

IN THE SOLOMON ISLANDS COURT OF APPEAL

NATURE OF JURISDICTION:	Appeal from Judgment of The High Court of Solomon Islands Bird J)
COURT FILE NUMBER:	Civil Appeal Case No. 81 of 2024 (On Appeal from High Court Civil Case No.540 of 2020)
DATE OF HEARING:	31 October 2025 (Paper Hearing)
DATE OF ORDER:	31 October 2025
THE COURT:	Sir John Muria, (P)
PARTIES:	WAC SHIPPING COMMUNITY COMPANY LIMITED – 1 st Appellant CAPTAIN MICHAEL ROY GALO AND JOE – 2 nd Appellant HON. JOHN MANENIARU – 3 rd Appellant -V- BEN PIQE AND CATHY PIQE – 1 st Respondents MICHAEL KONIA & OTHERS – 2 nd Respondent SOLOMON ISLAND MARITIME ADMINISTRATION – 3 rd Respondent
ADVOCATES:	
APPELLANT:	J. Apaniai
RESPONDENT:	
KEY WORDS:	
EX TEMPORE/RESERVED	EX TEMPORE
ALLOWED/DISMISSED	DISMISSED
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ORDER OF THE COURT

“Interlocutory appeals can have the effect of delaying substantive proceedings and for that reason may not be allowed in all circumstances” *SMM Solomon Limited -v- Axiom KB Limited*¹ This principle is determinative in the appellant’s present application seeking leave to appeal against the interlocutory order of the judge below.

1. *Price Waterhouse -v- Reef Pacific Trading Limited*² sets out three principles to be applied when considering an application for the grant of leave to appeal. The principles are:
 - “1. The appeal raises questions of general public importance relating to the judicial duty to hear and determine interlocutory applications, including the right of parties to be heard on such applications.
 2. The appeal raises questions of general public importance relating to the judicial duty to give proper reasons and adequate reasons for a determination upon interlocutory applications.
 3. The appeal raises questions of importance relating to discretionary factors to be taken into consideration when determining interlocutory applications under Order 27 Rule 2 of the *Rules*.”
2. However, as subsequently pointed out in *SMM Solomon Limited -v- Axiom KB Limited*³ “No doubt there are other grounds which did not appear in *Price Waterhouse* that could be regarded as valid grounds for granting leave.”
3. One such other ground particularly in this case is whether the decision of the learned trial judge is clearly wrong in law or results in a miscarriage of justice by refusing to strike out the pleadings, holding that they disclose a reasonable cause of action. The onus is on the applicants to show that the learned judge has committed an error of law or miscarriage of justice.
4. Having considered the application to strike out the claim in this case Bird J found that claimants’ Claim disclosed a reasonable cause of action. In so far as the defects in the pleadings, they can be cured by amendments to the pleading. In so far as the issue of

¹ [2012] SBCA 12, SICOA-CAC 14 of 2017 (13 October 2017)

² [1996] SBCA 6

³ [2017] SBCA 12; SICOA-CAC 14 of 2017 (13 October (2017))

who was the charterer of the vessel the Member of Parliament or Government is concern, that is a matter in dispute and so it must go to trial. As to the issue of whether some of the deceased passengers were ‘stowaways’, that is an issue to be determined at the trial.

5. There are no other novel issues/of general public importance raised in this case which warrant leave to be granted in this case.
6. Plainly, on the facts of the case before Bird J, her Ladyship applied the correct legal standards and no error of law can be found in her Ladyship’s decisions in refusing to strike out the claimants’/respondents’ claim in the present case.
7. Defendant seeking leave to appeal simply because they disagree with judge’s decision refusing to strike out the claimant’s claim stand very little chances of success in their application. This reflects the Courts’ position on appeals against interlocutory rulings. It is particularly more so where such application can have a delaying effect on the substantive case as pointed out in *SMM Solomon Limited -v- Axiom KB Ltd*⁴

“Interlocutory appeals can have the effect of delaying substantive proceedings and for that reason may not be allowed in all circumstances”

8. In the circumstances the present application for leave to appeal cannot succeed and must be refused.

Dated 31 of October 2024

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Sir John Muriu
President
Court of Appeal



⁴ [2017] SBCA 12; SICOA-CAC 14 of 2017 (13 October 2017):