



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE
(For immediate release)

No. 12:2023
16 May 2023

CCJ DENIES SPECIAL LEAVE APPLICATION MADE BY EVICTED TENANT

Port of Spain, Trinidad and Tobago. Today, the Caribbean Court of Justice (CCJ) published its judgment denying special leave in the Barbadian case of *Ramnarace Ramassar v Stella Scantlebury* [2023] CCJ 7 (AJ) BB in which Ramassar had sought permission to appeal an ejection order obtained against him by his landlord. Ramassar, was a tenant at a property in Wilcox Hill, Christ Church Barbados, and Ms Scantlebury, was his landlord. On 7 October 2021, Ms Scantlebury sought and obtained an order in the Magistrate's Court for his ejection from the rented premises. Ramassar's appeal against the ejection order was dismissed by the Court of Appeal which also awarded costs to Ms Scantlebury. Ramassar then sought leave from the Court of Appeal to appeal to the CCJ, but that application was denied.

After two administratively defective applications for special leave were filed in the CCJ and refused, Ramassar made a third application on 3 April 2023, which was accepted by the Court. This was an urgent application for special leave to appeal out of time and as a poor person, and presented supporting affidavits.

The application complained that there was a breach of natural justice because the very same panel of the Court of Appeal which heard the initial appeal on 18 October 2022, also decided on 18 January 2023, to refuse leave to appeal to the CCJ. Ramassar also argued that he had an appeal as of right as the value of the property exceeded BDS \$18,250.00; and, further, that the interpretation by the Court of Appeal of Section 13 of the *Landlord and Tenant (Registration of Tenancies) Act* Cap 230A raised a matter of general public importance especially in relation to the production of a Certificate of Registration

The CCJ, in a judgment delivered by Justice Anderson took the view that the value of the rented property was entirely irrelevant as the applicant chose the route of seeking to obtain special leave and, therefore, had to satisfy the requirements for the grant of special leave. The CCJ found that there was no issue of public importance raised in the application. There was no evidence that the Certificate of Registration was not valid as at the date of the tenancy; the respondent had given the entirely plausible explanation that the Certificate had been lost and that she had obtained a replicate

copy from the Government Registration Department. It would take a strong case to justify opening the door to considering the interpretation of Section 13 in the way urged by the applicant. This case was not such a case.

Additionally, the application targeted the refusal of leave by the Court of Appeal instead of the substantive decision. Justice Anderson took the view that the applicant appeared to have attempted to pursue leave to appeal on both procedural and substantive grounds. Procedurally, he wished to appeal the refusal of leave by the Court of Appeal and substantively, he wished to appeal the decision of the Court of Appeal as it related to the interpretation of the Act. In either case the application failed. It is trite law that an application for special leave may not pursue an appeal against the refusal of leave by the Court of Appeal. And even if the Court exercised its discretion and afforded a generous interpretation to the application as one to appeal the substantive decision of the Court of Appeal, the applicant failed to satisfy the test for special leave, as there was no arguable point of law of general public importance.

In a concurring judgment, Justice Barrow pointed out that the CCJ's Appellate Jurisdiction Rules, 2021 make express provision for a special leave application to be made where leave to appeal to the CCJ is refused by the Court of Appeal. The CCJ has laid down in the clearest of terms and in a number of instances that there is no appeal to this Court against the refusal by the Court of Appeal to grant leave to appeal. Therefore, the application was incapable of succeeding.

On these bases, the application for special leave was dismissed, with costs to the respondent.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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