

TELECONFERENCE

TERRITORY OF THE VIRGIN ISLANDS

Friday, 29th June 2012

APPLICATIONS AND APPEALS

Case Name: Grand Pacific Holdings Limited v Pacific China Holdings Limited
[High Court Civil Appeal No. 39 of 2010]

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Jack Husbands, with him, Ms. Rowena Lawrence
Respondent: Mr. Mark Forte, with him, Ms. Tameka Davis

Issue: Application for conditional leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]
The application for conditional leave to appeal to Her Majesty in Council and for a stay of execution is adjourned to the next sitting of the Court in the Territory of the Virgin Islands during the week of 1st – 5th October 2012.

Reason: The parties agreed that they were not ready to proceed with the application for leave to Her Majesty in Council.

Case Name: Spectrum Galaxy Fund Ltd. v Xena

**Investments Ltd.
[High Court Civil Appeal No. 40 of 2011]**

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Ms. Keisha Durham
Respondent: Mr. Mark Forte, with him, Ms. Tameka Davis

Issue: Application for leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]
1. The application for leave to appeal to Her Majesty in Council is adjourned to the next sitting of the Court of Appeal in the Territory of the Virgin Islands during the week of October 1st to 5th 2012.
2. Costs to Spectrum Galaxy Fund Ltd. of US\$1, 500.00.

Reason: The Court decided that in spite of form of application brought by the appellant, (it was brought as an application and not a motion/petition), it could be allowed to subsist and does not necessarily render it a nullity.

The Court concluded that both counsel were giving oral submissions on the matter as there has been no written application, no evidence on affidavit, no proper material presented to the Court to support their submissions. In any event, the Court decided to grant an adjournment of the matter.

Case Name: Ocean Conversion (BVI) Limited v The Attorney General
[High Court Civil Appeal No. 19 of 2009]

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Sydney Bennett, QC, with him, Ms. Anthea Smith
Respondent: Ms. Sara Potter

Issue: Application for conditional leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]
The application for conditional leave to appeal to Her Majesty in Council and for a stay of execution is adjourned to the next sitting of the Court in the Territory of the Virgin Islands during the week of 1st – 5th October 2012.

Reason: The Attorney General and counsel for the appellant had discussions regarding the matter. However, at the hearing of the application the Attorney General was out of state and was unable to make any submissions on the matter. As such, counsel for the appellant requested an adjournment. Counsel for the respondent did not oppose that application.

Case Name: [1] Inna Gudavadze
[2] Liana Zhimotova
[3] Iva Patarkatsishvili
v
[1] Carlina Overseas Corporation
[2] Ivane Chkhartishvilli
[3] Azerbaijan (ACG) Limited

[High Court Civil Appeal No. 17 of 2012]

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Clairia Robey for 1st named appellant

Respondent: Mr. Scott Cruikshank for 1st named respondent

Mr. Robert Levy with him Mr. Oliver Clifton for 3rd named respondent

Issue: Application for interim relief

Result / Order: [Oral delivery]

1. The application for interim injunction having been withdrawn, stands dismissed.
2. The applicant shall pay costs to Carlina Overseas Corporation, to be assessed if not agreed within twenty-one (21) days.
3. The applicant is to pay costs to Azerbaijan (ACG) Limited, to be assessed if not agreed within twenty-one (21) days.

Reason: Costs implication usually flow from the withdrawal of an appeal.

Case Name: [1] Winston Molyneaux
v
[1] Hugh Smith
[2] Leroy Smith
[3] John Smith

[High Court Civil Appeal No. 22 of 2009]

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Don Mitchell, Justice of Appeal [Ag.]
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Andrew Willins, with him, Ms. Asha Johnson

Respondent: Ms. Anthea Smith

Issue: Application for leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]

1. The respondents shall file and serve a notice of opposition, evidence and skeleton arguments and authorities on or before Friday, 13th July 2012.
2. The appellant shall file and serve affidavit in reply if necessary, skeleton arguments and authorities on or before Tuesday, 31st July 2012.
3. The hearing of the motion for conditional leave to appeal to Her Majesty in Council is adjourned to the next sitting of the Court of Appeal in the Territory of the Virgin Islands during the week of 1st – 5th October 2012.

Reason: Counsel for the respondent opposed the application for application for leave to appeal to Her Majesty in Council. Counsel indicated that they were short served with the documents and requested time to file affidavits and submissions in opposition to the motion for leave to appeal to Her Majesty in Council. As such, the Court was minded to adjourn the matter.