IN THE CARIBBEAN COURT OF JUSTICE
APPELLATE JURISDICTION

ON APPEAL FROM THE COURT OF APPEAL OF BELIZE

CCJ Application No BZ/A/CV2024/001
BZ Civil Appeal No 15 of 2017

BETWEEN

KYLE POUND
DARIN POUND
(Both in substitution for Thomas Pound, deceased)
KINGDOM FIRST MINISTRIES INTERNATIONAL **APPLICANTS**

AND

GEORGE DUECK **RESPONDENT**

Before: **Mr Justice Anderson**
Mr Justice Burgess
Mme Justice Ononaiwu

Date of Reasons: **17 January 2025**

On Written Submissions

Mr Immanuel P O Williams for the Applicants

Rt Hon Dean D Barrow, SC and Ms Agassi Finnegan for the Respondent

Practice and Procedure – Appeal – Special leave – Abuse of process – Failure to seek leave to appeal from Court of Appeal within stipulated time period – Failure to seek special leave within stipulated time period or apply for an extension of time –Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024 rr 5.4, 10.3 (1), 10.13.

SUMMARY

This judgment concerns an application for special leave filed on 13 November 2024 to appeal against the decision of the Court of Appeal of Belize dated 18 April 2024.

A series of transactions in Belize passed between Mr Thomas Pound, a real estate broker in the United States of America ('USA') and a Christian missionary, and Mr George Dueck. Mr Dueck was at all material times the owner of the 120-acre parcel of land situated at Serango Bight, Stann Creek District, Belize. He intended to develop the land for tourism. To that end, Mr Dueck sought the assistance of Mr Pound. Relying on Mr Pound's representation that it was necessary to transfer the property to him to convince potential buyers in the USA of the true ownership of the property, Mr Dueck did the necessary transfers.

On 31 January 2014, the High Court of Belize delivered judgment in an action brought by Mr Dueck. The court found Mr Thomas Pound liable for misrepresentation and fraudulent conveyance. On appeal, the Court of Appeal of Belize upheld the High Court's findings relevant to liability but reduced the award of damages payable to Mr Dueck.

In these proceedings, Mr Thomas Pound, now deceased, is represented by the first and second Applicants, Kyle Pound and Darin Pound. The third Applicant, Kingdom First Ministries International, is a company that Mr Thomas Pound incorporated in Belize and to which he conveyed property transferred to him by Mr George Dueck. Mr Dueck is the Respondent.

The Applicants sought leave to appeal from the Court of Appeal on 7 June 2024, that is, outside of the 42-day period stipulated by r 10.3 of the Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024 ('the Rules'). Having no power to extend time, the Court of Appeal refused leave. Seemingly relying on r 10.13 of the Rules, the Applicants then approached this Court for special leave within 21 days of the Court of Appeal's 'refusal' of leave to appeal. This was some 209 days after the appellate judgment they sought to challenge.

This Court refused special leave on both procedural and substantive grounds. Procedurally, the Court affirmed that the correct interpretation of the Rules requires applications for leave

to appeal and special leave, as the case may be, to be made promptly. Where the application is made to the Court of Appeal outside of the 42-day period, the Court of Appeal has no jurisdiction to hear the application and an applicant's only recourse is to seek special leave from the Caribbean Court of Justice together with an extension of time pursuant to r 5.4 of the Rules. A belated application to the lower court with the intention to then apply for special leave to this Court without reference to r 5.4 amounts to an abuse of process.

Substantively, this Court also found that the Applicants did not meet the threshold for the grant of special leave and that there was no merit in the intended grounds of appeal.

For these reasons, this Court dismissed the application for special leave and the application for a stay of execution of the judgment of the Court of Appeal dated 18 April 2024 with costs to the Respondent to be assessed if not earlier agreed.

Cases referred to:

