

COURT OF APPEAL SITTING

SAINT CHRISTOPHER AND NEVIS

10th – 14th June 2013

JUDGMENTS

Case Name: **BCEN-Eurobank now known as VTB Bank
(France) SA
v
[1] Vostokrybporm Company Limited
[2] Apex Luck Business Limited
[3] The Department of Maritime Administration
[4] The Registrar of Ships
[5] The Attorney General of Saint Vincent and
the Grenadines**

**[SVGHCVAP2011/0011]
(Saint Vincent and The Grenadines)**

Date: **Monday, 10th June 2013**

Coram: **The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances:

Appellant: **Ms. Dahlia Joseph holding papers for Mr. Stephen Hofmeyr, QC and Mr. Samuel Commissiong**

Respondents: **Mr. Terence Byron for the 1st, 2nd, 3rd, 4th and 5th respondents**

Issues: **Vessel registered in Saint Vincent and the Grenadines Register of Ships – Mortgage registered as an encumbrance – Voluntary sales of vessel – Judicial sales of vessel in North Korea and China – Shipping Act 2004 – Whether vessel fulfilled statutory requirements to remain registered in Saint Vincent and the Grenadines Register of Ships – Effect of judicial sales – Whether judicial sales conferred clean title –**

1993 International Convention on Maritime Liens and Mortgages incorporated into the laws of Saint Vincent and the Grenadines – North Korea and China not parties to the 1993 Convention – Applicability of the 1993 Convention where judicial sale takes place in a non-Convention State

**Result / Order
& Reason:**

Held: dismissing the appellant's appeal and allowing the second respondent's cross appeal and dismissing the first respondent's counter appeal that:

- 1. By reason of the judicial sales and the intervening private sales, the vessel had ceased to be eligible for registration in Saint Vincent and the Grenadines according to the requirements of section 6 of the Shipping Act, 2004 and there was no other basis on which on which the vessel was eligible for registration in Saint Vincent and the Grenadines.**
- 2. The failure to meet the requirements of section 6 of the Shipping Act, 2004 allied with the effect of the judicial sales made it legitimate to secure the termination of the vessel's registration. In the circumstances the learned judge rightly directed the registrar to deregister the vessel as it would have been wrong in principle to perpetuate the registration of the vessel as it no longer and had long ceased to be eligible for registration under section 6 of the Shipping Act, 2004.**
- 3. In circumstances where a vessel is no longer entitled to remain on the Register of Ships, the registration of a mortgage does not act as an indefinite bar to deregistration.**
- 4. The 1993 International Convention on Maritime Liens and Mortgages is clearly intended to apply in respect of judicial sales taking place in State Parties to the Convention. Where the judicial sale takes place in a country which is not a party to the Convention, the common law rules apply. Thus, such a sale would be recognised under the laws of Saint Vincent and the Grenadines and given legal effect of transferring title to the purchaser free from encumbrances.**

5. A foreign judicial sale is to be recognised as giving effect qua assignment/transfer of title unless it is invalid under the laws of the country where the sale took place. There was no evidence that the judicial sales at issue were invalid.
6. The court in North Korea had jurisdiction to decide on the disposition of the vessel and did not act beyond its jurisdiction. The process by which the vessel was sold clearly operated in rem, flowing as it did from the initial arrest of the vessel. The sale conferred clean title to the purchaser with all claims against the vessel being extinguished and transferred to the proceeds of sale.
7. The judicial sale in China was critical. The sale was on notice to the appellant; the appellant participated in the process and tried to stop it. There could be no issue of breach of natural justice in relation to that sale. There was no evidence of fraud. The sale was by public auction and it was not suggested that it was anything other than a fair market value. The judicial sale in China was effective in transferring good title free from encumbrances regardless of whatever was the prior position.
8. The trial judge had no proper basis for refusing to admit the evidence of the deponents. The factual evidence in the affidavit was not in dispute, the appellant was in possession of the affidavits before the trial and had every opportunity to put in evidence of its own, agreeing with, disputing or qualifying such evidence. The real issue was what weight should be attached to the evidence.
9. There was no good reason to disturb the order dismissing the first respondent's claim and ordering it to pay the appellant's costs.

Case Name:

Featherwood Trading Limited

v

Fraunteld Management Limited

**[BVIHCVAP2012/0020]
(Territory of the Virgin Islands)**

Date: Monday, 10th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Terence Byron holding papers for counsel for the appellant Mr. Paul McGrath, QC and Mr. Callum McNeil

Respondent: Ms. Sherry-Ann Liburd-Charles holding papers for Mr. John Jarvis, QC, Mr. Jeffrey Elkinson, Mr. George McPherson and Mr. Jerry Samuel

Issues: Civil appeal – Unjust enrichment – Failure of basis – Agreement for the purchase of shares in a Russian asset – Part of the purchase price paid in Russia in Roubles – Part paid by a BVI company to a Cypriot company offshore in US\$ – BVI company not a party to the share purchase agreement – Transfer of shares frustrated by a Moscow court order – Rouble payment refunded to the buyer by the seller – The US\$ payment not refunded – No written contract governing the US\$ payment – Whether the BVI company could recover in unjust enrichment

Result / Order & Reason: Held: dismissing the appeal and confirming the orders of the trial judge; allowing the counter-notice of appeal; and awarding costs to Fraunteld in the amount of two-thirds of the amount awarded in the court below, that:

1. First, to succeed in a claim in unjust enrichment the claimant must demonstrate three things: (1) that the defendant has been enriched; (2) that this enrichment was gained at the claimant's expense; (3) that the defendant's enrichment at the claimant's expense is unjust. Second, the basis must be jointly understood as such by both parties, though it need

not be expressly stated. Third, failure of basis must not be confused with receipt of benefit. The transferor may receive a benefit from the transferee, but it does not follow that the basis for the transfer has, therefore, been satisfied. Fourth, in a claim for unjust enrichment, the cause of action is generally restricted to the direct provider of the benefit only.

