IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Appellate Division

2021/APP/sts/0039

IN THE MATTER of Sections 38 and 84 of The Bank and Trust Companies Regulations

AND IN THE MATTER of the Appointment of a Statutory Administrator Pursuant to Sections 29(1) (f) and 38 of The Banka and Trust Companies Regulation Act, 2020

AND IN THE MATTER of **LUCAYAS BANK LTD.**

BETWEEN

OLD CHURCH FINANCIAL INVESTMENTS LTD.

Appellant

AND

THE ATTORNEY GENERAL OF THE BAHAMAS

CENTRAL BANK OF THE BAHAMAS

THE HONOURABLE PHILLIP DAVIS
(Minister of Finance of The Bahamas)

CHARLES W. LITTRELL
(In his capacity as Inspector of Banks and Trust Companies
for The Central Bank of The Bahamas)

Respondents

Before: The Hon Mr. Justice Neil Brathwaite

Appearances: Attorney Simone Morgan-Gomez for the Appellant

Attorney Kenrah Newry and for the 1st and 3rd Respondents

Attorneys Ferron Bethell KC, Camille Cleare for the 2nd and 4th Respondents.

Date of Hearing: 29th November 2024

DECISION

FACTUAL SUMMARY

[1.] In this matter the Central Bank of The Bahamas initiated statutory administration of Lucayas Bank, and appointed Igal Wizman as statutory administrator. The Appellant, which is the majority shareholder of Lucayas Bank, sought to challenge those decisions, and commenced an action seeking an Order pursuant to Order 55 of the Rules of the Supreme Court, Ch. 53 ("RSC"), and Regulation 84 of the Banks & Trust Companies Regulations Act, 2020 ("BTCRA"). The 2nd and 4th Respondents applied by Summons to strike out the appeal on the basis that the appeal was out of time, and that the Appellant lacked locus standi. In a decision dated 3rd October 2024, this court concluded that Appellant had locus standi, and, while concluding that the application was out of time, treated the deficiencies as irregularities and allowed the appeal to stand. The 2nd and 4th Respondents have now filed a Notice of Application in the following terms asking that the court reconsider that decision:

> 1. The Second and Fourth Respondents make application for the Court to reconsider and recall its Ruling delivered herein on 3 October 2024, prior to the sealing of any Order, based on the Barrel Enterprise principle and the interest of justice.
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> 2. The grounds of the application are:
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> a) The Court did not consider the period of delay by the Appellant in making its application for an extension of time to file its appeal.
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> b) The Court did not consider the obvious prejudice which compelled the Central Bank to appoint a Statutory Administrator for statutory purposes.
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> c) The Court did not consider the dramatic change of circumstances, namely the termination of the Statutory Administration and the appointment of Joint Liquidators that had taken place in the interim to the delivery of the Ruling and rendered the appeal entirely moot.

[2.] The decision to appoint a statutory administrator was communicated to Lucayas Bank by letter dated 27 October, 2021, as a result of which the administrator took administration of the Bank the following day. The Appellant then filed an Originating Notice of Motion on 24th November 2021, and an email was sent to the Respondents on 25th November 2021 attaching a copy of that Notice of Motion. The 2nd and 4th Respondents entered an appearance on 26th November 2021, and the personal service of the Notice of Motion was attempted on the 2nd and 4th Respondents on 25th November 2021, and was effected on the 1st and 3rd Respondents on 26th November 2021. The 2nd and 4th Respondents then filed a summons on 16th December 2021 seeking to strike out the Notice of Motion on the ground that it was out of time. This was followed by a second summons filed by the Appellant on 7th March 2022 asking the court to find essentially that the Notice of Motion had been filed in time in accordance with section 84 of the Banks and Trust Companies Regulation Act and Order 55 of the Rules of the Supreme Court, after which the 2nd and 4th Respondents filed a summons on 27th April 2022 seeking to have the Notice of Motion struck out on the grounds of a lack of standing on the part of the Appellant.

[3.] Those summonses were heard on 2nd May 2022. Unfortunately, a decision was not delivered until 3rd October 2024. In that decision, the court concluded that the Appellant did in fact have locus standi, and that the Notice of Motion was out of time, but that the time would be extended, as the court was not satisfied that any evidence of prejudice had been provided by the 2nd and 4th Respondents.

