

**COMMONWEALTH OF THE BAHAMAS**  
**IN THE SUPREME COURT**  
**COMMON LAW AND EQUITY DIVISION**  
**2019/CLE/GEN/0580**

**IN THE MATTER** of an Indenture of First Demand Legal Mortgage, Further Charge and Second Further Charge dated the 19<sup>th</sup> day of September, A.D., 2013, the 23<sup>rd</sup> day of January, A.D., 2015 and the 16<sup>th</sup> day of November, A.D., 2016 respectively and made between The Heart Services Company Limited trading as La Scoops Deli & Icecream/Island Grubb (as Borrower), Andrew R. Gibson and Natasha D. Gibson (as Sureties) and Bank of The Bahamas Limited (as Lender) to secure advances to the said The Heart Services Limited by the said Bank of The Bahamas Limited

**AND**

**IN THE MATTER** of the Guarantee document made between Andrew R. Gibson and Natasha D. Gibson and The Bank of The Bahamas Limited

**AND**

**IN THE MATTER** ALL that piece parcel or lot of land being Lot 33 of Charlotteville Subdivision in the Western District of the Island of New Providence, The Bahamas

**AND**

**IN THE MATTER** of the Rules of the Supreme Court Order 77

**BETWEEN**

**BANK OF THE BAHAMAS LIMITED**

**Claimant**

**AND**

**THE HEART SERVICES COMPANY LIMITED**

**1<sup>st</sup> Defendant**

**AND**

**ANDREW RODNEY GIBSON**

**2<sup>nd</sup> Defendant**

**AND**

**NATASHA DELLERESSE GIBSON**

**3<sup>rd</sup> Defendant**

**Before:** The Honourable Justice Camille Darville Gomez

**Appearances:** Mr Jamal Davis for the Claimant  
Mr. Darren Bain for the Defendants

**Hearing Date:** 9 March, 2026

Civil procedure – Stay of execution – Writ of possession – Mortgage restructuring negotiations – Lump sum and monthly payments – Missed deadlines – Estoppel – Failure to serve possession order – Family hardship – No order as to costs.

## REASONS FOR DECISION

### DARVILLE GOMEZ, J

- [1.] I gave an extempore decision but promised to reduce my reasons to writing later, I do so now.
- [2.] The Defendants, The Heart Services Company Limited, Andrew Rodney Gibson and Natasha Dellerese Gibson, applied by Notice of Application filed 11 December, 2025 pursuant to Part 17.1 of the Supreme Court Civil Procedure Rules, 2022 for:
- (i) an Order that the Writ of Possession filed 26 September 2023 and served on the 2nd and 3rd Defendants on 28 November 2025 be stayed.
  - (ii) Such further or other relief as the Court deems fit.
- [3.] The grounds advanced were that following judgment on 6 April 2023, the Defendants made consistent monthly payments pursuant to an agreement with the Claimant; that the Claimant proposed restructuring of the mortgage which the Defendants accepted; and that before the extended timeline for producing restructuring documents expired, the Claimant served the Writ of Possession.
- [4.] The application was supported by an affidavit of Natasha Dellerese Gibson and a Certificate of Urgency also filed the same day.
- [5.] The Claimant opposed the relief sought and filed an affidavit of Paulette Butterfield on 6 January 2026.
- [6.] The Defendants contended that following judgment delivered on 6 April 2023 (the “April 2023 Order”), they made a lump sum payment of \$32,000 to the Claimant and consistent monthly payments of \$5,600 pursuant to an agreement with the Claimant, and that negotiations for restructuring of the mortgage were ongoing. They argued that the Writ of Possession was served before the extended timeline for restructuring expired. The Claimant disputed the relief sought and

maintained its entitlement to enforce possession on several bases, including the Defendants' failure to comply with the monthly payments and their failure to comply with the timeline for provision of documents requested for restructuring.

- [7.] The Court was invited to consider whether the recommendation to the Defendants to consider a restructure the mortgage and all conduct or representations relating to restructuring (post the April 2023 Order) estopped the Claimant from enforcing the Writ of Possession. The Court was not compelled to address this issue because it was satisfied that the Claimant, despite its negotiations to restructure, had given several deadlines to the Defendants for submission of required documentation which had not been provided. Further, the Claimant had made it expressly clear via email that any failure by the Defendants to provide the documentation by November 2025 would result in enforcement of its rights under the April 2023 Order. However, there was a dispute on this issue because the Defendants' evidence was that they were given a further extension to December, 2025. In any event, the Court took the view that the Defendants were on notice from November, 2025 of the consequences of non-compliance, and their failure to comply caused the Claimant to proceed with service of the Writ of Possession.
- [8.] The Court was mindful however, that the April 2023 Order was almost three years old, that the Defendants had since then attempted to enter into arrangements to satisfy the debt through a payout by a third party (which had not materialised) and by restructuring which had been recommended by the Claimant that they had been pursuing. Additionally, they had made a lump sum payment of \$32,000 sometime in September, 2023 and had been making monthly payments thereafter. Their evidence which included receipts totaling \$39,275 was that they made payments totaling \$128,800 from about September, 2023 to 7 November, 2025. On the other hand, the Claimant's evidence was that between March 2024 and December 2025, they paid \$90,046 excluding the lump sum payment of \$32,000. Despite this, the Claimant noted that \$117,600 ought to have been paid and characterised the Defendants' payments as "*inconsistent and sporadic*".
- [9.] In any event and notwithstanding this, the Court was satisfied that the Defendants had acted in good faith in pursuing restructuring negotiations, albeit with missed deadlines, and that they reside in the family home with four children, at least one of whom is a minor. Importantly, the Court found that the Defendants had made payments of over \$90,000 since the date of judgment and therefore the Claimant would not be unduly prejudiced by the grant of temporary relief, in circumstances where the Defendants had at least been servicing the debt up until service of the Writ of Possession (even if inconsistently and sporadically).
- [10.] During the course of the hearing it became known that while the Defendants were aware of the April 2023 Order, it was never served on them, it was served on their previous attorneys. The Court was invited to direct service of the April 2023 Order on the Defendants. Upon further consideration, I have refused to do so, as such an order may obfuscate other issues that may arise from the failure to serve, which may properly be the subject of further proceedings.

[11.] Accordingly, I grant the Defendants a stay of ninety (90) days from the date of this written decision, viz., 9 June 2026. I make no order as to costs.

**Final Observation:**

While the Court cannot order the Bank to resume restructuring discussions with the Defendants, it is appropriate to invite them to consider doing so, particularly given the 90-day stay presently in place and because the Defendants are now in possession of the requested documentation. Such engagement may secure stability for the Defendants' household and avert unnecessary hardship, while at the same time advancing the Bank's own interest in recovering its funds through consensual repayment rather than by resort to possession and eventual sale.

**Dated this 11<sup>th</sup> day of March, 2026**

A handwritten signature in black ink, appearing to read "Camille Darville Gomez". The signature is written in a cursive, flowing style.

**Camille Darville Gomez**  
**Justice**