Banque Financière de la Cité v Parc (Battersea) Ltd [1999] 1 AC 221 applied.

2. Enrichment will be unjust where there is a “failure of basis” or in more traditional language a “failure of consideration”. A claimant may transfer a benefit to a defendant on the basis of a future event without the defendant promising that that event will occur. If that event does not happen one can describe there as being a failure of consideration.

Roxborough v Rothmans of Pall Mall Australia (2001) 208 CLR 516 applied.

3. Applying the above principles to the facts as found by the judge, the agreed purpose of the US\$13 million payment was the transfer of the shares in the Russian asset from the group represented by Featherwood to the group represented by Fraunteld. Fraunteld paid that sum to Featherwood on the understanding that Featherwood’s right to retain it was conditional upon the transfer of ownership of the shares in the Russian asset. Featherwood’s enrichment occurred at Fraunteld’s expense, and it is Fraunteld which has a nonexclusive right to make recovery. Since the shares in the Russian asset were not transferred to the group behind Fraunteld, the basis for the payment has failed. On the date when the transfer of the Russian shares became impossible, Fraunteld’s restitutionary right arose. Accordingly, the judge was entitled to hold as he did that Fraunteld was entitled to recover the US\$13 million on the grounds of a claim in unjust

enrichment.

APPLICATIONS AND APPEALS

Case Name:

**[1] Caribbean Building Systems (St. Kitts)
Ltd.**

[2] Adam Bilzerian

v

**First Caribbean International Bank
(Barbados) Limited**

[SKBHCVAP2013/0007]

**[1] Caribbean Building Systems (St. Kitts)
Ltd.**

[2] Adam Bilzerian

v

**First Caribbean International Bank
(Barbados) Limited**

[SKBHCVAP2013/0011]

Date:

Monday, 10th June 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances:

Applicants: Mr. John Tyme

**Respondent: Mr. Emile Ferdinand, QC, with him, Ms. Elizabeth
Kelsick and Mr. Garth Wilkin**

Issues:

**SKBHCVAP2013/0007: Application for extension of
time to file application for leave to appeal – Application
for leave to appeal**

SKBHCVAP2013/0011: Application for leave to appeal and stay of execution

Result / Order:

[Oral delivery]

- 1. The applications in Civil Appeal No. 7 of 2013 and No. 11 of 2013 are hereby adjourned to the next Chambers date.**
- 2. The applicant is hereby directed to file the Order of the Master made on 8th May 2013 which is being appealed no later than 14th June 2013.**
- 3. The costs of the adjournment shall be paid by the applicant to the Respondent fixed in the sum of \$2,500.00 to be paid no later than Wednesday 12th June 2013.**

Reason:

The applicant was directed on 21st May 2013 to file the order of the master being appealed (dated 9th April 2013) and failed to do so.

Case Name:

Conroy Tomlinson

v

Elverna Dupont

[SKBMCVAP2012/0008]

Date:

Monday, 10th June 2013

Coram:

**The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances

Applicant:

Ms. Sherry-Ann Liburd-Charles

Issues:

Application to be removed from record (as acting for Ms. Elverna Dupont)

Result / Order:

[Oral delivery]

The application to be removed from the record is granted.

Reason: The Court read the application and affidavit on record and was satisfied that the respondent understood the nature of the application.

Case Name: **West Indies Power (Nevis) Limited**
v
Nevis Island Administration

[SKBHCVAP2013/0003]

Date: **Monday, 10th June 2013**

Coram: **The Hon. Dame Janice M. Pereira, Chief Justice**
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Terence Byron, with him, Ms. Talibah Byron
Respondent:	Ms. Dahlia Joseph, with her, Ms. Dia Forrester

Issues: **Application for leave to appeal decision of learned master dated 16th January 2013**

Result / Order: **[Oral delivery]**
Leave to appeal is granted.

Reason: **The Court was satisfied that the appeal had a realistic prospect of success.**

Case Name: **Conroy Tomlinson**
v
Elverna Dupont

[SKBMCVAP2012/0008]

Date: **Monday, 10th June 2013**

Coram: **The Hon. Dame Janice M. Pereira, Chief Justice**
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances

Appellant: **Mr. John Cato**

Respondent: **Ms. Elverna Dupont in person**

Issues: **Application to withdraw appeal**

Result / Order: **[Oral delivery]**
The matter is withdrawn and accordingly dismissed.

Reason: **The appellant no longer had an interest in the matter.**

Case Name: **Winsroy Duporte**
v
Fiona Halliday

[SKBMCVAP2008/0001]

Date: **Monday, 10th June 2013**

Coram: **The Hon. Dame Janice M. Pereira, Chief Justice**
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: **Mr. John Cato**

Respondent: No appearance

Issue: Application for adjournment

Result / Order: [Oral delivery]
Hearing of the appeal is adjourned to the next sitting of the Court of Appeal in St. Kitts-Nevis commencing the week of 14th October 2013.

The Registrar of the High Court is to send a notice of hearing to Fiona Halliday.