The 2ND AND 4TH RESPONDENTS' CASE

[4.] The 2nd and 4th Respondents submit that the Court has jurisdiction to reconsider up to the time when the Order is sealed but should only do so in exceptional circumstances, and rely on the authority of **Cie Noga d'Importation et d'Exportation SA v. Abacha [2001] 3 All ER 513** in which the Court accepted that the jurisdiction to reconsider existed, but the application to reconsider failed in that case as the judge concluded that the exceptional circumstances relied upon to ground a reconsideration were not of matters the learned judge had failed to take into consideration, but amounted to submissions that the judge had simply arrived at the wrong conclusions based on the facts and the law, which were matters to be raised on appeal. In that case the Court said the following:

> "Provided that the formula of "exceptional circumstances" is not turned into a straitjacket of its own, and the interests of justice and its constituents as laid down in the overriding principle are held closely to mind, I do not think that the proper balance will be lost. Clearly, it cannot be in every case that a litigant should be entitled to ask the judge to think again. Therefore, on one ground or another, the case must raise considerations, in the interests of justice, which are out of the ordinary, extraordinary or exceptional. An exceptional case does not have to be uniquely special. "Strong reasons" is perhaps an acceptable alternative to "exceptional circumstances". It will necessarily be in an exceptional case that strong reasons are shown for reconsideration."

[5.] The 2nd and 4th Respondents further submit that the Court is not functus officio, as contended by the Appellant, and cite the decision of **Neurim Pharmaceuticals (1991) Ltd v Generics UK Ltd 12 March 2021** in which the Barrell jurisdiction was explained thus:

> 41. It is, however, clear law that an order [25] can be varied by the judge at any time until the order is drawn up and perfected. [26] However, that is a jurisdiction that cannot be exercised capriciously and represents an exceptional jurisdiction. In Re Barrell Enterprises, Russell LJ stated:[27] "When oral judgments have been given, either in a court of first instance or on appeal, the successful party ought, save in the most exceptional circumstances, to be able to assume that the judgment is a valid and effective one. The cases to which we were referred in which judgments in civil courts have been varied after delivery (apart from the correction of slips) were all cases in which some most unusual element was present.

[6.] In the instant case, the 2nd and 4th Respondents submit that while a decision has been delivered, no Order has been sealed. The Court is therefore invited to reconsider a single point, namely whether an extension of time should be granted. They submit that the Court did not consider the appropriate period of delay, and suggest that the periods to be considered are firstly the delay in filing the Notice of Motion, as well as the delay in filing an application to extend time, which aspect they submit was not addressed in the initial decision.

[7.] Had the Court considered the appropriate period, and the failure to explain that delay, the 2nd and 4th Respondents submit that the inevitable result is that the extension would be refused, and also note that the Court in considering the issue of prejudice did not consider the prejudice which was evident in that the process of statutory receivership was dynamic with changes occurring every day, so that it would obviously be prejudicial if the extension were allowed when so many changes had occurred in the interim. It is further suggested that the Court should consider that the process of statutory receivership is now concluded, and that Lucayas Bank has been put into liquidation, so that any appeal of the decision to appoint a statutory receiver is now moot. It is also noted that there was no application for interlocutory relief, so that the work of the statutory administrator was permitted to continue unless halted by the Court, so that the prejudice which would occur by seeking to reverse that work would be obvious. The 2nd and 4th Respondents further note the delay in delivery of the decision, which they say is an unfortunate exceptional circumstance so that the decision to extend time should be reconsidered and reversed.

THE APPELLANT'S SUBMISSIONS

[8.] The Appellant submits that the Barrell jurisdiction cannot be utilized in this case, as the Court has already provided a signed and sealed decision, and suggest that there is no distinction between a decision of the Court and an Order. They support this submission by citing the decision of **Paulin v Paulin** in which, in summarizing the state of the law prior to Barrell, the English Court of Appeal said the following:

> "Indeed it now seems that a written reserved judgment may be less open to a judge's reversal than an ex tempore judgment: Stewart v Engel [2000] 3 All ER 518, [2000] 1 WLR 2268, per Sir Christopher Slade [2000] 3 All ER 518 at 525, [2000] 1 WLR 2268 at 2276; and that, if a written judgment has been disseminated only as a draft, it may be more open to reversal by the judge than if it has been handed down and thus finally delivered: Robinson v Fernsby [2003] EWCA Civ 1820, [2003] All ER (D) 414 (Dec), per May LJ at [98] and Mance LJ at [113]."

