



COURT OF APPEAL
Public Building West,
King Street, Kingston
Telephone# (876) 633-7201
Email registry@courtofappeal.gov.jm
Website www.courtofappeal.gov.jm

**NOTICE TO PARTIES OF THE COURT'S
MEMORANDUM OF REASONS FOR DECISION**

SUPREME COURT CIVIL APPEAL NO COA2025CV00063

APPLICATION NO COA2026APP00039

BETWEEN	UNIVERSAL LEASING & FINANCE LTD	1ST APPELLANT
AND	MAHOE BAY COMPANY LIMITED	2ND APPELLANT
AND	SANDALS ROYAL CARIBBEAN LTD	RESPONDENT
AND	JMMB MERCHANT BANK LIMITED (NOW JMMB BANK (JAMAICA) LIMITED)	INTERESTED PARTY

TAKE NOTICE that this matter was considered on paper, pursuant to rule 1.7 of the Court of Appeal Rules, 2002 and para. 2.3 of Practice Direction No 2/2016, by the Hon Mrs Justice McDonald-Bishop P, the Hon Miss Justice Simmons JA and the Hon Mr Justice Brown JA on 4 May 2026, with Guyah Tolan and Associates for the appellants, Braham Legal for the respondent and Hylton Powell for the interested party.

TAKE FURTHER NOTICE that the court's memorandum of reasons for the decision, delivered on 5 May 2026 in open court by McDonald-Bishop P, is as follows:

[1] This is a notice of application, filed on 13 February 2026, to have the appeal by the appellants, Universal Leasing & Finance Ltd and Mahoe Bay Company Limited, allowed by consent pursuant to Practice Direction No 2/2016 (applications to the court to allow appeals or grant applications without a hearing on the merits) ('PD No 2'); and to withdraw a notice of application for stay of execution filed on 29 July 2025.

[2] As evidenced by the amended notice of appeal filed on 10 November 2025, the appeal challenges order no 5 of the judgment of Jackson-Haisley J (‘the learned judge’) made on 22 July 2025. That order reads:

“5. It is declared that the Defendants/Ancillary Claimants hold all that parcel of land registered at Volume 1359 Folio 481 of the Register Book of Titles on trust for the Claimant.”

[3] The appellants seek to vary the order on the basis that the proceedings did not concern entitlement to the entire parcel of land registered at Volume 1359 Folio 481 of the Register Book of Titles (‘the subject property’). Their dispute instead concerned a portion of Lot 3 of the subject property, which is dually registered with Lot 19 at Volume 1257 Folio 660 of the Register Book of Titles. This is borne out by the expert evidence of the commissioned land surveyors, on which the learned judge relied, as well as by the agreement for sale and the mortgage agreement entered into in respect of Lot 3. The appellants submit that, should the order remain in its current form, it would have the effect of transferring the entirety of Lot 3 to the respondent, in circumstances where the respondent has no legal entitlement to the portions of land which are not dually registered with Lot 19 at Volume 1257 Folio 660.

[4] The appellants also seek to withdraw an application they filed seeking a stay of execution of the learned judge’s judgment, presumably on the basis that it would become unnecessary if the court grants the application to allow the appeal.

[5] The application to allow the appeal by consent is supported by the respondent, Sandals Royal Caribbean Ltd, and the interested party, JMMB Merchant Bank Limited (now JMMB Bank (Jamaica) Limited), as evidenced by a settlement agreement dated 10 February 2026. The application and the appeal were, therefore, considered on paper with the parties’ consent pursuant to para. 2.3 of PD No 2 and the court’s general powers of case management under rule 1.7 of the Court of Appeal Rules, 2002 (‘CAR’).

[6] Having examined all the documents filed, we have concluded that the appellants have satisfied the main preconditions for the appeal to be disposed of by consent as set

out in PD No 2, specifically in para. 3. Firstly, the settlement agreement demonstrates that all the parties have consented to the order sought and indicated that their consent is based on independent and competent legal advice (paras. 3.1.2 and 3.1.4 of PD No 2).

[7] Secondly, and crucially, the appellants have clearly demonstrated that the learned judge ought not to have made order no 5 in terms that were so wide as to encompass the entirety of the subject property. The order ought to have been limited to the relevant portion of Lot 3 of the subject property. The parties have, therefore, satisfied the requirement to advance “plausible reasons to show that the decision of the lower court was wrong” (para. 3.1.3 of PD No 2), although we observe that the learned judge’s error appears to have been influenced by the orders sought in the further amended particulars of claim, which contained the same error.

[8] It is, therefore, in the interests of saving time and expense to the litigants and the proper use of the court’s resources, to allow the appeal, and vary the learned judge’s order, without the need for the appeal to progress through the full appellate procedures set out in the CAR.

[9] Having determined that the appeal should be allowed, consistent with the parties’ agreement, it follows that permission to withdraw the application for a stay of execution should be granted, as the application to stay the execution of the learned judge’s judgment would no longer serve any useful purpose.

[10] On the issue of costs, the parties have agreed that no order as to costs should be made in respect of the application to allow the appeal by consent, the application for a stay of execution and the appeal. There is nothing to suggest that such an order would be inappropriate or contrary to the interests of justice in the circumstances of this case.

[11] Accordingly, we make the following orders:

1. The notice of application, filed on 13 February 2026, for the appeal to be allowed by consent and to withdraw the notice of application for a stay of execution filed on 29 July 2025, is granted.
2. By consent, and with leave of the court, the appeal is allowed.
3. Order no 5 of the judgment of Jackson-Haisley J, dated 22 July 2025, is varied as follows:

“It is declared that the Defendants/Ancillary Claimants hold **all that portion of land which is part of Lot 3** registered at Volume 1359 Folio 481 of the Register Book of Titles **and which is dually registered with Lot 19 registered at Volume 1257 Folio 660** on trust for the Claimant.”

4. Permission is granted to the appellants to withdraw the notice of application for a stay of execution filed on 29 July 2025. The notice of withdrawal of this application is to be filed within seven days of the date hereof.
5. No order as to costs of the appeal, the application to allow the appeal by consent filed on 13 February 2026 and the withdrawn application for a stay of execution.