Reason: There was no evidence before the Court showing that Ms. Halliday was aware of or had been given notice of the hearing.

Case Name: The Commissioner of Police
V
Rayheam Forbes

[SKBMCRAP2012/0004]

Date: Monday, 10th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant:	Ms. Greatess Gordon
Respondent:	Mr. Anthony Johnson

Issues: Appeal against decision of learned magistrate for not imposing a custodial sentence for offence of possession of firearm and ammunition

Result/Order

[Oral delivery]

The appeal by Commissioner of Police is allowed. The respondent is sentenced to 2 years imprisonment.

Reason

The Court was of the view that learned magistrate made an error in principle as, in the exercise of her discretion, she took into account matters that were irrelevant and did not take into account matters that were relevant.

The learned magistrate failed to take into account that the respondent had a firearm at a hospital housing sick people. Further, the learned magistrate minimized the offence. She did not properly guide herself according to the principles of sentencing and deterrence.

Too much weight was put on the personal circumstances of the respondent and other principles were disregarded, one of which was the prevalence of firearms in the Federation. The general deterrence principles should have been foremost in the mind of the learned magistrate.

The Court held that in this case there were no exceptional circumstances to justify not imposing a custodial sentence. It was noted that the maximum sentence for this offence was 10 years and that the appellant had pleaded guilty early. The Court was of the opinion that a 2 year sentence was appropriate having regard to the mitigating factors and the fact that there were no previous convictions, but also taking into account the seriousness of the offence, and in particular, the fact that the respondent took the firearm and ammunition with him to the public hospital.

Case Name:

Kenville Finch

v

Chief of Police

[SKBMCRAP2013/0003]

Date: Monday, 10th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Anthony Johnson
Respondent:	Ms. Greatess Gordon

Issue: Appeal against sentence – Possession of firearm and ammunition without licence

Result / Order: [Oral delivery]
Appeal is allowed. Sentence is varied to 2 years. Time on remand to be taken into account discounted.

Reason: The Court was of the view, having regard to the sentencing principles, that the learned magistrate erred in not applying a notional sentence.

The Court opined that: (1) the only way that the learned magistrate could have arrived at a 6 year sentence was if she started at the maximum of 10 years; (2) taking a notional sentence of 5 years and taking into account the guilty plea, the fact that the appellant had no previous convictions, and the circumstances under which the firearm was found, 2 years was an appropriate sentence, taking into consideration the time spent on remand.

Case Name: Louis Richards
v
The Director of Public Prosecutions

[SKBHCRAP2008/0030]

Date: Monday, 10th June 2013

Coram: The Hon. Dame Janice Pereira Chief Justice
The Hon. Davidson Baptiste Justice of Appeal
The Hon. Don Mitchell Justice of Appeal (Ag.)

Appearances:

Appellant: Dr. Henry Browne, QC, with him, Mr. Hesketh Benjamin
on the appointment of the Court

Respondent: Ms. Rhonda Nisbett-Browne

Issues: Application for adjournment – Murder

Result / Order: [Oral delivery]

1. Counsel for the appellant shall be at liberty to amend the grounds of appeal and shall do so within 6 weeks of today's date and to file any further submissions in respect of the appeal.
2. Counsel for the respondent shall have 28 days from the date of service of the application to amend and file and serve further submissions in response.
3. Hearing of the appeal is adjourned to the next sitting to the Court of Appeal in St. Kitts-Nevis in October 2013.

Case Name: The Director of Public Prosecutions
v
Kenrick Hendrickson
[SKBHCRAP2011/0002]

Date: Tuesday, 11th June 2013

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Respondent: Mr. John Cato holding papers for Mr. Ricaldo Caines

Issues: Criminal appeal against sentence – Indecent assault – Whether sentence imposed by the learned judge was extremely lenient

Result / Order: [Oral delivery]
Hearing of this appeal is adjourned to the next sitting of Court of Appeal in Federation of St. Christopher and Nevis during the week of 10th to 14th October 2013.

Reason Mr. Cato requested an adjournment since counsel for the respondent, Mr. Caines, could not be present at the day's hearing. The appellant did not object to the adjournment being granted.

Case Name: Leslie Farrell
v
The Director of Public Prosecutions
[SKBHCRAP2011/0003]

Date: Tuesday, 11th June 2013

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Issues: Appeal against sentence – Robbery – Unlawful wounding – Whether the learned judge took into consideration time which appellant had spent on

remand

Result / Order: [Oral delivery]
Appeal against sentence is allowed to the extent that the time on remand that is five (5) months is deducted from the five (5) years sentence.

Reason Five (5) months on remand had not been deducted from the sentence.

Case Name: Kevin Jones
v
The Director of Public Prosecutions
[SKBHCRAP2010/0005]

Date: Tuesday, 11th June 2013

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:
Appellant: Ms. Natasha Grey holding papers for Mr. Chesley Hamilton
Respondent: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Issues: Appeal against conviction and sentence – Rape – Whether learned trial judge’s failure to give good character direction to jury resulted in miscarriage of justice – Whether learned trial judge erred in allowing evidence of appellant’s character and sexual history which was prejudicial to appellant – Appellant unrepresented at trial – Whether appellant was denied protection of law – Whether sentence unduly harsh and unreasonable

Result / Order: Matter stood down until 2:00 p.m. for hearing.

Reason: To allow the attorneys to get themselves organised to prosecute the appeal.