Agard v R [2016] CCJ 24 (AJ) (BB), BB 2016 CCJ 10 (CARILAW); *Andrewin v R* [2024] CCJ 24 (AJ) BZ; *Apsara Restaurants (Barbados) Ltd v Guardian General Insurance Ltd* [2024] CCJ 3 (AJ) BB, BB 2024 CCJ 1 (CARILAW); *Blackman v Gittens-Blackman* [2014] CCJ 17 (AJ) (BB), BB 2014 CCJ 5 (CARILAW); *Griffith v Guyana Revenue Authority* [2006] CCJ 2 (AJ) (GY), (2006) 69 WIR 320; *Guyana Sugar Corp v Dukhi* [2016] CCJ 17 (AJ) (GY); *Heeralall v Hack Bros (Constructing) Co Ltd* (1977) 25 WIR 117 (GY CA); *Hunter v Chief Constable of West Midlands* [1982] AC 529; *Lachana v Arjune* [2008] CCJ 12 (AJ) (GY), GY 2008 CCJ 15 (CARILAW); *Lisle-Mainwaring v Associated Newspapers Ltd* [2018] 1 WLR 4766; *Lovell v R* [2014] CCJ 19 (AJ) (BB), BB 2014 CCJ 7 (CARILAW); *McDonald v Rose* [2019] 1 WLR 2828; *Mitchell v Wilson* [2017] CCJ 5 (AJ) (GY); *Mohan v Persaud* [2012] CCJ 8 (AJ) (GY); *Nicholson v Nicholson* [2024] CCJ 1 (AJ) BZ, BZ 2024 CCJ 1 (CARILAW); *Omya UK Ltd v Andrews Excavations Ltd* [2022] Costs LR 1295*llimore v Hewson* [2020] 1 WLR 2175; *Pound v Dueck* (BZ CA, 18 April 2024); *Strachan v Gleaner Co Ltd* (JM CA, 18 December 1998).

Legislation referred to:

Belize - Caribbean Court of Justice Act, CAP 92, Supreme Court of Judicature Act, CAP 91, Supreme Court (Civil Procedure) Rules 2005.

Treaties and International Materials referred to:

Agreement Establishing the Caribbean Court of Justice (adopted 14 February 2001, entered into force 23 July 2002) 2255 UNTS 319.

Other Sources referred to:

Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024; Zuckerman A AS, *Zuckerman on Civil Procedure* (LexisNexis 2003).

REASONS FOR DECISION

Reasons:

ANDERSON J:

Introduction

[1] This is an application for special leave to appeal in respect of a matter which was commenced in the High Court of Belize some 15 years ago. The Applicants seek to appeal against the decision of the Court of Appeal of Belize that the High Court did not err in finding that the Applicants were liable for misrepresentation and fraudulent conveyance. The Court of Appeal varied the award by reducing the damages payable by the Applicants. In addition to the application requesting special leave, the Applicants also seek to stay the execution of the Order of the Court of Appeal pending the outcome of the application, and, should the application succeed, the appeal.

[2] An important feature of this application was that leave to appeal to this Court was first sought from the Court of Appeal of Belize. That application was refused because the Applicant had filed it out of time. It was consequent upon the refusal to grant leave that the application for special leave was made to this Court. The two Applicants are both in substitution for Mr Thomas Pound who died after the trial of this matter.

Background

[3] Thomas Pound was at all material times a real estate broker in the United States of America and a Christian missionary. Kingdom First Ministries International ('Kingdom First Ministries') was a not-for-profit organisation incorporated in Belize in October 2004 by Mr Pound and his wife. Mr George Dueck was at all material times a businessman based in Belize and the owner of the 120-acre parcel of land situated at Serango Bight, Stann Creek District, Belize. Mr Dueck intended to develop Serango Bight for tourism and required the support of investors. The two men became acquainted socially in 1994 and inclined towards a business relationship in which Mr Pound would assist Mr Dueck in sourcing investors and financiers for the project. On 3 November 1995, Mr Dueck executed a document entitled 'Act of Authority' which appointed Mr Pound 'Sole/executive agent' to 'work with the bankers, financiers, investors and developers to form a development plan, business and marketing plan and or sales agenda.' Various sums of money were expended by Mr Pound on the project as well as in-kind contributions. Mr Dueck's assertions were that in or around 2003, Mr Pound contacted him regarding prospective investors. At Mr Pound's request, two Powers of Attorney registered in Belize dated 6 January 2003 and 9 April 2003 with a three-month validity, were executed which enabled Mr Pound to market, develop and sell the property. Sometime after, Mr Pound informed Mr Dueck that he had three potential buyers. Consequently, in and around September 2003, Mr Dueck once more at the request of Mr Pound sent various documents related to the property.

