THE EASTERN CARIBBEAN SUPREME COURT
SAINT KITTS AND NEVIS

THE HIGH COURT OF JUSTICE

CLAIM NO. SKBHCV2012/0212

BETWEEN:

SOCIAL SECURITY BOARD

Applicant

And

CLICO INTERNATIONAL INSURANCE LIMITED
(Under Judicial Management)

Respondent/Intended Defendant

Appearances:

Mr. Anthony Astaphan SC and with him Mr. Sylvester Anthony and Ms. Angelina Gracey Sookoo for the Applicant/Intended Claimant
Mr. Glenford Hamilton for the Respondent/Intended Defendant

2012: June 29
2012: December 12

DECISION

[1] THOMAS J (Ag): On 5th June 2012 the Social Security Board, a statutory corporation[1], by way of an application sought leave to commence action against the respondent for specific performance by and/or damages.

[2] In the grounds upon which the applicant relies a written contract for the sale of certain lands situate at Douglas Estate, comprising 40.19 acres is pleaded, which was entered into between the applicant and the respondent. The agreement aforesaid is dated 2nd July 2010 which is prior to the date on which the respondent was brought under judicial management.

[1] Established by the Social Security Act, Cap. 22.10, Revised Laws of Saint Christopher and Nevis

[3] The circumstances that developed after the agreement are outlined in the grounds as well as the applicant's intention to seek the specific performance of the said written contract, and/or in the alternative, damages.

[4] Further reliance is placed on the following paragraphs:

> "4. By virtue of section 62(4) of the Insurance Act No. 8 of 2009 all actions and other processes against a registered insurance company placed under judicial management by order of the Court are stayed and shall not be proceeded with without the prior leave of the Court.
> 5. The Respondent was placed under Judicial Management by Order of this Honourable Court dated the 29th April 2011 whereby Omax Gardener, Accountant and Partner of Pannel Kerr Foster (PKF), St. Kitts and Nevis was appointed Judicial Manager of the Branch.
> 6. Also by virtue of the said Order of the Court the Judicial Manager is authorized to terminate, complete or perfect any contracts or transactions relating to the business of the Branch".

Affidavit in Support

[5] In an affidavit in support of the said application, Sephlin Lawrence, a director of the applicant, deposes as to the circumstances leading the agreement[2] on 2nd July 2010 between the applicant (Social Security Board) and the respondent (CLICO International Life Insurance); the efforts at closing the said transaction with the applicant being at all material times ready and willing to fulfill all its obligations under the said agreement.

[6] At paragraph 10 of the said affidavit the following is deposed:

> "10. As a consequence of the failure and refusal of the respondent to complete the said Agreement the Applicant has given instructions to commence an action to seek an order for the specific performance of the said written contract and/or in the alternative, damages for breach of contract".

[7] The affidavit makes reference to section 62(4) of the Insurance Act, No. 8 of 2009 and his advice thereon, which he verily believes to be true, that all actions and other processes against a registered insurance company placed under judicial management by order of the court are stayed and shall not be proceeded with without prior leave of the court.

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[2] According to Sephlin Lawrence the Agreement between the Social Security Board and Clico International Life Insurance Limited for the sale and purchase of certain lands situate at Douglas Estate of which Clico International Life Insurance Limited is the registered proprietor.

[8] Finally, it is further deposed by the affiant that he is advised and verily believes to be true that leave of this Honourable Court is required before this action can be commenced.

Affidavit in Opposition

[9] The affidavit in opposition is that of Omax Gardner, Judicial Manager for CLICO International Life Insurance Ltd.

[10] The deponent refers to the Agreement of 2nd July 2012 between CLICO and the Social Security Board and contends that if the Agreement is enforced it would be detrimental to the interest of the policy holders. He deposes further that he has made application to the court as part of his report that the agreement be cancelled either unconditionally or subject to such consideration as the court may deem necessary.

[11] At paragraphs 6 and 7 of his said affidavit the affiant outlines the manner in which he has conducted the management of CLICO being with "the greatest economy compatible with efficiency" in the interest of the policy holders and creditors with the insurance company.

[12] At paragraph 8 of his said affidavit, Omax Gardner says that the Social Security Board was one of several ordinary creditors of CLICO with a balance of approximately EC$6.6 million. This sum is broken down further in terms of contracts of investment and the financial implications for CLICO.

