date: Monday, 12th December 2016

Before: The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Yanique Stewart, instructed by J.A.G. Gumbs & Co.

Issue: Civil appeal – Application to set aside or vary order of single judge of Court of Appeal – Application for adjournment

Type of Oral Result / Order Delivered (if applicable): N/A

Result / Order: [Oral delivery]

1. The hearing of the application is adjourned to the sitting of the Court of Appeal in Saint Lucia during the week commencing 16th January 2017.
2. The appeal shall be conducted via teleconference or video link as determined by the court.
3. This adjournment shall be the final adjournment of the matter. On the next occasion the Court will proceed with the hearing of the appeal with or without counsel for the appellants/applicants.
4. Costs in the matter is agreed in the sum of \$1,200 to be paid by the applicant to the respondent within 21 days of the date of this order.

Reason: The appellant made an application for an adjournment of the matter on the basis that counsel representing her in these proceedings was unavailable as he was engaged in trials and appeals outside of the jurisdiction during the hearing of this appeal. The appellant indicated that counsel would make himself available for the hearing of the matter via video link or teleconference in the month of January 2017. The respondent opposed the application.

The Court, having heard counsel for both parties, was minded to grant yet another indulgence to the appellant, this being the third such occasion. However, the Court warned that this adjournment shall be the final adjournment of the matter and on the next occasion it would proceed with the hearing of the appeal with or without counsel for the appellant.

Case Name:

Patricia Yvette Harding

V

The Attorney General

[AXAHCVAP2013/0003]

Date:

Monday, 12th December 2016

Before:

The Hon. Mde. Louise Blenman, Justice of Appeal

The Hon. Mr. Mario Michel, Justice of Appeal

The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:

**Ms. Merlanih Lim instructed by Hodge's Law Office
holding papers for Mr. Horace Fraser**

Respondent:

**Mr. Ivor Greene, Senior Crown Counsel (Attorney
General's Chambers)**

Issue:

**Application for final leave to appeal to Her Majesty in
Council.**

**Type of Oral
Result / Order
Delivered
(if applicable):**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. Final leave is granted to the applicant to appeal to
Her Majesty in Council from the decision of this
Court dated 23rd November 2015.**
- 2. The costs of this application shall be costs in the
appeal to Her Majesty in Council.**

Reason:

**The Court was satisfied that the applicant had
complied with the conditions required for final leave
to appeal to Her Majesty in Council.**

Case Name:

**Vanroy Romney
v
Sheridan Smith**

[AXAHCVAP2015/0002]

Date:

Monday, 12th December 2016

Before:

**The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Ms. Jenny Lindsay

Respondent:

Mr. Wesley George, instructed by C.R. Hodge & Associates

Issues:

Civil appeal – Application to set aside order of single judge – Application for special leave to appeal to Her Majesty in Council

**Type of Oral
Result / Order
Delivered
(if applicable):**

Directions

Result / Order:

[Oral delivery]

- 1. Leave is granted to the respondent to file and serve an affidavit in answer within 14 days of this order.**
- 2. Leave is granted to the applicant to file and serve skeleton arguments together with authorities on or before the 20th day of January 2017.**
- 3. Leave is granted to the respondent to file and serve skeleton arguments together with authorities on or before the 17th day of February 2017.**
- 4. Leave is granted to the applicant, if necessary, to file and serve reply submissions on or before the 9th day of March 2017.**
- 5. The hearing of this application is adjourned and traversed to the next sitting of the court in Anguilla during the week which commences on**

the 24th day of April 2017.

Case Name:

Joseph Brice
v
Regina

[AXAHCRA2016/0001]

Date:

Monday, 12th December 2016

Before:

The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:

Ms. Samantha Wright, instructed by Hodge's Law Office

Respondent:

Ms. Nakishma Rogers, Crown Counsel (Attorney General's Chambers)

Issue:

Civil appeal – Theft – Application for bail

Type of Oral
Result / Order
Delivered
(if applicable):

Oral Judgment or Decision

Result / Order:

[Oral delivery]

1. The application for bail is refused.
2. The appellant has liberty to apply for the court to further consider at a different time his admission to bail.

Reason:

Having regard to the written submissions filed on behalf of the parties; and having heard the oral submissions by counsel on their behalf, the Court noted that the sentence imposed on the appellant was 18 months imprisonment commencing 4th

November 2016, from which date the appellant had since been in custody.

The Court also noted the provisions of the Prison Act, the Prison Regulations and the Parole of Prisoners Regulations which collectively indicate that the appellant may be entitled to remission of sentence after serving two thirds of his prison term and to the possibility of parole after serving one half of the prison term.