Case Name: James Ham
v
The Director of Public Prosecutions
[SKBHCRAP2010/0007]

Date: Tuesday, 11th June 2013

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. John Cato
Respondent: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Issues: Appeal against conviction and sentence – Rape

Result / Order: [Oral delivery]
Hearing of this appeal is adjourned to the next sitting of Court of Appeal during the week of 10th to 14th October 2013.

Reason: The appellant made an application at the hearing to retain new counsel. In the circumstances, it was necessary to have the matter adjourned.

Case Name: **Glenville Maynard**
V
The Director of Public Prosecutions
[SKBHCRAP2010/0023]

Date: **Tuesday, 11th June 2013**

Coram: **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:
Appellant: **In person**
Respondent: **Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin**

Issues: **Appeal against conviction and sentence – Robbery**

Result/Oder: **[Oral delivery]**
Hearing of this appeal is adjourned to the next sitting of Court of Appeal during the week of 10th to 14th October 2013.

Reason: **The appellant made an application at the hearing to retain new counsel. In the circumstances, it was necessary to have the matter adjourned.**

Case Name: **Rawle Benjamin**
V
The Director of Public Prosecutions
[HCRAP2010/0024]

Date: **Tuesday, 11th June 2013**

Coram: **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal**
The Hon. Mr. Mario Michel, Justice of Appeal

The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Issues: Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
Hearing of this appeal is adjourned to the next sitting of Court of Appeal during the week of 10th to 14th October 2013.

Reason The appellant made an application at the hearing to retain new counsel. In the circumstances, it was necessary to have the matter adjourned.

Case Name:

Newrish Nital

v

The Director of Public Prosecutions

[SKBHCRAP2011/0022]

Date: Tuesday, 11th June 2013

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Rhonda Nisbett-Browne, with her, Mr. Garth Wilkin

Issues: Appeal against conviction and sentence – Fraud and false pretence

Result / Order:

[Oral delivery]

- 1. Application granted to amend grounds of appeal filed on 10th May 2013.**
- 2. Appeal against conviction is allowed. Conviction and sentence quashed.**

Reason

The Court was of the view that the learned trial judge gave a balanced summation in putting the prosecution's case as well as the appellant's case to the jury. However, the judge ought to have directed the jury on the appellant's good character.

Case Name:

Kevin Jones

V

The Director of Public Prosecutions

[HCRAP2010/0005]

Date:

Tuesday, 11th June 2013

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. Natasha Grey holding papers for Mr. Chesley Hamilton

Respondent: Ms. Rhonda Nisbett-Browne

Issues:

Appeal against conviction and sentence – Rape – Whether learned trial judge's failure to give good character direction to jury resulted in miscarriage of justice – Whether learned trial judge erred in allowing evidence of appellant's character and sexual history which was prejudicial to appellant – Appellant unrepresented at trial – Whether appellant was denied protection of law – Whether sentence unduly harsh and unreasonable

Result / Order:

[Oral delivery]

- 1. Leave granted to amend grounds of appeal upon application by Ms. Grey.**
- 2. Appeal against conviction is dismissed. Appeal against sentence is allowed to the extent that ten (10) years is varied to six (6) years.**

Reason

The virtual complainant gave strong compelling evidence of being raped by the appellant and was very descriptive in her evidence. The Court held that in light of this evidence, the failure of the learned trial judge to give directions to the jury on good character was not fatal to the appellant's case.

The Court was also of the view that the learned trial judge adequately addressed the jury on the issue of the past sexual history between the appellant and the virtual complainant.

The Court held that there was no substance in the appellant's ground of appeal that he was denied the "protection of the law" (since the appellant was unrepresented at trial) and as such that ground failed.

With respect to sentence, the Court was of the opinion that the appellant was of good character prior to this incident and that the learned trial judge did not give the notional sentence as was laid down in *Winston Joseph et al v The Queen* (Saint Lucia High Court Criminal Appeal Nos. SLUHCRA2000/0004, 0008 & 0007 (delivered 17th September 2001, unreported)). The Court held that the notional sentence in this case would have been 8 years. The aggravating factors were the manner of execution of the offence and the fact that a 4 month old baby was with the virtual complainant at the time of the incident. The notional sentence of 8 years would be arrived at when the aggravating factors are balanced with the mitigating factors. The Court therefore held that in the circumstances, an appropriate sentence would be 6 years.

STATUS HEARING

Case Name: [1] Vernon S. Veira
v
[1] Guy Mitchell
[2] Amy Mitchell
[SKBHCVAP2009/0015]

Date: Tuesday, 11th June 2013
Before: The Hon. Dame Janice M. Pereira, Chief Justice
Appearances:
 Appellant: Dr. Henry Browne, QC, with him, Mr. Hesketh Benjamin
 Respondents: No appearance
Issues: Status of matter
Result / Order: [Oral delivery]
Notice of Appeal is struck out.
Reason: The matter was spent.

Case Name: Caribbean Voice and Data Services Limited
v
Cable and Wireless (St. Kitts-Nevis) Limited
[SKBHCVAP2010/0001]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Mr. Lincoln Hazell (representative of the appellant)

Respondent: Ms. Keisha Spence

Issues: Status of matter – Appeal against the order of the learned master dated 24th February 2010

Result / Order & Reason: [Oral delivery]
The notice of appeal and amended notice of appeal filed on 7th June 2013 are hereby struck out as nullities, the appellant not having obtained the permission of the Court as required under the Supreme Court Act of St. Christopher and Nevis.

