

IN THE COURT OF APPEAL OF THE CAYMAN ISLANDS
CICA (Civil) 8/2014

The Right Hon Sir John Chadwick, President
The Hon Elliott Mottley, Justice of Appeal
The Hon Sir George Newman, Justice of Appeal

ON APPEAL FROM THE GRAND COURT
(G361/2013)

BETWEEN

GEAN WELCOME BROWN

Applicant/Plaintiff

-and-

GOVERNMENT OF CAYMAN ISLANDS ET AL

Respondent/Defendants

Applicant in Person
Hearing: 21 August 2014
Oral Judgment delivered: 21 August 2014

JUDGMENT

Revised from transcript and Approved released 12 September 2014

Sir George Newman, JA

This is an ex parte application made by Gean Welcome Brown, who is acting in person, for leave to appeal to this Court from the order of the Chief Justice made on 4 March 2014.

There was a hearing before Mr Justice Henderson on 6 June. Its relevance is that he had an application from Ms. Brown for an extension of time for making the application for leave to appeal. It was only a few days late and he granted an extension but he also considered the merits of the proposed appeal. It comes before this Court as an application for leave to appeal to this Court.

As has been said by My Lord the President on a number of occasions in the course of the hearing, the burden upon Ms. Brown --

APPELLANT: Ms. Welcome.

THE COURT: Sorry. Ms. Welcome. Is to satisfy this Court that there is a real prospect of success in an appeal from that order.

The hearing before the Chief Justice had some unusual elements to it, but in my judgment they do not have much bearing on the central question which we must consider. There were difficulties, it would seem, in the plaintiff being able to attend before the Chief Justice, but, in the event, he carefully considered the nature of the complaints which were before him as they appeared on a writ of summons which had been issued by the plaintiff on 22 October 2013.

The particulars endorsed on the writ were in the form of Particulars of Claim, which extended for many pages, running to about 18 pages of Particulars. It was before the Chief Justice because it had been alleged that the writ and the Particulars of Claim disclosed no reasonable cause of action and or were an abuse of process. These are the standard reasons why applications can be made by defendants to have proceedings dismissed which are close to disclosing some basis for complaint but lack a particularisation which enables anybody to properly understand or be placed fairly in the position as defendants to deal with what is complained about. The Chief Justice in his judgment and ruling, having had assistance from detailed skeleton submissions, analysed the many paragraphs of the Particulars of Claim. They led him, in paragraph 11 of his ruling to summarise the effect of what he had read and considered as follows:

"The plaintiff's grievance in general terms, as they appear from her particulars of claim, seems to me to be twofold:

1. That her application to the Immigration Department to be recognised administratively as an interpreter for persons who have business with that department was not dealt with fairly and that her complaint in that regard to the Office of the Complaints Commissioner, the Governor's and Deputy Governor's Offices were respectively not dealt with fairly or in a timely manner.
2. A complaint she had filed about the accuracy of notes taken by a doctor employed by the Health Services Authority, and who had attended upon her at the George Town Hospital, had not been adequately addressed by a direction to the doctor that he rectify his notes."

By way of general background, it can be explained that the plaintiff was granted a business license under the Trade and Business law, which permits her to perform translations in the Cayman Islands.

By the allegations which could be seen from the Particulars of Claim, she alleged that various orders of government had, in one way or the other, breached her rights to freely trade as a translator, thereby her rights contained in the Bill of Rights and under the Constitution had been violated. The allegations also included a suggestion that the government was preventing her and the public from using translation services other than two named bodies which she said were

performing such services. She complained she had been prevented from performing translation services for various clients who had taken her translations to the Immigration Department where they had been rejected.

In response to an invitation from the Court, she helpfully explained this morning that her grievance in connection with her freedom to trade and to translate arose because she could not see any justification for what happened and as a result she, by way of complaint, asked the Immigration Department for an explanation as to why they did not accept translations from her. She received a response, she said only after delay but she had grounds to complain about it. Had she given it focused attention, it could have been seen that there were indications that the decision could be further questioned. But the essence of the present position is that it has become overlaid with so many complaints about the way in which she alleges she has been treated at various times, by the court administration, by essentially those within the system, whether they be lawyers or judges who have considered her complaints, that it has become difficult to see what cause of action she is relying upon. She comes before this faced with the specific task of satisfying this Court that there is a reasonable prospect of her being able to successfully appeal against the conclusions reached by the Chief Justice. First that “all of the grounds which she cited fail to plead a reasonable cause of action. The Chief Justice added: “or any cause of action that is known to law.” He concluded, having summarised the complaints she was making in the way which I have set out, that neither of those complaints could comprise a justiciable or reasonable cause of action against any of the defendants, and nor in his view could the allegations of procedural irregularity or lack of transparency in the process of their dealings with her complaints provide the plaintiff with a basis for any cause of action. Thus it was that he struck out the proceedings.