[4] The nub of the misrepresentation claim was Mr Dueck's contention that the execution of the documents was predicated on Mr Pound's claim that none of the potential buyers trusted Mr Dueck and they wanted 'better proof that he held legal title to the property' and to be satisfied that Mr Pound was in control. Mr Pound claimed that a Power of Attorney was insufficient and that if he was able to show ownership, the buyers could be convinced to purchase. This could only be done by paper transfer, and it was Mr Dueck's reliance on this representation that triggered his conveyance of the entire property on 30 September 2003 to Mr Pound for the

nominal sum of BZD100,000. Mr Pound incorporated Kingdom First Ministries in October 2004 and in November 2004, conveyed by deed of gift several lots of Serango Bight to Kingdom First Ministries. In December 2005, Mr Pound conveyed the remainder of the Property to Kingdom First Ministries. In the period of December 2004 to September 2007, several of the lots were sold and mortgaged by Mr Pound.

[5] By Statement of Claim dated 7 May 2009, Mr Dueck applied for a declaration that the Deed of Conveyance dated 30 September 2003 recorded in the General Registry, Deeds Book vol 35 of 2003 at Folios 707-712 in which he transferred the property to Mr Pound was fraudulent, null, void and of no effect. He sought declarations that Thomas Pound acted fraudulently and that, by virtue of fraud and misrepresentation, the subsequent conveyances by which Mr Pound transferred ownership of the property to the then second Defendant, Kingdom First Ministries, also be declared null, void and of no effect. He further sought a declaration that Kingdom First Ministries' corporate veil be lifted to reveal it was the alter ego of Thomas Pound. He also sought various consequential orders including orders for damages caused by conveying and mortgaging the property.

[6] By judgment dated 31 January 2014, the High Court held in favour of Mr Dueck. The judge found that Mr Pound had made the above representations to Mr Dueck and that the representations made were those of facts and not of promises, that they were false, and that Mr Pound knew them to be so when he made them. Mr Dueck accepted those representations to be true, relied on them and cooperated fully with Mr Pound's wishes in finally conveying the whole of Serango Bight to Mr Pound, thereby suffering substantial loss and damage. The High Court ordered several declarations essentially entitling Mr Dueck to the property, declaring Mr Pound and Kingdom First Ministries to have acted fraudulently and ordered damages in favour of Mr Dueck for fraudulent conveyances of the property. The damages were to be calculated on the market price of those properties estimated at USD50,000 per lot with interest (being prejudgment interest on all damages awarded at the commercial

rate of nine per cent per annum from the date the fixed date claim form was filed until judgment).

[7] By judgment dated 18 April 2024, the Court of Appeal upheld the 'very clear and definitive findings of fact' made by the trial judge, noting that these findings were based not only on the judge's first-hand assessment of the witnesses and their credibility but were also supported by documentary evidence and the circumstances of the transaction.[1] The Court of Appeal considered that the findings of the trial judge were justifiable in light of the factual evidence, as was the trial judge's review of the law and evidence.[2] The Court of Appeal found that the Claimant's pleadings in the High Court specifically alleged fraud and provided the Defendants with sufficient notice and particulars of the fraud alleged.

[8] There was one respect in which the Court of Appeal differed from the High Court. The Court of Appeal considered that the award of damages did not do justice between the parties given the undisputed evidence of contributions of Mr Pound to the development and improvement of the property. The finding by the High Court that these contributions did not constitute consideration for transfer of the properties, and that the court's observation that there had not been a counterclaim for damages, whilst both true, did not mean that the contributions ought not to be taken account of when assessing the damages payable to Mr Dueck. The Court of Appeal altered the order of the trial judge as it related to the assessment of damages to reduce the sums payable to Mr Dueck by USD251,619.56 being the sum that Mr Dueck accepted that Mr Pound had invested in Serango Bight, together with consequential interest. Mr Dueck was to receive 75 per cent of his costs of the appeal.

The Application for Special Leave

[9] Notice of the application for special leave was filed with this Court on 13 November 2024. The Applicants sought permission to argue three main grounds of appeal. In

[1] *Pound v Dueck* (BZ CA, 18 April 2024) at [20].
[2] ibid at [23].

summary, these were that the Court of Appeal erred (1) in finding that the particulars of fraudulent misrepresentation were sufficiently pleaded and/or particularised in the pleadings, (2) in upholding the trial judge's factual findings of fraudulent misrepresentation, and (3) by assessing damages itself rather than remitting the issue to the High Court of Belize for proper assessment. An Affidavit in Opposition was filed by Mr Dueck opposing the grant of special leave.