[13] The affidavit ends in this way:

> "14. It is my view that to dispose of the most valuable asset of CLICO which is valued at EC$18.5 million for EC$11.5 million and especially in a situation that would yield only EC$4.9 million to the fund would be highly detrimental to the interest of the policy holders and the other creditors.
> 15. The Social Security as a creditor ought to stand in the same position as other creditors, which is behind the policy holders".

ISSUES

1. Whether the application made by the applicant can only be made under section [6]5(1)(b) of the Act

2. Whether on the interpretation of section 62(4) of the Act leave of the court is required to commence an action for specific performance and/or damages against CLICO.
3. Whether the court should grant Social Security Board leave to institute proceedings for specific performance with respect to the agreement of 2nd July 2010.

Statutory Scheme

[14] The issues that arise for determination point substantially to statutory interpretation which in turn is subset of the statutory scheme.

[15] The long title to the Insurance Act, 2009 says that it is an act to make provision for regulation the carrying on of insurance business and regulating the operation of Pension Fund Plan and for related matters. The Act seeks to be comprehensive in its application and there are five circumstances or situations in which it applies. Included are: (a) all local insurance companies and (b) all other insurance companies whether or not incorporated in Saint Christopher and Nevis, which carry on any class of insurance business in Saint Christopher and Nevis.

[16] In particular sections 61 to 77 of the Act deal with judicial management and winding up and the court and the Registrar of Insurance are given specific duties and powers which must be seen in the context of the legislative scheme.

ISSUE NO. 1

Whether the application made by the applicant can only be made under section [6]5[3](1)(b) of the Act?

[17] Section 65 of the Act bears the rubric: "Decision of the Court on Report of Judicial Manager" and subsection (1) thereto reads thus:

"(1) The court shall on the hearing of an application under section 64(2) –
(a) After hearing the Registrar, the Judicial Manager, and any other person who in the opinion of the Court ought properly to be heard; and

[3] The Court considers that the reference in section 55(1)(b) at paragraph 5 of the heading "Arguments and Submissions" to be typographical as section 55 deals with "Power to request information". And section 65(1)(b) appears to the Court to be the reference intended.

(b) After considering the report of the Judicial Manager;
make an order giving effect to the action which it considers in the circumstances to be most advantageous to the general interest of the policyholder of the registered company".

[18] In turn section 64(2) of the Act provides that: "The Judicial Manager shall, as soon as he or she has filed the report; furnish a copy of it to the Registrar and make a written application to the court for an order to give effect to the court of action stated in the report".

[19] Also relevant is section 62(4) of the Act. It provides that: "Where an application is made under this section for an order in respect of a registered insurance company all actions and the executions of all writs, summonses and other processes against the insurance company shall by virtue of this section be stayed and shall not be proceeded with, without the prior leave of the court unless the court directs otherwise".

Submissions

[20] It is submitted by learned counsel for the respondent that "[T]he only way this applicant can be before the court at this time is pursuant to the provisions of section 65(1)(b), and for the reason it is further submitted that the matter ought to be dismissed as being misconceived".

[21] The court interprets "at this time" to be a reference to the circumstance, as here, where an insurance company is under judicial management.

[22] Section 65(1)(b) is linked to section 64(2) which contemplates an application being made by the Judicial Manager after he has filed "the report". And section 65(1)(b) simply empowers the court to make an order based on certain criteria as prescribed. The submission therefore begs the question whether a section 64(2) application is the only one that can be made at this time.

[23] The applicant has not made any submission on the issue but, as noted before, an application has been made, in effect, under section 62(4) of the Act. This section is to be considered further in light of court actions taken in other jurisdictions under similar legislation.

[24] The court has already referred to sections 61 to 77 of the Act and the clear legislative purpose and in light of the respondent's submissions on the issue the court considers that it would be repugnant

to the scheme of the legislation of the judicial manager is to be the only person who is legally empowered to make an application having regard especially to the concluding words of section 65(1) being 'most advantageous to the general interest of the policyholders of the registered company'.

[25] A further point is that under section 62, which deals with application for judicial management, contemplates application being made by the Registrar, a registered insurance company and other persons making application in this context.

[26] The submission on behalf of the respondent speaks of the application before the court being misconceived, but the court takes the view that this submission goes to merits. But outside of that, the conclusion of the court is that other applications may be made outside of section 65(1)(b) of the Act.