[9.] The Appellant therefore submits that as an Order can be signed either electronically or manually, the signing and sealing of the Court's decision must mean that the matter is concluded, and the Court is functus officio.

[10.] The Appellant goes on to submit that, even if the Court concludes that the decision can be reviewed, the Court could only have regard to matters as they stood at the time the matter was argued, so that the attempts of the 2nd and 4th Respondents to refer to the fact that the statutory administration has ended must be rejected. They emphasize that there has been no request for leave to consider fresh evidence, and further suggest that the appeal is not moot as the Appellant could amend with or without leave prior to the hearing.

[11.] In addressing the issue of the actual delay, the Appellant insist that there has been no prejudice to the Respondents, and that the actions of the Statutory Administrator in carrying on the administration cannot be used as basis to claim prejudice. Further, the Appellant suggests that any delay in hearing the appeal was caused by the filing of the application to strike out by the 2nd and 4th Respondents, so that as the Respondents would in effect be benefitting from delay caused by them. The Appellant further insists that the period to be considered is just nine days, and insist that the period from 26th November to 8th March is not relevant, as the Appellant was not seeking permission to file a document, but were rather seeking an extension of time with respect to a document that had already been filed. They therefore submit that the period of delay is minimal, and that no prejudice has been demonstrated by the 2nd and 4th Respondents, so that the application to reconsider the extension of time should be dismissed with costs to the Appellant.

DISCUSSION

[12.] The first question to be determined is whether the Re Barrell jurisdiction can be invoked in this case. The 2nd and 4th Respondents contend that the Order of the Court has not been perfected, while the Appellant submits that the decision of the Court has been signed, sealed, and delivered, as opposed to being reserved, and the Court is therefore functus officio.

[13.] In the Court of Appeal decision of **Belgravia International v Sigma et al SCCivApp. No. 75 of 2021** the Court cited the earlier decision of **Duran Cunningham v Baha Mar Development Company Ltd. SCCivApp.** No. 116 of 2010 as follows:

> "We do not intend to hear any further arguments on the matter, but only to say that our written decision stands as the judgment in this matter. We do this pursuant to the Barrell decision which was enunciated in Re Barrell Enterprises [1972] 3 All ER 631 and affirmed by the English Court of Appeal in Stewart v Engel [2000] 3 All ER 518 which allows the reversal of a judge's decision.
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> The requirement that reversals should only be done in exceptional cases has been replaced by the requirement that there should be strong reasons for doing so. In this case, having thoroughly reviewed the decision of the tribunal and the evidence before him, we could not, in the interest of justice, justify our oral and extempore decision to dismiss the appeal."

[14.] In Belgravia, the Court had issued a decision, but concluded that as that decision had not been perfected by an actual Order, the Court still had authority to revisit the decision. By parity of reasoning, the written decision of the Court in this case has not been perfected by the promulgation of an Order. I am therefore satisfied that I have jurisdiction to revisit that decision, if there are strong reasons for so doing.

[15.] The 2nd and 4th Respondents submit that there are good reasons for revisiting the decision, as the Court did not consider the appropriate period of delay, and in concluding that there was no prejudice, the Court did not consider the obvious prejudice which occur due to the continuation of the process of statutory administration, and the impact on shareholders and others affected by any decisions made by the administrator. They further note that the statutory administration has now been concluded, and the Bank has been put into liquidation, so that an appeal is now moot.

[16.] The Appellant objects to the consideration of any matters which occurred after the matter was argued, as there was no application to consider fresh evidence. I accept this contention, as to consider matters which did not occur prior to the hearing of the applications would be not a reconsideration in the sense contemplated by the authorities, but a rehearing. I therefore decline to have regard to any facts not apparent at the time the matter was argued.

[17.] In determining whether there are good reasons to reconsider, I accept that in the initial decision, in concluding that there was no evidence of prejudice, I did not consider any prejudice which might occur simply as a result of the continuation of the process, and the irrevocable nature of decisions that might be made. I do note that there was no application for a stay of the decision which was the subject of the appeal. I further accept that in my initial decision the period of delay considered was nine days. However, while the Notice of Motion was filed on 24th November 2021, and served 26th November 2021, the application for an extension of time was not filed until did not consider the obvious prejudice. The Appellant in seeking to extend time relied firstly on section 84(2) of the Banks and Trust Companies Regulations Act which reads as follows:

> "Provided that any person aggrieved by the decision of the Bank may upon notice to the Attorney-General apply to the Supreme Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Supreme Court upon the hearing of such application may extend the time prescribed in this section as it deems fit."

[18.] The section clearly deals with delay in serving the Notice of Appeal, but makes no reference to a delay in filing the said Notice, which would have to be done prior to service. This is an issue to which I had indicated I would return, but which was not further referenced in the initial decision. Given the wording of the section, there is no power under that section to extend time for filing. However, in my view, the provisions of Order 3 Rule 4 would apply. Those provisions read as follows:

> "4. (1) The Court may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act in any proceedings.
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> (2) The Court may extend any such period as is referred to in paragraph (1) although the application for extension is not made until after the expiration of that period."

[19.] In my view, while the Notice was filed seven days out of time, that period of time is not the appropriate period to be considered, as the Notice is not effective unless time is extended. The Notice should have been filed by 17 November 2021. The appropriate period, which I did not consider, therefore ends on 22nd March 2022, and amounts to more than seventeen weeks. In my view, the failure to properly consider the issue of prejudice, and the appropriate period of delay, do amount to good and sufficient reasons to exercise the Re Barrell jurisdiction. The question then becomes, ought the time to be extended in these circumstances?

[20.] The correct approach to an application for an extension of time within which to appeal has been set out in the Court of Appeal in many cases. For instance, in **Alexander Williams v R SCCrApp No. 155 of 2016** the court said as follows:

> "The power to grant an extension of time within which to appeal to the Court of Appeal is given by rule 9 of the Court of Appeal Rules 2005. It is settled that in exercising its discretion to extend time, the Court considers four factors: the length of the delay; the reasons for the delay; the prospect of success of the intended appeal; and the prejudice, if any to the respondent.

[21.] While Alexander Willams v R was a criminal matter, essentially the same factors have been identified in **Junkanoo Estate Ltd et al v UBS (Privy Council Appeal No 0052 of 2016)** where the Privy Council said:

> "On such an application, a number of matters will have to be considered. They will include (i) whether the appeal would be arguable, (ii) what explanation is proffered in the defendants' evidence for the delay in seeking leave, including what has occurred and what the defendants have been doing in the meanwhile, and (iii) what if any prejudice that delay may have caused to UBS."

[22.] In The Supreme Court Practice 1997 at 55/4/1 the following is stated:

> "It seems likely, however, that in calculating the period regard should be had to the date on which the decision letter was received - see Smith v Secretary of State for the Environment, The Times July 6 1987 considered in Ynys Môn Borough Council v Secretary of State for Wales [1992] C.O.D. 410 {Rose J}. In this latter case the court emphasised that it was the duty of legal advisers either to know or to discover the law and it should not follow that their ignorance of relevant time limits should attract judicial dispensation. Moreover when there would be prejudice to the respondent and there was no substantive and valid reason for exercising the discretion conferred by O.3 r.5 an application for extension of time would be refused.
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> ...
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> In the absence of agreement, the court would normally need to be satisfied that there was an acceptable explanation for the delay before extending time. Even where such an explanation was forthcoming the court might still refuse to extend time if the delay was substantial or when to do so would cause significant prejudice to the respondent. In the interests of good administration public law challenges to decisions of tribunals had to be made within limited time scales (a consideration which was absent in ordinary inter partes litigation) and the courts would always be reluctant to extend time in such situations: Regalbourne Ltd v East Lindsey District Council [1993] C.O.D. 297 (Sir Thomas Bingham M.R., Kennedy and Evans L.JJ. dismissing an appeal from the decision of Potts J. [1992] C.O.D.493)."

[23.] The appointment of a statutory administrator is a sanction authorized by the Central Bank. Among the reasons which may trigger such an appointment is where, in the opinion of CBB, the target bank is engaging in unsafe, unsound, or illegal practices which endangers depositors, shareholders or the assets of the bank. In order to give effect to the objects of the appointment of a statutory administrator, the following powers are granted pursuant to section 40(2) of BTCRA:

> (2) The statutory administrator shall have full and exclusive powers to manage and operate the bank, including taking any action necessary or appropriate to-
> (a) carry on the nosiness of the bank;
> (b) exercise shareholder's rights and powers;
> (c) continue or discontinue any or all of its operations;

(d) stop or limit the payment of the bank's obligations;
(e) remove any or all directors and officers;
(f) employ any necessary officers or employees;
(g) execute any instrument in the name of the bank;
(h) initiate, defend and conduct in the name of the bank any action or proceedings to which the bank may be a party;
(i) so far as the statutory administrator is able to do so, sell or otherwise dispose of a subsidiary of the bank;
(j) preserve and safeguard the assets and property of the bank;
(k) in order to ensure that it is possible for the performance of critical functions to be legally or operationally separated from the performance of other functions, change the legal or operational structure of a subsidiary of the bank; or
(l) implement a plan of action with respect to the bank that has been approved by the Bank.

[24.] The 2nd and 4th Respondents have submitted that the fluid situation created by the appointment of a statutory administrator must of necessity cause prejudice if there is delay, as each day may result in actions which are not easily revocable, and where a failure to act may also have disastrous consequences for the parties with vested interests in the target bank, and by extension the internal and external reputation of the financial sector of the local economy. In contrast, the Appellant argues that this would mean that the very actions of the Bank in appointing a statutory administrator would then create a situation where those actions cause prejudice with respect to any attempt to overturn the decision. To an extent this is correct, but it does not in my view mean that such prejudice could not be considered where an extension of time is being sought, as the issue of prejudice does not arise if the appeal is in time, so that in such a situation the obvious prejudice would not be relevant. I therefore find that, in the context of this case, the delay is prejudicial.

[25.] Even where there is prejudice, an extension may still be granted if the explanation for the delay is sufficiently reasonable to offset any prejudice. With respect to the reasons for the delay, the Fourth Affidavit of Philisea Bethel explains that discussions were ongoing between the parties with a view to negotiating a settlement between 15th and 30th November 2021, and that any delay was inadvertent as the parties were seeking to salvage the negotiations. No explanation is offered for the delay in filing an application for an extension of time, but it is presumed that this was because legal advisors for the Appellant were of the view that none was needed. With the principles enunciated in the White Book as quoted above in mind, while the ongoing discussions might explain the hesitance to file an appeal, it must be said that such discussions do not preclude the filing of an appeal, and therefore do not amount to the best explanation for any delay. The best course would dictate that the appeal be filed to preserve any rights, and then withdrawn if the negotiations were successful. Nevertheless, the delay at that point was not egregious. The difficulty in this case is the delay of several months in filing an application for an extension of time, for which the explanation of a difference in legal opinion is not readily acceptable, particularly since, as early as December 2021, the Appellants were on notice that the 2nd and 4th Respondents considered the appeal to be out of time, and were seeking to have the same struck out. Again, the prudent course would have been to file the necessary application to preserve the position, which is what was eventually done, albeit months later.

[26.] While this is an appeal, and not an application for judicial review, it still amounts to a challenge to the decision of a public body, so that the statement in Regnibourne v East Lindsey as quoted above from The Supreme Court Practice 1997 that the courts should be reluctant to grant an extension is certainly relevant. What is also relevant is that in the instant case nothing has been said about the prospects of success of the appeal. The Appellant has relied on the case of **Kelly's Freeport Limited v. The Queen and another SCCivApp No. 50 of 2011**. However, what must be noted in that case is that while the initial application was out of time, the applicant would have been in time with respect to a second decision which was the subject of complaint, so that in particular circumstances of that case the decision to refuse an extension was considered draconian.

[27.] The Appellant also relies on the decision of the learned Turner J in **Williams (Administratrix of the Estate of Godfrey E. Williams) v. Bahamas Telecommunication Corporation and others (2000/CLE/gen/740)** in which an extension was granted despite a delay of three years. However, it must be noted that on the facts of that case the court was satisfied that there was a reasonable prospect of success, so that a refusal to extend time would have been unreasonable.

