



CARIBBEAN COURT OF JUSTICE

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CCJ DELIVERS JUDGMENT IN ITS FIRST MATTER FROM DOMINICA

CCJ, Port of Spain. Earlier today, the Caribbean Court of Justice delivered judgment in its first matter to come from Dominica. The Court dismissed the application and issued an order for the applicants, Marinor Enterprises Limited and Mr Michael Astaphan to pay First Caribbean International Bank (Barbados) Limited the sum of EC \$8000 costs. The dispute arose from a secured loan granted to Marinor by the Bank and guaranteed by Mr Astaphan. The defendants failed to service the loan and so in February 2006 the Bank sued to recover capital and interest due under its loan.

The defendants then filed their defence in October 2006 alleging that the Bank had been in breach of the loan agreement. They made two subsequent applications to amend their pleadings in 2009 and 2012. However, both were refused and such refusals were not appealed. The Judge subsequently ruled in 2012 in favour of the Bank's claim.

The defendants appealed against that ruling and, five weeks before their appeal was to be heard by the Court of Appeal on 11 November 2015, they filed an application to that court. This requested the court to permit further amendment to the notice of appeal to include as grounds of appeal the refusals to permit amendment of its pleadings in 2009 and 2012. On 11 November 2015 the Court of Appeal reserved its judgment on the amendment application and adjourned the appeal. In April 2016 it refused leave to amend the notice of appeal. In July 2016 it refused leave to appeal to the CCJ, so that the defendants applied to the CCJ for special leave to appeal.

The CCJ refused to grant special leave, having no reason to interfere with the exercise of the Court of Appeal's discretion that took account of the inordinate unexplained delay of the defendants in seeking to appeal refusals of their amendment applications.

The Court commented on the substantial delay in the conclusion of this matter noting that good case management practices would have facilitated the hearing of the amendment application at the same time as the hearing of the substantive appeal. The CCJ restated its view that judiciaries should be committed to addressing delays in order to ensure that the judicial process remains expeditious and fair to parties. The President of the Caribbean Court of Justice, Sir Dennis Byron, noted that the case was received by the Registry in December 2016 and disposed of within a few weeks. "It was important to us that this matter be decided expeditiously because of the delays" the CCJ President asserted.

Earlier this week the CCJ also decided the matter of *Leacock v Griffith*.

Dominica is the most recent Caribbean state to join the CCJ having done so in 2015, making it the fourth state to use the Court as a final court of appeal. The appeal was determined, using written submissions from the attorneys, by CCJ President, the Right Honourable Sir Dennis Byron and the Honourable Justices Wit, Hayton, Anderson and Rajnauth-Lee. The judgment was authored by Sir Dennis Byron. The judgment of the Court and an Executive Summary are available on the CCJ's website at www.ccj.org.

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