



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NOS: FSD 262, 268, 269 and 270 of 2021 (DDJ)

IN THE MATTER OF PROCEEDINGS IN FSD 262 of 2021 (DDJ)

BETWEEN:

CHIA HSING WANG

Plaintiff

AND

**CREDIT SUISSE AG
CREDIT SUISSE LONDON NOMINEES LTD**

Defendants

AND IN THE MATTER OF PROCEEDINGS IN FSD 268, 269 and 270 of 2021 (DDJ)

BETWEEN:

CREDIT SUISSE LONDON NOMINEES LTD

Petitioner

AND

**PRINCIPAL INVESTING FUND I LIMITED (FSD 268 of 2021)
LONG VIEW II LIMITED (FSD 269 of 2021)
GLOBAL FIXED INCOME FUND I LIMITED (FSD 270 of 2021)**

First Respondents

FLOREAT PRINCIPAL INVESTMENT MANAGEMENT LIMITED (FSD 268 of 2021)

LVII INVESTMENT MANAGEMENT LIMITED (FSD 269 of 2021)

FLOREAT INVESTMENT MANAGEMENT LIMITED (FSD 270 of 2021)

Second Respondents/Applicants



Before: The Hon. Justice David Doyle

Heard: On the papers

**Draft Judgment
circulated:** 6 May 2022

Judgment delivered: 10 May 2022

HEADNOTE

Determination of application for leave to appeal

JUDGMENT

Introduction

1. The unsuccessful Second Respondents/Applicants seek leave to appeal the orders made consequent to my 43 page judgment delivered on 8 April 2022 and are content that I consider the applications on the papers.
2. I have considered the applications and the supporting papers including the draft grounds of appeal and the skeleton argument dated 20 April 2022. I have also considered the skeleton argument dated 6 May 2022 of the Plaintiff and the Petitioner.



Relevant Law

3. Rule 11 (5) of the Court of Appeal Rules provides that in any case in which leave to appeal is required:

“an application for leave shall be made to the court below –

(a) at the time the judgment or order is pronounced; or

(b) by summons or motion issued within fourteen days from the date on which the judgment or order is filed,

and if leave is granted the appellant’s notice of appeal shall be lodged within fourteen days of the date upon which the order giving leave to appeal is made.”

4. The short note in the law reports in respect of *Telesystem International Wireless Incorporated v CVC/Opportunity Equity Partners L.P.* 2001 CILR N-21 includes the following:

“The general test of whether leave to appeal should be granted is: Does the appeal have a real (i.e. realistic, not fanciful) prospect of success? In exceptional circumstances, leave will be granted even where no such prospect exists if the appeal involves an issue which should be examined by the Court of Appeal in the public interest, e.g. when a public policy issue arises or a binding authority requires reconsideration. The relative significance of the issues and the costs necessary to examine them will be a relevant factor.



In an appeal on a point of law (including on the ground that a finding of the lower court is unsupported by evidence), leave should not be granted unless the court considers there is a real prospect that the Court of Appeal will come to a different conclusion that will materially affect the outcome of the case

If the court is unsure whether leave should be granted, it should then refuse leave and allow the Court of Appeal to decide the matter.”

5. Deborah Barker Roye’s *Civil Litigation in the Cayman Islands* (Third edition) contains a useful section on leave to appeal and under paragraph 25.3.5 on page 414 also refers to *In re Universal & Surety Co* 1992 – 93 CILR 157 and *Lloyds Bank v Byleven Corp SA* 1996 CILR 29.

6. In the *Universal & Surety* case Malone CJ at page 159 stated that:

“The jurisdiction of a judge to give or to refuse leave to appeal from his own decision “is a very delicate one” to adopt the language of Lord Esher, M.R. ...”

Malone CJ referred to counsel stating an issue which counsel said was “without precedent” and the then Chief Justice added:

“On that point my ruling may be wrong or it may be right. The fact is that this issue is one of importance upon which further argument and the decision of the Court of Appeal would be to the public advantage. On that ground leave to appeal is granted.”

7. In the *Lloyds Bank* case Schofield J at page 32 stated that the case was the first case in which the court had authorised a trustee to indemnify a protector of the trust for the

expenses involved in the protector defending proceedings in which a trustee is involved and added:

“... this is a sufficiently important point – and the judgment itself raises sufficiently arguable matters – for me to grant leave to appeal...”

Leave was granted and security for costs was ordered.

Determination

8. Having considered the applications I do not grant leave to appeal. Based on the material put before me the proposed appeal does not have a real prospect of success and there is no new issue which needs to be examined by the Court of Appeal in the public interest.
9. I leave the Court of Appeal to dine à la carte to use an expression coined, I think, by Lord Bingham some years ago now albeit in the context of final rather than intermediate courts of appeal. It will be for the Court of Appeal to decide whether it wants to feast upon this case.

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT