

IN THE COMMONWEALTH OF THE BAHAMS
IN THE SUPREME COURT
2024/ CLE/GEN/00085

BETWEEN

GATEWAY ASCENDANCY LTD.

Claimant

AND

PATRICK LIVINGSTONE HANNA

DR. AVERY VERNICE HANNA

ZOPHIM ENTERPRISES LIMITED

Defendants

Before: The Honourable Madam Justice Camille Darville Gomez

Appearances: Mrs. Sharlyn Smith and Mrs. Angelique Dennis for the Claimant
Mr. Philip McKenzie, KC and Ms. Lenthala Culmer with him for the Defendants

Hearing Date: 25th February, 2026

Civil procedure — appeal — extension of time — leave to appeal — discretion — abuse of process — mortgage enforcement

RULING

Darville Gomez, J

- [1.] By ruling dated 1 December 2025, this Court struck out the action against the Defendant as an abuse of process. On 29 January 2026, the Claimant filed a Notice of Application seeking an extension of time to appeal and leave to appeal. It was supported by an Affidavit of Brittany McKenzie also filed on the same date.
- [2.] In exercising the discretion to extend time, I have had regard to the principles set out in numerous authorities, including *Derek G. Turner et al v Edward B. Turner et al*, SCCivApp No. 170 of 2013, which confirms that the Court must balance the length of delay, reasons for delay, and the merits of the intended appeal.

- [3.] The delay of 42 days is not unduly long. The reasons advanced in the supporting affidavit filed in support of the application—namely, the need to review the written ruling, obtain instructions at director level, and settle grounds of appeal—are justifiable in my view.
- [4.] The intended appeal raises arguable issues of law, including whether a mortgage merges into judgment debt, whether the consecutive exercise of remedies constitutes abuse of process, and the scope of a mortgagee’s enforcement rights. These are matters of public interest, and I note that there is conflicting authority within this jurisdiction, including a decision of my learned sister, the Honourable Justice Carla Card-Stubbs in **RBC v Deals Bus Service Limited and Arthur W. Deal 2022/CLE/gen/1000**.
- [5.] While I was invited to consider whether the strike-out order was interlocutory or final, with reliance placed on **Kozy Harbour Limited v Cyril Ezekiel Minnis (2019/CLE/GEN/00555)** and **Strathmore Group Ltd v A. M. Fraser and Others [1992] 2 AC 172**, I found it unnecessary to determine that issue for present purposes.
- [6.] Accordingly, I am satisfied that the discretion to extend time should be exercised, and that leave to appeal should be granted. Costs of this application shall be costs in the appeal.
- [7.] I wish to record my appreciation for the very helpful and well-researched submissions of Counsel.

IT IS ORDERED that:

1. Time be and is hereby extended for the Claimant to apply for leave to appeal against the ruling and order of this Court dated 1 December 2025.
2. Leave to appeal be and is hereby granted.
3. The Claimant shall be at liberty to pursue its appeal in accordance with the Court of Appeal Rules and shall be relieved from sanctions.
4. Costs of this application shall be costs in the appeal.

Dated this 25th day of February, 2026



Camille Darville Gomez
Justice