[28.] In all the circumstances of this case, I am satisfied that prejudice, while not undue, would exist. I note the arguments of the Appellant that the 2nd and 4th Respondents should not be able to claim prejudice which seems merely to have been caused by their own actions in appointing an administrator, as this seems to amount to an argument that pursuing a statutory right of appeal would in itself be prejudicial. However, in my view, this argument does not assist, as the issue would not arise if the appeal were in time. Further, an appeal in time would put the Bank on notice that the appointment was being challenged, while an appeal which was out of time, and with no application before the court for months to extend time, would not necessarily have the same result. I also note that an appeal in this case does not operate as a stay, and no application was made for a stay, so that there were no constraints on the plenitude of powers granted to the statutory administrator by virtue of the appointment.

[29.] A major issue in this application for reconsideration is the question of whether the court can consider matters which occurred after the hearing of submissions on the initial three summonses. In **Stewart v Engel and another [2000] 3 All ER 518**, a decision of the English Court of Appeal, the following was said in the head note:

> "Thus the jurisdiction might justifiably be invoked, for example, where there was a plain mistake on the part of the court, where the parties had failed to draw the court's attention to a fact or point of law that was plainly relevant, where new facts were discovered after judgment had been given (emphasis mine), or where a party could argue that he had not been given fair opportunity to consider an application which had taken him by surprise."

[30.] In the much earlier case of **Harrison's Share under Settlement, Re, Harrison v Harrison; Ropner's Settlement Trusts, Re, Ropner v Ropner [1955] 1 All ER 185**, the judge at first instance made a decision which, before perfection, was shown to be incorrect as a result of a decision of the House of Lords in another case, delivered after the decision of the judge. The Court of Appeal of England then said the following:

> "The law having been declared by the House of Lords in Chapman v Chapman, before Roxburgh J's orders were perfected, in terms which clearly indicated that those orders ought not to have been made, and this having come to the learned judge's knowledge, it was in our opinion right that he should recall the orders orally pronounced by him notwithstanding the fact that, at the time when they were pronounced, they appeared to be correct according to the authorities as they then stood. When a judge has pronounced judgment he retails control over the case until the order giving effect to his judgment is formally completed. This control must be used in accordance with his discretion exercised judicially and not capriciously. The learned judge in these two cases exercised his discretion judicially in recalling his original orders, and there is in our opinion no ground for disturbing the orders finally made. These appeals, therefore, should be dismissed."

[31.] Finally, in **AIC Ltd v Federal Airports Authority of Nigeria [2022] 4 All ER 777**, an order to enforce an award as a result of failure to provide a guarantee was granted. After that decision, but prior to the perfection of the order, the guarantee was provided. The judge thereupon reversed the enforcement order, a decision which was upheld in the UK Supreme Court.

[32.] On the strength of these authorities, I am satisfied that I may consider matters which occurred after the hearing of the summonses, particularly as the matters referred to in this case all occurred prior to the delivery of the decision which is the subject of reconsideration. While the delay in delivery of that decision means that the bank has now been put in liquidation, I must also note that the statutory administration ended just three months after the hearing, so that the situation would have been significantly different even without the unfortunate lengthy delay which has occurred. While I accept that the Appellant could amend prior to the hearing of the actual appeal, such amendments could only relate to the issues raised by the appeal, the aim of which was to overturn the appointment of the statutory administrator. That aim is no longer necessary, and any relief which might be sought as a result of any harm to the Appellant occasioned by the appointment of the statutory administrator would be fall to be considered in proceedings, if any are initiated, which are separate from the appeal.

CONCLUSION

[33.] As I have said, nothing has been said in any of the hearings about the prospects of success. I am therefore unable to find that the explanations for the delay are sufficient to offset the prejudice to the 2nd and 4th Respondents, and I am unable to say that there are any prospects of success, which ought to be considered before time should be extended. To do otherwise could have the result that the court would be exercising a discretion to grant an extension in a matter which ought not to be pursued. I also accept that the aim of the appeal is no longer necessary, as the statutory administration was ended three months after the hearing of the summonses. While I accept that a great deal of the difficulty in this case has been caused by the dilatory action of the Court, for which I profusely apologize, I am nevertheless satisfied that the justice of this case requires me to reverse my initial decision, and to refuse the extension of time, with the result that the appeal is struck out. I further set aside my initial order for costs, and follow the normal rule that costs should follow the event. I therefore award costs to the 2nd and 4th Respondents to be assessed by this Court if not agreed. Given the position of the 1st and 3rd Respondents, I make no order for costs with respect to those parties.

Dated this 10th day of April A.D., 2025

Neil Brathwaite
Justice