[10] To succeed in the application, the Applicants must show a real prospect of success on at least one of the proposed grounds. The practice of the Court has been that it will grant special leave if there has been either an egregious error of law or a substantial miscarriage of justice. See *Mohan v Persaud*.[3] Special leave will be rejected if the Court finds that the intended grounds of appeal have no realistic chance of success. See *Griffith v Guyana Revenue Authority*.[4]

(1) Preliminary Issue

[11] As it appears to us, there is an issue preliminary to the consideration of the likelihood of success of the proposed grounds of appeal. As earlier indicated, an application was first made to the Court of Appeal for leave to appeal to this Court. The judgment of the Court of Appeal had been delivered on 18 April 2024 but the application for leave to appeal was not made until 7 June 2024, some 50 days after the judgment was delivered.

[12] The Rules of Court applicable to this application are the Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024, made pursuant to Article 25 of the Caribbean Court of Justice ('CCJ') Agreement and incorporated by the Caribbean Court of Justice Act into the domestic law of Belize[5]. The Appellate Jurisdiction Rules of 2024 were approved on 24 May 2024 and apply to appeals in existence at that date unless the Court directs otherwise.

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[3] [2012] CCJ 8 (AJ) (GY).
[4] [2006] CCJ 2 (AJ) (GY), (2006) 69 WIR 320.
[5] CAP 92, ss 2, 3.

[13] Rule 10.3 provides that:

> (1) An application to the court below for leave to appeal shall be made by notice in writing within forty-two (42) days of the date of the judgment from which leave to appeal is sought *and no extension of time shall be granted by that court* (emphasis added).

[14] Rule 10.13 is entitled 'Special leave to appeal to the Court' and provides:

> An application for special for leave to appeal may be made to the Court in writing within forty-two (42) days of the date of the judgment from which special leave to appeal is sought, or in cases in which leave to appeal has been sought from the court below, within twenty-one (21) days of the refusal or rescission of such leave.

[15] Rule 10.13 would appear to offer two routes to an applicant for special leave. The applicant may approach this Court (1) directly within 42 days of the judgment of the Court of Appeal, or (2) within 21 days of refusal or rescission of leave to appeal by the Court of Appeal. In both cases the application is one for special leave.

[16] The Applicants clearly did not approach the Court directly for special leave within the stipulated 42 days. Indeed, the application was made some 209 days after the judgment from which special leave to appeal was sought. Rule 5.4 makes specific exceptions to time-limits. The rule allows for any time-limit to be extended for good and substantial reasons. It further requires that any such extension shall be sought by application to the Court. There is a growing jurisprudence in the Court as to what may constitute 'good and substantial reasons': *Andrewin v R*[6]; *Agard v R*[7]; *Lovell v R*[8]. Suffice it to say that in relation to this application there was no discernible attempt to offer any reasons for the delay and no application was made to the Court for an extension of time pursuant to r 5.4. In the absence of such an

[6] [2024] CCJ 24 (AJ) BZ.
[7] [2016] CCJ 24 (AJ) (BB), BB 2016 CCJ 10 (CARILAW).
[8] [2014] CCJ 19 (AJ) (BB), BB 2014 CCJ 7 (CARILAW).

application, this Court has no jurisdiction to entertain the special leave application under the first head of r 10.13: *Blackman v Gittens-Blackman*,[9] *Mitchell v Wilson.*[10]

[17] The Applicants seemingly attempt to place reliance on the 21 days mentioned in r 10.13 for the making of the application to the CCJ, following refusal of the application by the Court of Appeal on 24 October 2024. This reliance is misplaced. Under r 10.3, an applicant must approach the Court of Appeal for leave within 42 days of the judgment from which leave to appeal is sought. As emphasised in the text of the rule, reproduced earlier, there is explicit provision that no extension of time shall be granted by the Court of Appeal. In the present proceeding, the actual wording of the Order of the Court of Appeal was that '*The application for leave to appeal filed on June 7, 2024, is refused, the application having been filed out of time and the court not having any power to extend time*.'

[18] The lack of power to extend time raises the deeper question of whether the Court of Appeal had jurisdiction to entertain the application after the 42-day period had expired. It is the repeated jurisprudence of this Court that in the absence of an extension of time, it has no jurisdiction to entertain a late application for special leave. See *Blackman*[11] and *Mitchell.*[12] The decision of the Court of Appeal of Jamaica in *Strachan v Gleaner Co Ltd*[13] is to a similar effect. More on point are several English cases which had held that where no application is made to the lower court within the prescribed time, that lower court is no longer seized of the matter and cannot consider any retrospective application for leave to appeal.[14]