ISSUE NO. 2

Whether on the interpretation of section 62(4) of the Act leave of the court is required to commence an action for specific performance and/or damages against CLICO

Submissions

[27] The following submissions were tendered on behalf of the applicant:

> "36. Social Security submits that notwithstanding no express reference in section 62(4) on whether leave was required for new actions, writs etc, the said subsection has to be interpreted purposively to include new actions, writs etc, in order to avoid absurdity, repugnancy or injustice which Parliament could not have intended.
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> 40. The literal meaning of the subsection (and as advocated by CLICO is) suggests that only existing matters out the time the judicial manager is appointed will be stayed and required leave to proceed. This means that new actions could therefore commence and proceed without leave. This literal interpretation creates the absurdity that existing litigants against CLICO need leave to proceed with their actions, but a new litigant can file an action and have it adjudicated without leave. Such an interpretation amounts at the very least to an injustice to existing litigants and the estate because this interpretation removes the required protection of leave.

Submissions on behalf of the respondent

[28] The basic submission on behalf of the respondent is in these terms:

> "[T]here is no basis upon which the Court can entertain this application for leave at this time. The subsection speaks entirely to matters which were in existence at the time of the application was made. The action before the Court was not in existence at the time was made and so it does not meet the requirements of the subsection, as the subsection does not apply".

The matter of interpretation

[29] It is common ground that the fulcrum of this issue rests in section 62(4) of the Act. And in essence the applicant is saying that for its purposes leave of the court is required while the respondent is saying that the court has no jurisdiction having regard to the history of the matter.

[30] Although the section has already been set out, it is prudent to do so again. The section reads thus:

> "4. Where an application is made under this section for an order in respect of a registered insurance company, all actions and the execution of all writs, summonses and other processes against and other processed against the registered insurance company shall, by virtue of this section, be stayed and shall not be proceeded with, without prior leave of the court unless the court directs otherwise".

[31] The matter of interpretation arises because of the position taken by the parties on the import of the said section 62(4) of the Act.

[32] Many authorities were cited to the court on the matter of interpretation. In this regard the court considers that the dictum of Madam Justice Hariprashad-Charles in Bebo Investments Limited v The Financial Secretary[4] sets the pace. These are her considerations in this regard:

> "It appears that the Court would only look to the rules of statutory interpretation when it is demonstrated that the anomalies are such that they produce absurdly or injustice which Parliament could not have intended or destroy the remedy established by Parliament to deal with the mischief which the Act is designed to combat. It is not enough that the words through clear lead to a manifest injustice".

[33] Also in Universal Caribbean Establishment v James Harrison[5] the dictum of Byron CJ, in this regard is similar:

[4] Claim No. BVIHC2007/0151

> "The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute considering it as a whole and in its context. It is only where the words of the statute are not clear and unambiguous that it is necessary to enlist aid for interpretation".[6]

[34] In its plain reading section 62(4) of the Act appears to apply solely to matters in train prior to the advent of the judicial manager. In this way since there is no prohibition against application subsequent to the appointment of the judicial manager and as such the matter of leave cannot arise. Herein arises the real distinction between the parties before the court.

[35] The case of Registrar of Insurance v British American Insurance Ltd (Under Judicial Management) was concerned with the said section 62(4) of the Act of Saint Christopher and Nevis. It concerned whether intervening applicants were entitled to have default judgment against the respondent. In the end the default judgments were permitted, but there is an important distinguishing fact which is that the intervening applicants filed their actions prior to the insurance company was placed under judicial management and as such was stayed and hence leave was necessary to proceed.

[36] His Lordship Mr. Justice Belle noted, however, that "the policy of the Act is that at this time the insurance company is permitted to take these steps to protect itself, policyholders and other customers of the insurance company. The stay provides a certain kind of protection".

[37] So for Justice Belle, the essence of the stay is protection of the insurance company. He did not have to deal with an application subsequent to the judicial manager's appointment.

[38] Such an issue arose in Renee Cenac v British American Insurance Limited[7]. This is a case grounded in Saint Lucia and which has legislation governing insurance companies that is similar in its terms. In fact section 40(4) of the Insurance Act is identical terms to section 62(4).

