



Civil Appeal No. 40 of 2022

Civil Appeal No. 36 of 2023

**IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE SUPREME COURT OF BERMUDA SITTING IN ITS
ORIGINAL CIVIL JURISDICTION
BEFORE THE HON. ASSISTANT JUSTICE SOUTHEY
CASE NUMBER 2021: No. 29**

Dame Lois Browne Evans Building
Hamilton, Bermuda HM 12

Date: 11/12/2024 – 11/13/2024

Before:

**THE PRESIDENT, THE RT HON SIR CHRISTOPHER CLARKE
JUSTICE OF APPEAL, THE HON GEOFFREY BELL
and
JUSTICE OF APPEAL, THE RT HON DAME ELIZABETH GLOSTER DBE**

Between:

CIVIL APPEAL No. 40 of 2022

LEYONI JUNOS

Appellant

- and -

THE PREMIER OF BERMUDA

**COMMISSION OF INQUIRY INTO HISTORIC LOSSES OF
LAND IN BERMUDA**

Respondents

CIVIL APPEAL No. 36 of 2023

ROBERT GEORGE GREEN MOULDER

Appellant

- and -

**COMMISSION OF INQUIRY INTO THE HISTORIC LOSSES OF LAND IN
BERMUDA**

Respondent

Ms. Leyoni Junos and **Mr. Robert Moulder** appeared as Litigants in Person
Mr Ryan Hawthorne of Trott & Duncan Limited, for the Commission of Inquiry
Ms Lauren Sadler-Best of the Attorney General's Chambers, for the Premier of Bermuda

Hearing date(s): 12 – 13 November 2024
Date of Judgment: 31 January 2025
Date of Ruling: 12 March 2025

**RULING ON APPLICATION FOR LEAVE TO APPEAL
TO THE PRIVY COUNCIL**

SIR CHRISTOPHER CLARKE P

1. This is our ruling on the Appellants' application for leave to appeal to the Judicial Committee of the Privy Council against the decision of the Court of Appeal dated 31 January 2025 in the cases of *Leyoni Junos v The Premier of Bermuda* and *The Commission of Inquiry into Historic Losses of Land in Bermuda* and *Robert Moulder v The Commission of Inquiry into Historic Losses of Land in Bermuda* [2025] CA (Bda) 2 Civ (the "judgment").
2. The application is refused for two reasons: (i) neither of the Appellants has an appeal as of right; and (ii) the questions involved in the appeal are not ones which by reason of their great general or public importance or otherwise ought to be submitted to His Majesty in Council.

3. As to the four points raised in the application

- (1) The *Davis/Piper* judgment i.e. the decision given on 11 October 2024 in [2024] CA (Bda) 18 Civ does not record some predisposition of the lower court to refuse leave; nor does it downplay any such predisposition. The decision of this Court in that case was largely in favour of Mr Davis and Mr Piper, as had been the decision below.
 - (2) Order 52, rule 4 (i) of the Rules of the Supreme Court 1985 provides that *“an application for leave to apply for judicial review shall be made promptly and in any event within six months from the date when grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made”*. It was not arbitrarily applied by the Court of Appeal, which, in fact, decided that the first instance judge erred in declining to grant Ms Junos an extension of time (paragraphs [59] –[77]) ; but not in the case of Mr Moulder (paragraphs [116] –[135].
 - (3) The grounds of conflict of interest were rejected because in the judgment of the Court of Appeal they were not well founded: see paragraphs [41] –[47] and [145] – [146] in relation to the requests that the President and Justice of Appeal Bell should recuse themselves..
 - (4) The judgment is not the product of intellectual dishonesty, which the appellants say was apparent in too many ways to mention; but of which they do not give any examples.
4. In the introductory note the Appellants say that they participated in the hearing on 12-13 November 2024 under duress. The Court imposed no duress on the Appellants. The fact that Ms Junos says that the Appellants had lost confidence in the Court as constituted was not a good reason for the Court not to proceed, unless one or more members of it decided that they should recuse themselves – a contention which was addressed but dismissed.
5. In the Preamble complaint is made of the delay that has taken place in dealing with the appeals and it is suggested that something is seriously wrong with the Judiciary and the judicial system in Bermuda. The assertion is ill founded. The history of these proceedings is long and complex. It is set out in paragraphs [3] – [42] of the judgment. There is no point in summarising those paragraphs here; but if the Privy Council is minded to address this point it will be necessary for it to consider them. As is apparent from what is there said, one of the reasons for the delay in the hearing of the appeal was that Ms Junos failed to attend the directions hearing on 24 April 2024. And both she and Mr Moulder failed to file the submissions which on 24 April 2024 Acting Justice

Wheatley had ordered to be filed by 15 May 2024; and, despite attempts by the Court to procure them thereafter, they never arrived

6. Lastly, the example of the expedition shown in the recent case decided by the Privy Council - *Minister of Finance and another v Jaiwante Ramdass* is an inappropriate comparator. As is apparent from the details sets out in the judgment, the present case (and the others associated with it) was entirely different in size and scope.

BELL J.A.

7. I agree.

GLOSTER J.A.

8. I, also, agree.