

SUPREME COURT
CASE BRIEF
Ibrahim Jihad v HDC
[2019/SC-L/91]

Published on: 01 September 2020

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Premier Chambers LLP (Reg. No. P-0270/1995)

DATE OF DECISION: 15 March 2020

BENCH:

- Justice Honourable Uz. Husnu Al Suood (Presiding Justice)
- Justice Honourable Uza. Aisha Shujune Muhammad
- Justice Honourable Uz. Mahaz Ali Zahir

FACTS:

- Housing Development Corporation Limited (“HDC”) and Ibrahim Jihad entered into a sale and purchase agreement for the sale of a plot of land in Hulhumalé.
- When Ibrahim Jihad failed to settle the payments in accordance with the said agreement, HDC issued a notice to him for default of payments.
- Ibrahim Jihad failed to settle the outstanding payments despite the notice sent by HDC.
- HDC then terminated the agreement with Ibrahim Jihad and demanded handover of the land.
- Ibrahim Jihad challenged the decision of HDC to terminate the agreement by submitting a claim to the Civil Court.
- The Civil Court ruled that, as it was evident that Ibrahim Jihad had failed to make due payments under the agreement, there were no grounds for the court to rule that he does not have to abide by the notice of HDC and that the agreement between Ibrahim Jihad and HDC remains in force.
- When Ibrahim Jihad sought to appeal the judgment of the Civil Court, the High Court rejected the appeal on the ground that the grounds of appeal submitted by him did not satisfy the criteria under Section 27 of the High Court Regulation 2011, which specifies the circumstances in which decisions of lower courts and tribunals can be appealed at the High Court. Ibrahim Jihad then sought leave from the Supreme Court to appeal this decision of the High Court.

ISSUE:

- Whether Ibrahim Jihad had submitted reasonable grounds of appeal to the High Court, as per Section 43 of Law No. 22/2010 (Judicature Act).

DECISION AND RATIONALE:

- The Supreme Court rejected the application for leave to appeal filed by Ibrahim Jihad on the following grounds:
 - Section 43 of the Judicature Act specifies the circumstances in which decisions of lower courts and tribunals can be appealed.
 - The Supreme Court noted that, mere submissions arguing that:
 - a) the decision/ruling by a judge or adjudicator, was inconsistent with the law; or
 - b) the judge has failed to consider and assess evidence submitted; or
 - c) no reference was made to the appellant's arguments; or
 - d) the lower court's ruling or decision violates rights of the appellant or is an obstruction of justice;are not adequate to satisfy the criteria under Section 43, when requesting for leave to appeal at the High Court.
 - In this case, it was highlighted that the appellant is required to demonstrate more than such mere statements when requesting for leave to appeal a decision of the lower court and that the appellant must provide clear details of legal issues related to the grounds of appeal.
 - Additionally, the Supreme Court noted that courts should only grant leave to appeal cases that meet the requirements set for granting leave to appeal. It was noted that the purpose of having the process of application for leave to appeal embodied in the law is to ensure that the facilities available for administration of justice are not utilised and wasted on cases that do not have any merit.
 - The Supreme Court also highlighted that courts have an obligation under the law to shorten the process to justice and prevent the abuse of the appeal process by parties who arbitrarily use the appeal process with the intention of causing loss to the other parties by submitting appeals to courts without any lawful or reasonable grounds in an attempt to delay making payments or to deliberately delay enforcement of a decision by a lower court.
- It was also noted that Ibrahim Jihad had not been able to demonstrate additional requirements to satisfy the criteria specified under Section 43 of the Judicature Act, as mentioned above, and that the decision of the High Court in not granting leave to appeal in the case was in accordance with the law.

PRECEDENT SET:

- The law makes it mandatory for the courts to stop parties from abusing and making arbitrary use of the appeal process by submitting appeals to courts without any lawful or reasonable grounds, in an attempt to delay making payments ordered by the lower courts or tribunals or to deliberately delay the enforcement of judgment of a lower court or tribunal, with the intention of causing loss to the other party.
- Any person submitting an application for leave to appeal a decision of a lower court or tribunal is required to satisfy the criteria specified in Section 43 of the Judicature Act, and appeals may only be accepted if there are legal arguments based on which the case could possibly succeed at the appellate court.

ANALYSIS:

- The interpretation of Section 43 of Judicature Act by the Supreme Court is a significant step towards preventing abuse of the court process, which will hopefully aid aggrieved parties to get justice in a more expeditious manner, without having to go through appeal proceedings that are vexatious and frivolous.

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