



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE

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CARIBBEAN COURT OF JUSTICE DELIVERS JUDGMENT IN THE BATTLEYS (BARBADOS) LIMITED v KAUPHTUNG SINGER & FRIEDLANDER LIMITED, CHRISTOPHER SAMBRANO CRAIG WATERMAN & BM HOLDCO LIMITED

CCJ SAYS NO TIME EXTENSIONS FOR APPEALS WITHOUT MERIT

The Caribbean Court of Justice (CCJ) having heard and decided the case on Wednesday 11th March 2015, today delivered its written reasons in *Battleys (Barbados) Limited v Kaupthung Singer & Friedlander Limited, Christopher Sambrano Craig Waterman & BM Holdco Limited*. The Court dismissed Battleys' three applications for special leave to appeal the decision of the Court of Appeal of Barbados refusing injunctive relief, an extension of time to file the application for special leave and an application for an interim injunction pending the hearing of the appeal before the CCJ.

Battleys defaulted in its mortgage loan repayments owed to Kaupthung Singer & Friedlander Limited ('Kaupthung'), which appointed receivers over Battleys' property. Battleys then brought a claim alleging that the loans and mortgages were void and unenforceable as Kaupthung did not have the licence required under the Financial Institutions Act, Cap 324A. Battleys also sought an interim and a permanent injunction to prevent Kaupthung and its receivers from exercising their powers to dispose of its assets. The trial judge refused to grant an interim injunction pending hearing the case, so Battleys appealed this to the Court of Appeal. Pending

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this appeal to it, the Court of Appeal refused to grant Battaleys the injunction it sought which, as shown on the formal record, was worded as a permanent injunction. Battaleys filed an appeal to the CCJ a day late, arguing that it had considered itself to be seeking an interim injunction and had assumed the Court of Appeal appreciated this and so should have granted an interim injunction.

The CCJ refused to extend the time for filing the special leave application. It noted that such extensions are granted in cases which have a real prospect of succeeding in preventing a substantial miscarriage of justice. The Court held that the appeal was unmeritorious. The Court of Appeal in its reserved judgment had rightly focused on the wording of the claimed injunction, which had not been amended, and so had rightly refused the injunction permanently restraining the receivers on the basis that it had no jurisdiction to grant this type of relief that was an issue to be determined after the hearing of the action before the trial judge. The CCJ also noted that the explanations provided to explain the delay, namely the intervening holiday period and the attempts at settlement, were all foreseeable and warned attorneys to “keep a watchful eye on the deadline for filing notices of appeal to the CCJ.”

Because the special leave application had no chance of success the application for an extension of time was dismissed, and it followed that the other applications seeking special leave and an interim injunction also failed. The Applicant was ordered to pay the costs of the First, Second and Third Respondents. BM Holdco, the Fourth Respondent, took no part in the proceedings.

The Court was comprised of Justices Nelson, Wit and Hayton. Mr Alair Shepherd, QC and Mr Andrew Clarke appeared for the Applicant while the First, Second and Third Respondents were represented by Mr Garth St. E. W. Patterson, QC, Ms Tammi Pilgrim and Mr Bartlett Morgan.

The decision of the Court can be accessed at www.caribbeancourtjustice.org

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