The Court further noted that neither remission and even less so parole is automatic, and even treating the appellant as a person likely to obtain remission and parole, the Court considered that the circumstances regarding the admission of the appellant to bail were not exceptional so as to bring the appellant within the guidelines provided either in Thomas Watton (1978) 68 Cr App Rep 293 or in The State v Lynette Scantlebury (1976) 27 WIR 103. At present, the appellant had served just over 5 weeks of his 18 month sentence and would by the likely date of the hearing of appeal serve just over 5 months of an 18 month sentence. This Court did not consider, as indicated, that the circumstances in this case were exceptional so as to justify the grant of bail pending appeal and accordingly refused the application.

Mindful, however, of the fact that the appeal may possibly not be heard by the month of April, the Court was minded to give to the appellant liberty to apply if the circumstances change sufficiently, including possibly, the appeal not being ready to be heard in April.

Case Name:

**Henry Owens III
v
Anguilla Partnership Enterprises**

[AXAHCVAP2016/0004]

Date:

Monday, 12th December 2016

Before: The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Tara Carter, instructed by Carter & Associates

Respondent: Mr. John Carrington Q.C., with him, Mr. Wesley George instructed by C.R.H & Associates

Issues: Civil appeal – Application to set aside default judgment – Conditions to be satisfied in order for default judgment to be aside – Whether learned master erred in refusing to set aside default judgment – Whether master erred in failing to consider all factors which led to the applicant’s failure to file a defence – Whether learned master erred in principle on the approach by only considering two limbs of the three prong test for determining whether or not the judgment in default should be set aside.

Type of Oral Result / Order Delivered (if applicable): Oral Judgment or Decision

Result / Order: [Oral delivery]
1. The application is dismissed.
2. Costs are to be assessed if not agreed within 14 days of this order.

Reason: On 14th March 2016, the claimant filed his claim form and statement of claim. The documents were served on 29th March 2016. The defendant filed an acknowledgment of service but failed to file his defence within the prescribed time. As a result, the claimant applied for judgment in default of defence. The judgment was entered by the court office and damages had to be assessed. The defendant applied to set aside the default judgment. The application was heard by the master.

Having heard the application, the learned master found that there three were conditions that the defendant had to satisfy in order for the judgment to be set aside. The first condition was whether the application was filed within a reasonable time. In relation to this condition, the learned master found in favour of the defendant. The second condition was whether there was a good explanation for the failure to file the defence. The master found that the reason for the defendant's failure to file his defence within the prescribed time was not a sufficient reason and on that basis she dismissed the application. The learned master did not go on to consider the third condition, of whether the defendant had a real prospect of successfully defending the claim.

The defendant appealed against the master's ruling. Counsel for the appellant urged the Court to consider the case of *Kenrick Thomas v RBTT Bank Caribbean Limited* [Formerly Caribbean Banking Limited] SVGHCVAP2005/0003 (delivered 13th October 2005, unreported) to find that even if one element of the three elements required for the application to succeed, is not proven, the Court still has discretion to look at all the circumstances and grant the application.

The Court rejected this interpretation of the case. The case stands for the clear proposition that in order to succeed on an application to set aside a judgment entered in default of defence all three elements must be proven and that if they are not proven then the court may refuse to set aside a default judgment. Thus, if the applicant fails to satisfy one element then that is sufficient; the other elements need not be considered.

Consequently, the master did not err when she, having found that the second element of good reason had not been satisfied, did not go on to consider the third limb of the application relating to the prospects of successfully defending the claim.

In the circumstances, the Court found that there was no basis to set aside the master's exercise of her discretion.

Case Name:

National Commercial Bank of Anguilla Ltd

v
**National Bank of Anguilla (Private Bank and
Trust) Limited (In Administration)**

[AXAHCVAP2016/0009]

Date: Tuesday, 13th December 2016

Before: The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. William Hare with him, Mr. Alex Richardson,
instructed by Alex Richardson & Associates

Respondent: Mr. Patrick Patterson with him, Ms. Eustella Fontaine
and Ms. Kiesha Hiles instructed by Fontaine &
Associates

Issue: Interlocutory Appeal – Application for mandatory
injunction to withdraw request for freezing accounts –
Conditions for mandatory injunction

**Type of Oral
Result / Order
Delivered
(if applicable):** N/A

Result / Order: [Oral delivery]
The decision is reserved.

Case Name: Estate of Dame Bernice Lake QC, (Deceased)
Conch Bay Development Ltd.
v
The Attorney General of Anguilla
[AXAHCVAP2016/0003]

Date: Tuesday, 13th December 2016

Before: The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Kendrickson Kentish, with him Mr. Kerith Kentish,
instructed by Joyce Kentish & Associates

Respondent: Mr. Guy Roots QC with him, Mr. Ivor Greene, Senior
Crown Counsel and Ms. Sherma Blaize (Attorney
General's Chambers)

Issue: High Court civil appeal – Compulsory acquisition of
land – Section 18(2) of Land Acquisition Act –
Whether decision of land tribunal unreasonable and
against the weight of the evidence

**Type of Oral
Result / Order
Delivered
(if applicable):** N/A

Result / Order: [Oral delivery]
The decision is reserved.