Case Name:

Kenneth Kelly
v
[1] Vernon S. Veira
[2] Derek Ford
[3] Registrar of Titles

[SKBHCVAP2010/0002]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Ms. Keisha Spence

Respondents: Ms. Camilla Cato for the 2nd respondent Derek Ford

Issues: Status of matter – Appeal against decision of the learned judge dated 12th March 2013 – Priority of application for order for sale of land – Whether the judge erred in holding that there was no inconsistency

between ss. 5 and 9 of the Judgments Act and ss. 106 to 110 of the Title by Registration Act

Result / Order: [Oral delivery]
The Registrar of Court is hereby directed pursuant to CPR 62.9 to prepare transcript of the notes of evidence and of the judgment and thereafter to give notice to the parties when the transcript is available for collection.

Reason: The transcript had not been prepared as yet and thus the appeal had not progressed.

Case Name: Hotel Equity Fund IV, LLC
v
Ernestine Celestine
[SKBHCVAP2010/0005]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: No appearance
Respondent: Ms. M. Angela Cozier

Issues: Status of matter

Result / Order: [Oral delivery]
Appeal is dismissed for want of prosecution.

Reason: The appellant, having been served as ordered by the Court through registered mail, had offered no appearances in the matter or otherwise shown any interest in the prosecution of the appeal.

Case Name: Michelle Brown
v
Marlon Brown
[SKBMCRAP2011/0007]

Date: Tuesday, 11th June 2013
Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: Mr. Nassibou Butler
Respondent: Ms. Miselle O'Brien-Norton

Issues: Application to withdraw appeal

**Result / Order
& Reason:** [Oral delivery]
By consent, the appeal hearing is hereby withdrawn
with no order as to costs.

Case Name: Kenneth Williams
v
Dwight Cozier
[SKBHCVAP2011/0008]

Date: Tuesday, 11th June 2013
Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: Ms. Elizabeth Harper
Respondent: Ms. M. Angela Cozier

Issues: Discontinuance of appeal – Application for costs

**Result / Order
& Reason:** [Oral delivery]
The appeal hearing, having being discontinued by notice of discontinuance filed on June 6th 2013, is dismissed. The appellant shall bear the cost of the respondent as per CPR 62.26 in the sum of \$7,200.00 being two thirds of the costs awarded in court below.

Case Name: [1] Tessa Blondelle Crag Chaderton
[2] Gwenda Skelton
v
Vernon Mills (aka Verna Mills)
[SKBHCVAP2011/0010]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellants: Mr. J. D. Quinlan
Respondent: Ms. Deidre Williams

Issues: Status of matter

Result/Order: [Oral delivery]
1. The appellant shall prepare a record of appeal for use by the court comprising:
(a) The judgment of the court being appealed
(b) The claim form and any statement of case filed in the court below.
Any Orders of the Court made.
Copies of all applications and affidavits filed with the court below and any exhibits with all written

- submissions and shall file the requisite copies of same with the court and serve a copy on the respondent no later than Tuesday 23rd July, 2013.
2. The appellant shall file and serve skeleton arguments together with a bundle of any authorities relied on no later than Friday, 2nd August 2013.
 3. The respondent shall file and serve skeleton arguments in response together with a bundle of authorities relied on no later than Monday, 2nd September 2013.
 4. The appellant shall be at liberty to file and serve a reply of the respondent's arguments no later than Tuesday, 17th September 2013.
 5. Counsel for the appellant to prepare and file a draft of this order for approval by the Registrar.

Reason: There was no oral evidence taken and thus no transcript is required. Matter was determined on the written submissions.

Case Name: Calvin Joseph
v
Nassibou Butler
[SKBHCVAP2011/0012]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Mr. John Cato

Respondent: Mr. Nassibou Butler (in person)

Issues: Status of matter – Appeal against order dated 11th July 2011

Result / Order: [Oral delivery]

The Registrar of the Court is to prepare a transcript of the notes of the proceedings in relation to the enforcement of the judgment and to give notice to the parties when the transcript is ready for collection.

Reason: The transcript was not prepared as yet.

Case Name: [1] Richard Rowe and Mark Secrist (and those
whom they represent)
[2] Roy and Gen Benton
v
[1] The Attorney General of St. Christopher and
Nevis
[2] The Authorised Officer for the Angelus
Resort

[SKBHCVAP2011/0014]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant:	Ms. Elizabeth Harper
Respondent:	Ms. Simone Bullen-Thompson, with her, Mr. O'Neil Simpson for both respondents

Issues: Status of matter – Appeal against judgment dated 29th July 2011

Result / Order: [Oral delivery]
The Registrar is hereby directed to prepare the transcript of the notes of proceedings and to give notice to the parties when ready for collection pursuant to CPR 62.9. The transcript to be produced by March 2014.

Reason: The transcript was not prepared as yet.

Case Name:

**[1] Rosalind Nicolls
[2] Constance V. Mitcham
[3] Pearline O. Sylvester
v
[1] Richard Rowe and Mark Secrist (and those
whom they represent)
[2] Roy and Gen Benton
[3] Paul and Chae Dunn
[4] The Attorney General of St. Christopher and
Nevis
[5] The Authorised Officer for The Angelus
Resort**

[SKBHCVAP2011/0015]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellants: No appearance

Respondents: Ms. Elizabeth Harper for 1st and 2nd respondents
Ms. Simone Bullen-Thompson, with her, Mr. O'Neil
Simpson for the 4th and 5th respondents

Issues: Status of matter – Transcript not available

Result / Order: [Oral delivery]
The Registrar is hereby directed to prepare the transcript of notes of proceedings and to give notice to the parties when ready for collection pursuant to CPR 62.9. The transcript to be produced by March 2014.

