

IN THE CARIBBEAN COURT OF JUSTICE  
APPELLATE JURISDICTION

ON APPEAL FROM THE COURT OF APPEAL OF BARBADOS

CCJ Application No BB/A/CV2023/001  
BB Civil Appeal No 5 of 2021

BETWEEN

GRAHAM BETHELL

APPLICANT

AND

ROYAL BANK OF CANADA  
(BARBADOS) LIMITED

RESPONDENT

Before: Mr Justice Anderson  
Mr Justice Barrow  
Mr Justice Burgess

Date of Judgment: 18 August 2023

Appearances

Mr Bryan Weekes for the Applicant/Intended Appellant

Mr Garth Patterson KC for the Respondent/Intended Respondent

*Practice and Procedure – Appeal – Leave to appeal – Special leave — Criteria for grant of special leave – Application for leave to extend the time required to file notice of appeal – Court of Appeal dismissed application – Application for special leave failed to identify relevant factors – Supreme Court (Civil Procedure) Rules 2008.*

**Cases referred to:**

*Bethell v Royal Bank of Canada (Barbados) Ltd* (Barbados CA, 16 February 2023); *CGI Consumers Guarantee Insurance Co Ltd v Trident Insurance Co Ltd* (Barbados CA, 16 February 2016); *Ifill v A-G of Barbados* (2014) 85 WIR 81.

**Legislation referred to:**

**Barbados – Supreme Court (Civil Procedure) Rules 2008.**

**JUDGMENT**

**Barrow J (Anderson and Burgess JJ concurring)**

**BARROW J:**

[1] For the reasons given by Cumberbatch JA delivering the judgment of the Court of Appeal,<sup>1</sup> which was a model of clarity that entirely disposed of all the arguments now repeated to this Court, the present application for special leave to appeal is dismissed.

[2] The application was for leave to appeal the decision by the Court of Appeal refusing to grant the Applicant an extension of time for appealing the underlying High Court decision, after the time for appealing had expired.

[3] Nothing more can usefully be said because in the face of the full exposition by the Court of Appeal that it was dismissing the application because it failed to satisfy the requirements stated in the Supreme Court (Civil Procedure) Rules 2008, counsel persisted in his failure. As the court stated, the application needed to show why it would be in the interests of justice to extend time for appealing the dismissal of the counterclaim, as required by r. 62.1(2) and to present special reasons for extending time for appealing the order for summary judgment, as required by r 62.6 (3) of the Rules. Instead of addressing the requirements, as adumbrated in a number of decisions<sup>2</sup> examined by the Court of Appeal, that stated what were the factors that needed to be shown, the application argued that

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<sup>1</sup> *Bethell v Royal Bank of Canada (Barbados) Ltd* (Barbados CA, 16 February 2023).

<sup>2</sup> *CGI Consumers Guarantee Insurance Co Ltd v Trident Insurance Co Ltd* (Barbados CA, 16 February 2016); *Ifill v A-G of Barbados* (2014) 85 WIR 81.

special reasons consisted of the same grounds and a proposed (new) ground of appeal on the merits, which had been roundly rejected by the Court of Appeal as incapable of succeeding.

[4] As may be gathered, in consequence of failing to address the required factors needed to satisfy the Rules, the application failed to identify what factors the Court of Appeal failed to consider. The application simply argued that the Court of Appeal erred in concluding that special reasons had not been shown. As we have concluded, there was no substance to that argument.

### **Disposition**

[5] The Applicant has not satisfied the test for special leave and this Court orders that -

- i. The application for special leave be and is hereby dismissed.
- ii. The application for leave to file and serve an amended Notice of Application for Special Leave to appeal pursuant to r 9.13 of the Caribbean Court of Justice Appellate Jurisdiction Rules 2021 is also dismissed.
- iii. The Applicant must pay the costs of the Respondent, to be assessed if not agreed.

/s/ W Anderson

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**Mr Justice Anderson**

/s/ D Barrow

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**Mr Justice Barrow**

/s/ A Burgess

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**Mr Justice Burgess**