Case Name: **IN THE MATTER of the Registered Land Act,
Revised Statutes of Anguilla, Chapter R30,
section 147
AND
IN THE MATTER of an Appeal by Collins
Richardson, Carolyn Richardson
(Administrator of the Estate of John Samuel
Richardson); Boswell Richardson; Calvin
Richardson; Leslie Richardson as
Administrator of the Estate of Alma**

Richardson; Margie Hughes ad Administrator of the Estate of Evangeline Hughes; Estell Hughes as Administrator of the Estate of Samuel Benjamin Richardson; Calvin Richardson as Administrator of the Estate of Victor Richardson; Robert Austin Richardson as Administrator of the Estate of Eneria Richardson; Royston Richardson as Administrator of the Estate of James Richardson; Oliver MacDonna as Administrator of the Estate of Jane Rebecca Richardson and Sybil Ryhmer as the Administrator of the Estate of Florence Richardson against a decision of the Registrar of Lands dated 28th September 2010 and 7th July 2011.

[AXAHCVAP2016/0002]

Date:	Wednesday, 14th December 2016
Before:	The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:	
Appellants:	Mr. Clyde Williams, instructed by Alex Richardson & Associates
Respondents:	Mr. Kerith Kentish instructed by Joyce Kentish & Associates for 1st to 5th respondents Mr. John Wigley of Wigley Chambers instructed by Chancery Lane Chambers for the 7th respondent
Issue:	High Court civil appeal – Application for discharge or revocation of order by single judge
Type of Oral Result / Order Delivered (if applicable):	Directions

Result / Order:

[Oral delivery]

- 1. The hearing of this appeal, against the order of the single judge is adjourned and traversed to the sitting of the Court in Saint Lucia during the week which commences on the 16th of January 2017.**
- 2. The hearing of this appeal will be dealt with either by a video conference or teleconference to be determined by the registrar or chief registrar and upon notification to all parties.**
- 3. Each party, (the appellant and the 1st to 5th Respondents) is allocated, one hour each and the 7th respondent is allocated 15 minutes.**

Reason:

The single judge, whose order was the subject of the application, was part of the panel, due to the illness of one of the judges originally empaneled to hear the matter.

Case Name:

**Barnes Bay Development Ltd. (In Liquidation)
(acting by its joint liquidators Hadley Chilton
and John Greenwood)**

V

SOF VIII Hotel II Anguilla Holdings LLC

[AXAHCVAP2016/0006]

Date:

Wednesday, 14th December 2016

Before:

**The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant:

**Mr. William Hare, instructed by Alex Richardson &
Associates**

Respondent:

**Ms. Dana Campbell, instructed by Keithley Lake &
Associates**

Issue: Application for leave to appeal – Application for stay of execution

Type of Oral Result / Order Delivered (if applicable): Oral Judgment or Decision

Result / Order: [Oral delivery]
1. Leave is granted to appeal against the order of the learned judge dated the 22nd of June 2016.
2. A stay of execution of the order is hereby granted pending the hearing and determination of the appeal there being no objection by the respondent.
3. Costs of this application are to be costs in the appeal.

Reason: The Court was of the view that the appellant had met the threshold requirements for the grant of leave to appeal.

Case Name: Carl Webster
v
Historic Beacon Anguilla Ltd
Ronda Hodge

[AXAHCVAP2016/0007]

Date: Thursday, 15th December 2016

Before: The Hon. Mde. Louise Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal (Ag)

Appearances:
Appellant: Mr. Devin Hodge, instructed by Astaphan's Chambers

Respondent: Ms. Paulette Harrigan, instructed by Paulette Harrigan Chambers

Issue: High Court civil appeal – Whether the learned judge erred in law and procedure by permitting the 2nd respondent to bring an application for injunctive relief, in her personal capacity, and in the name of the 1st respondent, a company of which the 2nd respondent is merely one of the directors, without the 2nd respondent demonstrating that she had the authority to act for and on behalf of the company – Whether there was a serious question to be tried on the part of the respondents to warrant the imposition of an injunction

Type of Oral Result / Order Delivered (if applicable): Oral Judgment or Decision

Result / Order: The appeal is dismissed except to the extent that the order of the learned judge made on 18th July 2016 is by consent varied by deleting paragraph 2 of the order namely: *“The Respondent is to maintain a distance of 50 feet from 2nd Applicant as far as practicable”* and substituting the following paragraph 2: *“The respondent is restrained from assaulting, molesting, annoying or otherwise interfering with the 2nd applicant.”*

Reason: Given the proximity of the land of the appellant and the respondent paragraph 2 of the order is not practicable.