Reason: Transcript had not been prepared as yet.

Case Name: Bernadette Charles
v
Juliette Hanley
[SKBHCVAP2011/0018]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: Ms. Deidre Williams
Respondent: Ms. Marsha Henderson

Issues: Status of matter – Application for discontinuance

Result / Order: [Oral delivery]
Appeal is hereby discontinued with no order as to costs.

Case Name: Joan Slack
v
[1] Billy Slack
[2] Camella Slack-Josephs
[3] Ian Slack
[4] Monica Slack-Haynes
[5] Yvonne Slack-Louisy
[SKBHCVAP2011/0019]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Mr. J. D. Quinlan

Respondents: Ms. Angelina Gracy Sookoo

Issues: Status of matter – Notice of appeal pending

Result / Order: [Oral delivery]
The Registrar of the Court is hereby directed to prepare the transcript of the notes of evidence of the proceedings below and when ready to give notice to the parties of their availability. The said transcript to be prepared by March 2014.

Reason: The transcript of proceedings had not been prepared as yet.

Case Name: Ramsbury Properties Limited
V
Ocean View Construction Limited
[SKBHCVAP2011/0020]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Ms. M. Angela Cozier

Respondent: Ms. Hazelyn Ross

Issues: Status of matter – Notice of appeal pending

Result / Order: [Oral delivery]
The Registrar of the Court is hereby directed to prepare the transcript of the notes of the proceedings and when ready to give notice of their availability to the parties pursuant to CPR 62.9.

Reason: The transcript had not been prepared as yet.

Case Name: Resenda Browne
v
[1] Nigel Romney
[2] Lionel Patrick
[SKBHCVAP2011/0026]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: Ms. Angelina Gracy Sookoo
Respondents: Mr. Adrian Scantlebury

Issues: Status of matter – Notice of appeal pending – Road collision – Whether negligence proven – Nominal damages awarded by learned trial judge

Result / Order: [Oral delivery]
The Registrar of the Court is hereby directed to prepare the transcript of the notes of the proceedings and when ready to give notice of their availability to the parties pursuant to CPR 62.9.

Reason: The transcript had not been prepared as yet.

Case Name: **Chadin Buchanan**
V
The Director of Public Prosecutions
[SKBHCRAP2011/0026]

Date: **Tuesday, 11th June 2013**

Before: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:

Appellant: **In person**

Respondent: **Ms. Greatess Gordon**

Issues: **Status of matter – Appeal against conviction – Robbery with firearm**

Result / Order: **[Oral delivery]**
The Registrar is hereby directed to prepare the notes of evidence in proceedings in the court below for readiness at the 1st sitting of the Court in 2014.

Reason: **To facilitate the preparation of the record of appeal.**

Case Name: **Carmichael Rannel**
V
The Director of Public Prosecutions
[SKBHCRAP2011/029A]

Date: **Tuesday, 11th June 2013**

Coram: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against sentence – Building breaking and Larceny

Result / Order: [Oral delivery]
The Registrar is hereby directed to prepare the notes of evidence in proceedings in the Court below for readiness at the 1st sitting of the Court in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name:

Jervin Rawlins

v

The Director of Public Prosecutions

[SKBHCRAP2011/0032]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery and assault with intent to rob

Result / Order: [Oral delivery]
The Registrar is hereby directed to prepare the notes of evidence of the proceedings in the court below for readiness at the next sitting of the Court in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Akiel Warner
v
The Director of Public Prosecutions
[SKBHCRAP2011/0028]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
The Registrar is hereby directed to prepare the notes of evidence of the proceedings in the court below for readiness at the next sitting of the Court in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Ourtic Gileard
v
The Director of Public Prosecutions
[SKBHCRAP2011/0025]

Date: Tuesday 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the 1st sitting of the Court in St. Kitts in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Philip Jones
V
The Director of Public Prosecutions
[SKBHCRAP2011/0031]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery and Assault with intent to rob

**Result / Order
& Reason:**

**[Oral delivery]
Matter adjourned to 1st sitting of Court of Appeal in
2014 to allow for completion of transcript.**

Case Name:

**Allister Forde
v
The Director of Public Prosecutions
[SKBHCRAP2011/0024]**

Date:

Tuesday, 11th June 2013

Before:

The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues:

**Status of matter – Appeal against sentence – Shooting
with intent**

Result/Order:

**[Oral delivery]
The Registrar is directed to prepare a transcript of the
notes of evidence for the 1st sitting of the Court in St.
Kitts in 2014.**

Reason:

To facilitate the preparation of the record of appeal.

Case Name:

**Glenville Isles
v
The Director of Public Prosecutions**

[SKBHCRAP2011/0030]

Date: Tuesday, 11th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Attempted murder

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the 1st sitting of the Court in St. Kitts in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Exzavier Elliott
v
The Director of Public Prosecutions

[SKBHCRAP2011/0033]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery and Assault with intent to rob

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the 1st sitting of the Court in St. Kitts in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Glenville Isaac
v
The Director of Public Prosecutions
[SKBHCRAP2011/0029]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Robbery

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence as a matter of urgency and hearing of the appeal shall be listed for next sitting in October 2013.

Reason: To facilitate the preparation of the record of appeal.