[39] In delivering her decision the learned trial judge Madam Justice Rosalyn E Wilkinson said that "the Act is silent on the considerations for an application as that of the Claimant…". She went on to be "guided by the consideration set out in (1) Fashoof UK Limited t/a Michino (2) Forall Confeziori

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[5] Civil Appeal No 21/1993 (Antigua & Barbuda)
[6] See also: Savarin v John Williams [1995] 51 WIR 75
[7] Claim No SLUHCV2010/0180

SPA v (1) Martin Henry Linton, (2) Baron Jon Menswear Ltd[8] where the court adopted the considerations set out in Re: Computer Systems[9]. In this latter case Nicholls LJ in making some general observations regarding case where leave is sought to exercise existing proprietary rights, including security rights against a company in administration said, in part, as follows:

"(1) It is in every case for the person who seeks leave to make out a case for him to be given leave.

(2) The prohibition in section 11(3)(c) and (d) is intended to assist the company, under the management of the administrator, to achieve the purpose for which the administration order was made, if granting leave to a lessor of land or the hirer of goods (a 'lessor') to exercise his proprietary rights and repossess his land or goods is unlikely to impeded the achievement of that purpose, leave should normally be given.

(3) In other cases when a lessor seeks possession the court has to carry out a balancing exercise, balancing the legitimate interests of the lessor and the legitimate interests of the other creditors of the company: see per Peter Gibson J. in Royal Trust Bank v Buchler [1989] B.C.L.C. 130, 135. The metaphor employed here, for want of a better, is that of scales and weights. Lord Wilberforce adverted to the limitations of this metaphor in *Science Research Council v Nassé* [1980] A.C. 1028, 1067.

(4) In carrying out the balancing exercise great importance, or weight, is normally to be given to the proprietary interests of the lessor. Sir Nicolas Browne-Wilkinson V.-C. observed in *Bristol Airport Plc v Powdrill* [1990] Ch. 744, 767_{D-E} that, so far as possible, the administration procedure should not be used to prejudice those who were secured creditors when the administration order was made in lieu of a winding up order.

(5) Thus it will normally be a sufficient ground for the grant of leave if significant loss would be caused to the lessor by a refusal. For this purpose loss comprises any kind of financial loss, direct or indirect, including loss by reason of delay, and may extend to loss which is not financial. But is substantially greater loss would be caused to other by the grant of leave, or loss which is out of all proportion to the benefit which leave would confer on the lessor that may outweigh the loss to the lessor caused by a refusal. Our formulation was criticized in the course of the argument, and we certainly do not claim for it the status of a rule in those terms. At present we say that it appears to us the nearest we can get to a formulation of what Parliament had in mind.

(6) In assessing these respective losses the court will have regard to matters such as: the financial position of the company, its ability to pay the rental arrears and the continuing rentals, the administrator's proposals, the period for which the administration order has already been in force and is expected to remain in force, the effect on the administration is leave were given, the effect on the applicant is leave were refused, the end result sought to be achieved by the administration, the prospects of the result being achieved, and the history of the administration so far.

(7) In considering these matters it will often be necessary to assess how probable the suggested consequences are. Thus is loss to the applicant is virtually certain is leave is refused, and loss to others a remote possibility if leave is granted, that will be a powerful factor is favour of granting leave.

[8] [2008] EWHC 537 at para 77

[9] [1992] Ch 505, 542-544

(8) This is not an exhaustive list. For example, the conduct of the parties may also be a material consideration in a particular case, as it was in *Bristol Airport* case. There leave was refused on the ground that the applicant had accepted benefits under the administration, and had only sought to enforce their security at a later state: indeed, they had only acquired their security as a result of the operations of the administrators. It behoves a lessor to make his position clear to the administrator at the outset of the administration and, if it should become necessary, to apply to the court promptly.

(9) The above considerations may be relevant not only to the decision whether leave should be granted or refused, but also to a decision to impose terms if leave is granted.

(10) ….

(11) The above observations are directed at a case such as the present where a lessor of land or the owner of goods is seeking to repossess his land or goods because of non-payment of rentals. A broadly similar approach will be applicable on many applications to enforce a security: for instance, an application by a mortgage for possession of land. On such applications an important consideration will often be whether the applicant is fully secured. If he is, delay in enforcement is likely to be less prejudicial than in cases where his security is insufficient.

(12) In some cases there will be a dispute over the existence, validity or nature of the security which the applicant is seeking leave to enforce. It is not for the court on the leave application to seek to adjudicate upon that issue, unless (as in the present case, on the fixed or floating charge point) the issue raises a short point of law which is convenient to determine without further ado. Otherwise the court needs to be satisfied only that the applicant has a serious arguable case".

