

BARBADOS

IN THE SUPREME COURT OF JUDICATURE

COURT OF APPEAL

Civil Application No. 9 of 2019

BETWEEN:

GODDARD SHIPPING & TOURS LTD Intended Appellant

AND

BARBADOS PORT INC Intended Respondent

Before: The Hon. Kaye C. Goodridge, The Hon. Francis Belle and The Hon. Jefferson Cumberbatch, Justices of Appeal

2020: January 29

**Ms. Richelle Nicholls of Clarke, Gittens & Farmer for the Intended Appellant
Ms. Tya Atwell for the Intended Respondent**

ORAL DECISION

DELIVERED BY GOODRIDGE JA:

INTRODUCTION

[1] There is an application for leave to appeal the decision of **Weekes J** given on 17 July 2019 and for a stay of execution of that order pending the determination of the appeal.

- [2] It is contention of Ms. Nicholls for the intended appellant that the requirements for the grant of leave as set out in **BIPA** having been satisfied. On the first limb, it is her argument that **Weekes J** exercised her decision on the incorrect test resulting in a decision which is plainly or blatantly wrong. The intended appellant therefore has a realistic prospect of success.
- [3] In relation to the second limb of **BIPA**, it is counsel's further argument that the intended appeal would provide an opportunity to expand the case law on the appropriate particularisation of a statement of claim.
- [4] In response, Ms Tya Atwell submitted that the intended appellant has failed to prove that **Weekes J** adopted the incorrect test and therefore arrived at a decisions which was wrong. As to the second limb of **BIPA**, she submitted there is no issue of public interest or general policy which requires clarification and the law regarding agency is well established.

DISCUSSION

- [5] We have carefully considered the submissions of counsel and we are not persuaded that the intended appellant has satisfied the requirement for the grant of leave under the first limb of **BIPA**.
- [6] As to the second limb, we do not agree that there is any need for clarification of the law in this area. Having regard to the above, the issue of a stay of execution does not arise.

DISPOSAL

[7] In the circumstances, the application for leave to appeal is denied with costs to the intended respondent to be assessed if not agreed.

Justice of Appeal

Justice of Appeal

Justice of Appeal