Case Name: **Clive Grant**
v
The Director of Public Prosecutions
[SKBHCRAP2011/0027]

Date: **Tuesday, 11th June 2013**

Before: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:
Appellant: **In person**
Respondent: **Ms. Greatess Gordon**

Issues: **Status of matter – Appeal against conviction and sentence – Burglary**

Result / Order: **[Oral delivery]**
The Registrar is directed to prepare a transcript of the notes of evidence for the 1st sitting of the Court in St. Kitts early in 2014.

Reason: **To facilitate the preparation of the record of appeal.**

Case Name: **Emmanuel Mills**
v
The Director of Public Prosecutions
[SKBHCRAP2011/0007]

Date: **Tuesday, 11th June 2013**

Before: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues:

Status of matter – Appeal against conviction and sentence – Rape – Attempted Robbery – Burglary

Result / Order:

[Oral delivery]

The Registrar is directed to prepare a transcript of the notes of evidence for the 1st sitting of the Court in St. Kitts early in 2014.

Reason:

To facilitate the preparation of the record of appeal.

Case Name:

Jermul Jules

v

The Director of Public Prosecutions

[SKBHCRAP2011/0008]

Date:

Tuesday, 11th June 2013

Before:

The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues:

Status of matter – Appeal against conviction and sentence for Robbery

Result / Order:

[Oral delivery]

The Registrar is directed to prepare notes of evidence for the 1st sitting of the Court in St. Kitts early in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Craig Bradshaw
V
The Director of Public Prosecutions
[SKBHCRAP2011/0009]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Unlawful carnal knowledge

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the next sitting of the Court in St. Kitts in October 2013.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Keithley Griffin
V
The Director of Public Prosecutions
[SKBHCRAP2011/0010]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Dr. Henry L. Browne, QC

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Unlawful carnal knowledge

Result / Order & Reason: [Oral delivery]
Matter adjourned to 1st sitting of Court of Appeal in 2014 to allow completion of transcript.

Case Name: David Morton
v
The Director of Public Prosecutions
[SKBHCRAP2011/0011]

Date: Tuesday 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Rape

Result/Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the next sitting of the Court in St. Kitts in early 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Samuel Tyson
v
The Director of Public Prosecutions
[SKBHCRAP2011/0012]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Indecent assault

Result/Order: [Oral delivery]
The Registrar is directed to prepare the transcript of the proceedings in readiness for the hearing of the appeal.

Reason: The record of appeal had not been prepared as yet.

Case Name: Jamie Wilkinson
v
The Director of Public Prosecutions
[SKBHCRAP2011/0013]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Indecent Assault

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the next sitting of the Court in St. Kitts in early 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Joseph Herbert
v
The Director of Public Prosecutions
[SKBHC RAP2011/0014]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: In person

Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Buggery

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the proceedings in readiness of the hearing of appeal without delay.

Reason: The record of appeal had not been prepared as yet.

Case Name: Gibson Blake
v
The Director of Public Prosecutions
[SKBHCRAP2011/0015]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against sentence – Housebreaking and larceny

Result / Order: [Oral delivery]
The Registrar to prepare that part of the transcript of the proceedings relating to the sentencing phase of the trial having regard to the fact that the appeal is against sentence only. Appeal is listed for hearing by the Court in October 2013.

Reason: To facilitate the preparation of the record of appeal.

Case Name: **Mario Harvey**
V
The Director of Public Prosecutions
[SKBHCRAP2011/0016]

Date: **Tuesday, 11th June 2013**

Before: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:

Appellant: **In person**

Respondent: **Ms. Greatess Gordon**

Issues: **Status of matter – Appeal against conviction and sentence – Buggery**

Result / Order: **[Oral delivery]**
The Registrar is to prepare that part of the transcript of the proceedings relating to the sentencing phase of the trial having regard to the fact that the appeal is against sentence only. Appeal is listed for sitting of the Court in October 2013.

Reason: **To facilitate the preparation of the record of appeal.**

Case Name: **Joseph Gardener**
V
The Director of Public Prosecutions
[SKBHCRAP2011/0018]

Date: **Tuesday, 11th June 2013**

Before: **The Hon. Dame Janice M. Pereira, Chief Justice**

Appearances:

Appellant: In person
Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Wounding with Intent

Result / Order: [Oral delivery]
The Registrar to prepare the transcript of proceedings in the Court below in readiness for the 1st sitting of the Court of Appeal in 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Neil Harvey
v
The Director of Public Prosecutions
[SKBHCRAP2011/0019]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: In person
Respondent: Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Wounding with Intent

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the next sitting of the Court in St. Kitts in early 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Carl Warner
v
The Director of Public Prosecutions
[SKBHCRAP2011/0020]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant: Dr. Henry L. Browne, QC

Respondent: No appearance

Issues: Status of matter – Appeal against conviction and sentence – Assault

Result / Order: [Oral delivery]
The Registrar is directed to prepare a transcript of the notes of evidence for the next sitting of the Court in St. Kitts in early 2014.

Reason: To facilitate the preparation of the record of appeal.

Case Name: Razba Matthew
v
The Director of Public Prosecutions
[SKBHCRAP2011/0021]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Manslaughter

Result/Order: [Oral delivery]
The Registrar is directed to prepare the transcript of proceedings in readiness for hearing.

Reason: The record of appeal had not been prepared as yet.

Case Name:

Jason Liddie
v
The Director of Public Prosecutions
[SKBHCRAP2011/0023]

Date: Tuesday, 11th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:

Appellant:	In person
Respondent:	Ms. Greatess Gordon

Issues: Status of matter – Appeal against conviction and sentence – Receiving

Result / Order: [Oral delivery]
Matter is adjourned to Thursday 13th June 2013 for report.