[19] The CCJ adheres to the overriding objective of the Rules of Court[15] which is to ensure that the Court is accessible, fair, and efficient and that unnecessary disputes over procedural matters are discouraged. But this does not mean that the guard rails

[9] [2014] CCJ 17 (AJ) (BB), BB 2014 CCJ 5 (CARILAW).
[10] [2017] CCJ 5 (AJ) (GY).
[11] *Blackman* (n 9).
[12] *Mitchell* (n 10).
[13] (JM CA, 18 December 1998) at 10 (Patterson JA).
[14] *Lisle-Mainwaring v Associated Newspapers Ltd* [2018] 1 WLR 4766 followed in *Omya UK Ltd v Andrews Excavations Ltd* [2022] Costs LR 1295; *McDonald v Rose* [2019] 1 WLR 2828.
[15] Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024 r 1.3.

for the orderly conduct of matters can be ignored. As Nelson J said in *Blackman*, 'Litigants are not free to ignore time limits and then seek refuge behind the "overriding objective."'[16]

[20] In the present case, the application for leave to appeal was made after the expiry of the prescribed period of 42 days and in face of the rules which expressly state that the Court of Appeal has no power to extend the period. The applicants' construction of the Rules of Court would appear to allow for a lengthy delay in applying to the Court of Appeal for leave to appeal and then, upon refusal of leave, to apply to the CCJ for special leave. This was not the intention of the framers of the Rules. The intent was for applications for leave to appeal, or for special leave to appeal, to be filed promptly. Timeous filing is one component of instilling discipline in litigation and in the judicial proceedings. Putting off the application serves no obvious useful function, increases delay, and can often create a risk of procedural complications. The onus is on the party who may wish to appeal to decide early whether to appeal and to act speedily upon the decision to appeal. It is not desirable to keep the other party in a state of uncertainty concerning the result of the case. It is also not in the public interest. The sooner litigation is ended, the better.

[21] It is well established that the Court has inherent jurisdiction to safeguard its authority and processes from being undermined by inappropriate use of its procedures. Whether a particular conduct amounts to an abuse of process must be considered in its context and by reference to the overriding objective of the Rules of Court. An important aim of the abuse of process jurisdiction is to enable the Court to deal with problems to which the rules either provide unsatisfactory solutions or altogether fail to address. See, for example, *Hunter v Chief Constable of West Midlands*.[17]

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[16] *Blackman* (n 9) at [6].
[17] [1982] AC 529. See also Adrian AS Zuckerman, *Zuckerman on Civil Procedure* (LexisNexis 2003) 414, para 10.175.

[22] Under the CCJ (Appellate Jurisdiction) Rules 2024, if there has been no application for leave made to the Court of Appeal, or for special leave made to the CCJ, within 42 days of judgment, the only route that remains available to an applicant wishing to appeal is to directly apply to the CCJ for special leave and for an extension of time pursuant to r 5.4 on the basis that there are good and substantial reasons for the delay. A belated application to the lower court with the intention to then apply for special leave to this Court without reference to r 5.4 does not suffice. Such a manoeuvre amounts to an abuse of process.

(2) Proposed Grounds of Appeal

[23] The foregoing is sufficient to dispose of the application. However, on this occasion, for the sake of completeness and out of deference to the contentions regarding the proposed grounds of appeal, the Court finds it useful to indicate that, in any event, there is no merit in the intended grounds of appeal.

[24] The applicants seek to argue that the Court of Appeal erred in determining that fraudulent misrepresentation was sufficiently particularised. Rule 8.7 of the Supreme Court (Civil Procedure) Rules 2005 (BZ) ('CPR') provides that the claimant must include in the claim form or in the statement of claim a statement of all the facts on which the claim relies. This is further reinforced by the CPR, which mandates that all parties disclose the facts upon which they rely. In *Nicholson v Nicholson*[18] this Court emphasised that pleadings are the guard rails which guide the commencement, progression, and disposition of the case, and that the rules governing pleadings are mandatory and are to be complied with by the parties.

[25] The High Court and the Court of Appeal both determined that Mr Dueck's statement of claim disclosed adequately the allegations of fact made against Mr Pound and provided sufficient notice and particulars of the alleged fraud. Interestingly, the assertion that there had been a failure to provide the requisite

[18] [2024] CCJ 1 (AJ) BZ, BZ 2024 CCJ 1 (CARILAW) at [154].

particulars of the alleged fraudulent misrepresentation was immediately followed by the assertion that the misrepresentation was not substantiated during the cross-examination.[19] There is nothing in the affidavit of Mr Pound that would cause this Court to question the decision of the courts below on the particularisation of the pleadings.

