

Dispute Resolution
Case Law Update
Rosling King LLP



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Case Summary

On 12 September 2022, the High Court handed down yet another judgment in this protracted legal dispute, this time concerning who was authorised to give instructions on behalf of the Central Bank of Venezuela (the “**CBV**”) in relation to Venezuela’s gold reserves. In a rare exercise of this particular power, Mrs Justice Cockerill granted permission to appeal based on “*some other compelling reason*” (Civil Procedure Rule 52.6(1)(b)), even though the appeal did not have a real prospect of success.

Background

The Bank of England holds approximately US\$195.5 billion of gold bullion, and UK receivers appointed by the Court hold an additional US\$120m, on behalf of the CBV. Two different bodies purport to be authorised to give directions to the CBV in relation to these assets. These are (1) the board of the CBV appointed by President Maduro and the National Assembly (Venezuela’s legislature) (the “**CBV Board**”), and (2) an ad hoc board appointed by Mr Juan Guaidó, who has been recognised by His Majesty’s Government of Venezuela as the Interim President (the “**Ad Hoc Board**”).

In July 2022, the High Court considered whether judgments of the Supreme Judicial Tribunal of Venezuela, which recognised the CBV Board, should be given effect in this jurisdiction. Ultimately, it ruled these decisions should not be recognised (the “**July Decision**”). The CBV Board sought permission to appeal the July Decision both on the basis of “*some other compelling reason*” and the more conventional “*real prospect of success*” basis. The application was opposed by the Ad Hoc Board.

The Decision

In the latest development, Mrs Justice Cockerill granted the CBV Board permission to appeal the July Decision, despite the fact that she thought the appeal had no real prospect of success, deeming it “*highly fanciful*”. Instead, in an unusual move, she granted permission for “*some other compelling reason*”. In her judgment, Mrs Justice Cockerill notes the highly unique facts of this case, which involve issues where the law is “*either novel or little ventilated*”. She also drew attention to the potential consequences of the decision for the entire population of Venezuela. Consequently, she held the case was an “*exception which proves the rule*”, noting that “*if [she] did not grant permission, the Court of Appeal would do so*”.

Commentary

This decision highlights that High Court judges will not be deterred from exercising their discretion to grant permission to appeal when exceptional circumstances warrant it. Despite this, the decision must be considered in light of the truly unique facts of the case, and should not be viewed as opening the door to more widespread reliance on the “*some other compelling reason*” route to appeal.

For further information, please contact [Hannah Sharp](#) or the Partner with whom you usually deal.