COMMONWEALTH OF THE BAHAMAS

IN THE COURT OF APPEAL

SCCivApp & CAIS No. 186 of 2025

Bahamas Trading Post Inc

Robert Ian Mitchell

Intended Appellants

And

Hazel May Pinder, Caroline Newton, Patricia Louise Smith, Delores Mae Edwards, Lorraine Arthur, Tammy Shelomina Archer, and Dasmend Bowe Administrators in the Estate of Annette Marie Kenny Bunnicea Role and Glenard Holmes Administrators in the Estate of Julie Elaine Kenny, Diane Cecile Duncombe, and Cheryl Ann Kenny

Intended Respondent

(Extension of Time)

Before: The Hon Mr Justice Smith, JA
The Hon Mr Justice Hilton, JA
The Hon Mr Justice Kokaram, JA

Mr Andrew Allen, Counsel for Intended Appellant
Ms Travette Pyfrom, Counsel for Intended Respondent

16 September 2026

The oral judgment of the court was delivered by Kokaram, JA:

This is our oral decision on the application for an extension of time made by the intended appellant. It is a summary of our decision, and we reserve the right to add to it if it becomes necessary and if we have to reduce this into writing.

The application before this court is an application for an extension of time filed on 21st October, 2025. It seeks to extend the time to file an appeal against the decision of the trial judge made on 5th June, 2025. The deadline for filing this appeal would have been 18th June, 2025, and so the application was made approximately three months outside of the prescribed time limit. Of course, the Court of Appeal has the jurisdiction to extend the time within which to file this appeal under section 9(1) of the Court of Appeal Act.

The principles on which the court will exercise its discretion have been well established by the Privy Council decision of Rodriguez Jean Pierre v The King [2023] UKPC 15. The relevant principles being the length of the delay (in this case, three months) and the explanation and reasons given for that delay; the prospects of success; and the prejudice to the parties. In that Privy Council decision, of course in Rodriguez, it does not rule out considerations to determine

whether it is just to extend time, such as the administration of justice, legal certainty, finality in litigation, and efficient use of resources.

In this case, the delay is, of course, egregious and inordinate. The explanation given was wholly unacceptable, and there is no good reason given. We agree with the respondent in its submissions that no good reason was given for the lengthy delay in preparing what appears to be, if I can say, a run-of-the-mill appeal against the decision made in a quieting petition matter.

Second, there is the procedural default by the intended appellant in failing to file a draft Notice of Appeal, and so we are unable to properly assess the merits of the proposed appeal. The failure to file a draft Notice of Appeal and give clear direction as to what are the proposed grounds of appeal is further egregious, having regard to the fact that the trial judge's decision was made some 16 months ago.

There must be then some exceptional merit in this proposed appeal if we were to grant an extension of time: some knock-out point. However, looking at the written submissions, we are convinced that there are no prospects of success. The proposed issues raised in the submissions are vacuous. The three main issues raised in the submissions of the alleged defects in the adverse claims are non-starters, as there is

authority from our Court of Appeal in the case of Trevor Manford Smith v George Melissa, et al SCCivApp 98/2025, which suggests that the quieting petition is an investigatory jurisdiction exercised by the courts, and technical defects would not prevent the investigation of adverse claims.

The other issue raised challenges the trial judge's assessment of the evidence and findings of fact. Findings of fact is well within the province of the trial judge, which the trial judge has a considerable advantage over the Court of Appeal judge, and with the well-known principles of Bahamasair Holdings Limited v Messier Dowty [2018] UKPC 25 and Volpi v Volpi [2022] EWCA Civ 464, great judicial deference is given; appellate deference is given to the trial judge's findings of fact.

Furthermore, which is even worse, the written submissions that were prepared for these proceedings and the motion appeared to be assisted with the use of GenAI. We wish to bring to the attention of the parties Practice Direction No. 3 of 2025 issued by the Supreme Court. While it applies to the Supreme Court, attorneys should note paragraph 12, which imposes a sanction upon attorneys for failing to indicate in written submissions, and I will read it:

> "Where an attorney uses GenAI to produce a document for use in judicial proceedings and fails to acknowledge use of GenAI in his work, or fails to verify the sources of law in his work, the Court may, in addition to any its other powers -

"(a) strike out submissions;

"(b) [...]; and

"(c) impose costs [...]."

In such a case, there is sound reason to even strike out the written submissions in support of the application. I agree with the submission of Ms. Pyfrom of the apparent use of GenAI in drafting the motion. There are similar defects in the written submissions. I have looked at the language of the written submissions, and they appear to me to be one that is assisted by GenAI. What is worse is that there are authorities which bear no relevance to the case and appear to be hallucinations. So, if the Practice Direction was applicable, this would be a case to even strike out the written submissions, but we have given deference to the intended appellant and we did examine the issues raised in the written submissions fully, and, for the reasons that I have just outlined very briefly, we found no merit in the proposed appeal.

Therefore, for those brief reasons, the application to extend time is dismissed.

The appellant is to pay the costs of this application to the respondent, to be taxed by the Registrar in the default of agreement.

Dated this 16th day of September 2026

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ss KOKARAM, JA