[26] The Applicants found fault with the concurrent findings of fraudulent misrepresentation which led to the conveyance of the property. The trial judge was said to have committed mistakes by engaging in selective use of testimony and holding Mr Pound to a higher standard because he was 'a man of the cloth'.[20] The Court of Appeal was said to have failed in adequately reviewing the trial judge's findings of fact.[21] However, the Court of Appeal found that the trial judge had made very clear and definitive findings of fact which were based not only on her assessment of the witnesses and their credibility, but which were also supported by documentary evidence and the circumstances of the transaction. Resisting the invitation to form a different view of the evidence, the Court of Appeal held that upon a review of the Record of Appeal, '… the findings made by the Trial Judge were justifiable in light of the factual evidence and the Judge's first-hand assessment of the credibility of the witnesses.'

[27] This Court has developed a body of jurisprudence regarding the circumstances in which it would overturn concurrent findings of fact. The most recent discussion of the subject occurred in *Apsara Restaurants (Barbados) Ltd v Guardian General Insurance Ltd*,[22] where it was affirmed that concurrent findings of fact deserve appropriate deference from this apex Court. The Court considered that the 'more flexible approach' which had been expressed in the earlier case of *Lachana v Arjune*[23] was now 'to be interpreted as no more than the willingness to entertain arguments to overturn concurrent findings of fact in "exceptional" cases where

[19] Record, 'Affidavit of Kyle Pound', para 16.
[20] ibid para18.
[21] ibid para19.
[22] [2024] CCJ 3 (AJ) BB, BB 2024 CCJ 1 (CARILAW).
[23] [2008] CCJ 12 (AJ) (GY), GY 2008 CCJ 15 (CARILAW).

there has been some miscarriage of justice or violation of some principle of law or procedure.'[24] The Applicants have not identified any exceptional circumstances that would warrant this Court re-examining the concurrent findings of fact by the courts below.

[28] The allegation that the Court of Appeal erred in assessing damages instead of remitting the matter to the High Court for de novo consideration is based on the possibility of presenting additional evidence in mitigation of damages or addressing issues of quantification. There is also a suggestion that appellate assessment of damages infringed the constitutional right to be heard. But these arguments ignore the pertinent facts and law applicable in this case. At no stage in the 15-year odyssey of this litigation did the applicants plead or submit evidence relevant to mitigation or quantification of damages. As the trial judge observed there was no counterclaim. In affirming the damages due to Mr Dueck, the Court of Appeal simply accepted the submission of the Applicants that the sum of USD251,619.56, a sum which Mr Dueck acknowledged he had received from Mr Pound for Serango Bight, ought to be deducted from the damages payable.

[29] The Court of Appeal had firm statutory support for correcting the award of damages. Section 120(1)(a) of the Supreme Court of Judicature Act[25] provides that the Court may 'affirm, modify, amend or reverse, either in whole or in part, the decision made by the inferior court with reference to the cause, or may render any decision which the inferior court ought to have made.' *Phillimore v Hewson*,[26] commenting on the UK CPR 52.20(2) which is similarly worded to s 120(1)(a) of the Supreme Court of Judicature Act, stated that the power of an appeal court is wide enough to 'encompass those matters which are consequential to a successful appeal and which are necessary in order for the court to do justice in the appeal which is before it.' To similar effect, see *Guyana Sugar Corp v*

[24] ibid at [59] (Anderson J).
[25] CAP 91, s 120(1)(a).
[26] [2020] 1 WLR 2175 at 2182.

Dukhi[27]and *Heeralall v Hack Bros (Constructing) Co Ltd*[28] concerning appellate intervention on the question of the quantum of damages. This proposed ground of appeal holds no prospect of success.

[30] In the circumstances, the application for special leave is an abuse of the process of the Court, and in any event, the proposed grounds of appeal offer no realistic chance of succeeding.

Disposition

[31] The application for special leave and the application for a stay of the execution of the judgment of the Court of Appeal dated 18 April 2024 are dismissed with costs to the Respondent to be assessed if not earlier agreed.

/s/ W Anderson

Mr Justice Anderson

/s/ A Burgess

Mr Justice Burgess

/s/ C Ononaiwu

Mme Justice Ononaiwu

[27] [2016] CCJ 17 (AJ) (GY).
[28] (1977) 25 WIR 117 (GY CA).