I have no difficulty in understanding that the plaintiff has interpreted the Chief Justice's conclusion as amounting to some form of denial to her that she has access to the courts in respect of complaints, about which she feels most deeply, concerning the way in which she has been treated by public bodies in the Cayman Islands. I can see why she has come to that conclusion. It is because she has simply misunderstood what the Courts have said. There are rules, of which she is well aware, as to how you should proceed with any claim for relief or remedy within the Courts. There are matters which it is appropriate to bring by way of a writ and there are matters where it is inappropriate to proceed by writ. The plaintiff has repeatedly said to this Court today that she felt she had done the right thing because there were so many matters she wished to complain about. Some were matters she maintained fell within the area of judicial review, but others fell within the area of actions which were appropriate to be included in the writ. For that reason she maintained she had been entitled to act as she did.

The argument is simply wrong. The rules of procedure are developed in order to ensure justice between all parties to litigation. A plaintiff will inevitably feel that the system should always operate to produce what the plaintiff perceives as justice for whatever he or she is complaining about. The function of the Courts is to ensure that all parties to litigation can have justice in the Court. That is why there are rules which lay down that there should be no such broad, embarrassing, or indeed rambling and prolix complaints made that it becomes increasingly difficult, if not impossible, for any party responding to them, or for the Court trying to deal with them, to understand what it is that is being complained about. And even if they do understand

what it is complained about, how the matter can be contained within an area of investigation and inquiry by the Court which is likely to produce a just result by way of focused and careful examination of the facts.

I am entirely satisfied, that the particulars on the writ in this case not only fail to disclose a reasonable cause of action, which it would have been appropriate to put upon a writ, but also are so detailed and diffuse in the range of allegations made that although it was possible for the Chief Justice, as he did, to discern what were plainly matters which could proceed by way of judicial review, there was no way in which the Chief Justice could have taken the course which might have been open to him to say, although this matter has been wrongly brought by way of writ, it can proceed, and for him to order that it can proceed by way of judicial review. But the allegations, as I say, are so far and wide ranging, and in many cases intemperate and unreasonable, that no litigant or defendant should be required to face the allegations until they have been properly formulated and put with a clarity which a defendant, is entitled to seek.

In that situation, therefore, despite the urgings which have been made by the plaintiff in this Court today, she has, in my judgment, simply failed to satisfy me that there is any real prospect of success in the appeal she wishes to bring to this Court.

She, I know, feels that all she was doing was enforcing her rights and freedoms. Do not let it be thought that anything I have said suggests that she is not entitled to have access to the Courts to enforce her rights and freedoms. But like anybody else who comes to court, she must abide by the reasonable rules and procedures which require a measure of precision, a measure of moderate and intelligible restraint in the way in which complaints are formulated, and an absence of allegations which are beyond that which it is necessary to make.

For all those reasons, I am satisfied that this application for leave to appeal from the order of the Chief Justice made on the 4th March of this year should be refused.

MOTTLEY JA: I concur.

CHADWICK Pres.: I also concur. The Chief Justice made an order on the 4th of March dismissing the action brought by the applicant on the grounds of failure to plead a reasonable cause of action and for being an abuse of process. The applicant took the view that she needed leave from a Court of Appeal to pursue an appeal from that order. She sought leave by summons issued on 13 June 2014. She asked in that summons for an extension of time in which to appeal. She did not need an extension of time because she had already obtained one from Justice Henderson in June. This Court directed that her application for leave should be heard by the full Court pursuant to Rule 21(a)(2) in the Court of Appeal Amendment Rules 2009.

The application has been heard this morning and, like the other members of the Court, I agree that it must fail. Accordingly, the application is dismissed and no leave is granted.