[40] There are several observations to be made regarding Lord Justice Nicholls' dictum. These include: the fact that specific English legislation is in issue; the requirement that the applicant should make out the case; circumstances of; significant loss and the grant of leave; probable consequences of the refusal of leave; the imposition terms, and the limits of the court in adjudicating on the application.

[41] Some of these observations are relevant in this context and will be examined later in relation to Issue No. 3.

[42] In the end Madam Justice Rosalyn E. Wilkinson ruled in relation to section 40(4) of the Saint Lucia analogue as follows:

> "I disagree with counsel for the Defendant that section 40(4) is not applicable to the application by the Claimant. The order made on 11th December 2009, specifically states that the management of the Defendant continues to be vested in the judicial manager. If it were not vested in the judicial manager pursuant to section 40 then the Claimant need not seek leave of the court since the Act is silent as to what happens with an application such as the Claimant's when control is in the court".

[43] The short point regarding Madam Justice Rosalyn E. Wilkinson's ruling is that section 40(4) extends to actions that were not in existence before the appointment of the judicial manager. This Court accepts and wishes to add further reasoning to the issue is terms of the matter of interpretation.

[44] To begin with, the comprehensive nature of the legislative scheme has been noted in terms of the regulation of insurance companies so that in this context the question must be whether Parliament intended actions arising after the appointment of the judicial manager to be proceed without leave of the court. The applicant characterizes this as an injustice. This in turn raises the method by which the intention of Parliament is determined or ascertained by the court.

[45] Mention has already been made of the dictum of Madam Justice Hariprashad-Charles to the effect that the court would look at rules of statutory interpretation if there arises an absurdity or injustice. On the other hand in Pepper v Hart[10] Lord Griffiths speaking on the issue in the House of Lords said this:

> "The days have long passed when the courts adopted a strict constructionist view of interpretations which required them to adopt the literal meaning of language. The courts now adopt a purposive approach which seeks to give effect to the true purpose of legislation…".

[46] There can be no doubt that the true purpose of the legislation is to regulate insurance companies and for related matters. This is stated in the long title. And in relation to section 62(4) of the said Act the court cannot accept the anomaly or injustice advanced by the respondent that only existing actions require leave of the court proceed. On the contrary, as submitted by the applicant the section is part of the regulatory power given to the court to protect insurance companies against claims that would impeded the purpose for which the administrative order for judicial management was made. Indeed, the filing of unrestricted actions has the potential to defeat the whole purpose of an insurance company being in administration or judicial management. It is considered that Parliament could not have intended such a result.

[47] It is therefore the conclusion of the court that section 62(4) of the Act must be interpreted purposively to mean that for actions in existence prior to the appointment of the judicial manager leave of the court is required and such leave is also required with respect to purposed actions as to

[10] [1993] 1 All ER 42, 50

say otherwise would be repugnant to the comprehensive scheme of the legislation to regulate insurance companies of all types or categories and all persons connected therewith, at all times.

ISSUE NO. 3

Whether leave should be granted to the Social Security Board

[48] In his affidavit in opposition, the judicial manager deposes in part as follows:

> "3. I have reviewed the agreement of 2nd July 2010 between CLICO and the Social Security Board and taken advice thereon.
> 4. I am of the view that this agreement if enforced, would be detrimental to the interest of the Policyholders.
> 5. I have already made application to the court as part of my report asking that this said agreement be cancelled either unconditionally or subject to such consideration as the court may deem necessary".

[49] Further in a letter dated 6th May, 2011 from counsel for CLICO to Mr. Sylvester Anthony, counsel for the applicant, the following is stated:

> "My client instructs that it is now under judicial management and that the Judicial Managers[11] have requested a maximum of a week to apprise themselves of the transaction before giving final approval".

[50] It is a condition precedent to the grant of leave that the agreement identified should exist. The court has no doubt in this regard in the view of the judicial manager's affidavit in opposition, the letter from counsel for CLICO and the judicial manager's report.

[51] One of the considerations advanced by Lord Justice Nicholls in Re Atlantic Computer Systems Plc for the grant of leave is whether the applicant has made out its case.