Reason: The record of appeal was not prepared.

Case Name: Alfred Adams
v
Mary Adams
[SKBMCRAP2011/0008]

Date: Tuesday, 11th June 2013

Before: The Hon. Dame Janice M. Pereira, Chief Justice

Appearances:
Appellant: Mr. Karlweis Liburd
Respondent: Mr. Hesketh Benjamin

Issues: Status of matter

Result / Order: [Oral delivery]
The Court can make no formal orders without knowing the state of the Appeal.

Reason: The Court was not in a position to make any order in this matter because the record of appeal had not been completed as yet. The attorneys were waiting on the Magistrates' Court to get the status of the record of appeal.

APPLICATIONS AND APPEALS

Case Name:

Lenora L. Walwyn

v

[1] Eustace Archibald

[2] RBTT Bank (SKN) Limited

[SKBHCVAP2010/0012]

Date:

Wednesday, 12th June 2013

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Terence V. Byron (also, 2nd respondent in the counter appeal)

**Respondents: Ms. M. Angela Cozier for the Eustace Archibald (1st respondent in the appeal and appellant in the counter appeal)
Ms. Hazelyn Ross for RBTT Bank (SKN) Limited (2nd respondent in the appeal and 1st respondent in the counter appeal)**

Issues:

Appeal and counter appeal against the decision of the Hon. Justice Francis Belle contained in order dated 28th May 2010

Result / Order:

[Oral delivery]

- 1. The hearing date of this appeal is hereby vacated.**
- 2. The appeal is adjourned to the next sitting of the Court in the Federation of St. Kitts-Nevis in October 2013.**
- 3. The bank is granted seven (7) days leave within which to file and serve its skeleton arguments together with authorities in opposition to the counter notice of appeal.**
- 4. Mr. Archibald is granted seven (7) days leave thereafter to file and serve skeleton submissions in reply if necessary together with authorities.**

5. Costs in the sum of \$2500.00 to be paid by the bank to Mr. Archibald. The costs to be paid before the next sitting in the Federation.
6. Mr. Terence Byron has carriage of the order.

Reason:

The Bank had failed to respond to submissions filed by Ms. Cozier in support of the counter notice of appeal.

Case Name:

Steven G. Hites

v

[1] Anguilla Business Services Ltd

[2] St. Kitts Scenic Railway Limited

[3] Jeffery D. Hamilton

[SKBHCVAP2012/0007]

St. Kitts Scenic Railway Limited

v

[1] Anguilla Business Services Ltd

[2] Steven G. Hites

[3] Jeffery D. Hamilton

[SKBHCVAP2012/0008]

Date:

Wednesday, 12th June 2013

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Terence Byron

Respondent: Mr. Damian Kelsick, with him, Mr. Garth Wilkin, for the first respondent

Issues:

Application for withdrawal of Civil Appeal No. 7 of 2012

– Whether the learned trial judge was correct in striking out the matter on the basis that the application had no evidence in accordance with the rules

Result / Order:

[Oral delivery]

- 1. Appeal is allowed by consent in Civil Appeal No. 7 of 2012. It is further ordered that each party is to bear its own costs.**
- 2. In Civil Appeal No. 8 of 2012 the appeal is dismissed. Costs to the respondent in the sum of \$1,666.67.**

Reason:

In Civil Appeal No. 8 of 2012, the Court was of the view that the learned trial judge was correct in finding that the application did not comply with rule 9.7 of the Civil Procedure Rules 2000, and in striking out the application.

Case Name:

[1] Trans-Americainvest (St. Kitts) Ltd.

[2] Natalia Bitton

[3] John Zuliani

v

[1] Susan Dodge

[2] Anthony Zapparoli

[SKBHCVAP2013/0001]

Date:

Thursday, 13th June 2013

Coram:

The Hon. Dame Janice M. Pereira, Chief Justice

The Hon. Mde. Louise E. Blenman, Justice of Appeal

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Ms. M. Angela Cozier

Respondent: Ms. Camilla Cato, with her, Mr. Frank Walwyn holding papers for Mr. E. Anthony Ross (who had conduct of the matter)

Issues: Appeal against the decision master to strike out the appellants' claim – Whether learned master was correct in holding that appellants were attempting to litigate issues which had been previously decided by the court

Result / Order: [Oral delivery]
Appeal is dismissed. Costs of \$3,500 awarded to the respondents.

Reason: The Court was of the view that the learned master rightly struck out the claim and that she was correct in holding (in paragraph 31 of her judgment) that “the claim before the court is tantamount to an appeal against the decision of a parallel court which the court cannot do”.

Case Name: Jason Liddie
V
The Director of Public Prosecutions
[SKBHCRAP2011/0023]

Date: Thursday, 13th June 2013

Coram: The Hon. Dame Janice M. Pereira, Chief Justice
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: In person
Respondent: Ms. Rhonda Nisbett-Browne

Issues: Appeal against sentence and conviction – Receiving

Result / Order: [Oral delivery]

**Appeal against sentence is varied to time served.
Conviction affirmed.**

Reason:

The Court took into account the fact that the appellant had been sentenced to three years imprisonment from 28th July 2011 and also that it had taken one year (through no fault of the appellant's) for the record of appeal to be prepared; as a result of this, record would have only been ready by the time the appellant had finished serving his sentence (in July 2013).