[52] In this regard the following is reproduced from the submissions on behalf of the applicant:

> "60. There is a validly constituted legal agreement between Social Security Board and CLICO for the purchase of Douglas Estate for the contract price of $11.5 million. Time was made the essence of this agreement. Social Security Board was at all material times ready and willing and able to complete the sales agreement. CLICO has at all material times delayed and/or failed to complete the sales agreement, while continuously assuring Social Security Board that they intended to complete the agreement.

[11] Sic

61. On or about February 23, 2010 the Judicial Manager indicated to counsel for the Social Security Board that he was in the process of completing the report for the court and intended to seek the court's permission to complete the transaction between CLICO and Social Security Board contrary to the Judicial Manager's assertion that enforcement of the said agreement will be detrimental to policyholders and creditors.

62. We submit based on the facts in this case there is at the very least, an arguable case for specific performance of the said agreement. In the case of Elise Meyer v Shoal Bay Development Corporation at paragraph 123 the court citing Chitty stated that

> '[T]he term specific performance 'specific performance' refers to the remedy available to equity to compel a person actually to perform a contractual obligation where a person has under a contract become liable to pay a fixed sum of money, the actual performance of that obligation can be enforced by bringing an action for that sum'.

We submit that based on the action if CLICO, equity favours the granting of specific performance of the said agreement of sale between the parties. Indeed, the Judicial Manager has not provided the court with any probative evidence of prejudice to the Estate".

[53] Lord Justice Nicholls has restated[12] the rule that at the stage of obtaining leave, the Court is not concerned with merits, but rather with whether a prima facie case has been made out.

[54] In this connection the court considers the following: the date of the agreement, being 2nd July 2010; paragraph 8 of the agreement which states that "Time shall be the essence of the Agreement"; a plethora of correspondence[13] between the parties seeking to have the agreement completed; paragraph 3 of Omax Gardner's affidavit in opposition, where he deposes that he has reviewed the agreement of 2nd July 2010 between CLICO and the Social Security Board and has taken advice thereon; paragraph 4 of the Omax Gardner's said affidavit where he further deposes that he is "of the view that this agreement if enforced, would be detrimental to the interest of the policyholders"

[55] Another matter to be considered in this context is the conduct of the parties[14]. This may be classified as understanding, patience and accommodation on the part of the applicant and a failure to honour promises and undertakings as far as the respondent is concerned.

[56] The court considers that the applicant has made out its case; and matters examined above are overwhelmingly in favour of the applicant's case especially since the judicial manager has failed to show the nature and extent to which the completion of the agreement will be detrimental to the

[12] In Re Atlantic Computer Systems Plc at page 544
[13] See Affidavit of Kerissa Cozier and the correspondence exhibited as KC1 to KC11.
[14] Per Lord Justice Nicholls in Re Atlantic Computer Systems Plc, supra

policyholders. Nor did he depose as to who the advice taken by him came from and the nature of such advice.

[57] In all the circumstances the applicant is granted leave to bring an action for the specific performance relating to the agreement of 2nd July 2010.

ORDER

IT IS HEREBY ORDERED AND DECLARED as follows:

1. An application for leave to institute proceedings against the respondent may be made outside of section 65(1)(d) of the Insurance Act;
2. Section 62(4) of the Act must be interpreted purposively to mean that any proposed action after the appointment of the judicial manager must seek leave of the court, as to say otherwise would be repugnant to the comprehensive scheme of the Act as a whole which is aimed at regulating insurance companies of all types or categories and all those connected therewith, at all times;
3. Having regard to all the circumstances leave is granted to the applicant to institute an action for specific performance with respect to the agreement of 2nd July 2010;
4. The respondent must pay the applicant $3500.00 in costs.

Errol L Thomas
High Court Judge (Ag)

Apology

The Court wishes to tender a sincere apology for the tardiness of this decision. The reason for this inordinate delay lies on the fact that all the submission were not received until 3rd December 2012 when in fact the order of the court was all submissions were to be filed on or before 23rd July 2012.

The practice with respect to submissions filed as that they are brought to the judge shortly after filing. But when this did not materialize and the court became concerned, as it was considered to be a matter of quasi

governance, and apart from enquiries made at the High Court, one attorney at the end of a Chamber hearing was asked about submissions from his side. Learned counsel indicated that the submissions were filed on 23rd July 2012.

It is hoped that this apology will be accepted by all concerned in the spirit in which it is given and in the context of the factual matrix detailed above.