

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



CAUSE NO. FSD 54 OF 2009

6-07-11

**BETWEEN AHMAD HAMAD ALGOSAIBI
 AND BROTHERS COMPANY**
PLAINTIFF

AND SAAD INVESTMENTS COMPANY LIMITED

**MAAN AL-SANEA AND OTHERS
(Hereinafter called "the Maples Defendants) DEFENDANTS**

**IN CHAMBERS
THE 28TH DAY OF APRIL 2011
BEFORE THE HON. ANTHONY SMELLIE, CHIEF JUSTICE**

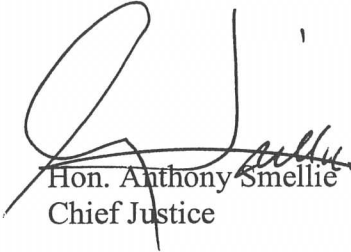
**APPEARANCES: Mr. David Butler of Appleby for Mr. Al Sanea
 Peter Hayden and Mr. Richards of Mourant for the AHAB**

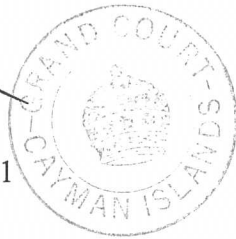
RULING

1. The first principle of *stare decisis* is that a decision made by a superior court is binding precedent in respect of the matter that it decides.
2. Here, in response to questions from me, Mr. Butler has accepted and acknowledged that the effect of the Court of Appeal's decision on the appeal from my earlier judgment, is that there is to be no stay of the proceedings and that therefore they should continue notwithstanding Mr. Al Sanea's then proposed appeal to the Privy Council and with all the consequences that would follow. Such consequences would include his obligation to file any defence within the time limits imposed by the Rules of the Court.

3. Given that meaning and effect of the Court of Appeal's decision, any purported exercise by me of a jurisdiction to allow Mr. Al Sanea's application for a stay of the proceedings generally, pending his proposed appeal to the Privy Council, would plainly and unavoidably involve ruling contrary to the decision of the Court of Appeal on the very same matter.
4. That was the conclusion that I reached in my judgment of 16th February 2011 and I still consider that to purport to grant such a stay, would have been a wrongful exercise of the jurisdiction of this Court.
5. So plain is that conclusion that I can now discern no plausible argument to the contrary and so no reasonable prospect of success in the appeal now proposed to be taken to the Court of Appeal against my judgment of 16th February 2011.
6. I also agree with Mr. Hayden that the proposed appeal would be an abuse of the process of the Court. That conclusion is further buttressed by the fact that there is already an application by Mr. Al Sanea for leave to appeal against the decision of the Court of Appeal and which is now pending before the Privy Council. It is in that forum that a decision must be reached as to whether or not the Court of Appeal was wrong in refusing the stay of proceedings. A further attempt to re-engage the Court of Appeal over the very same issues would be plainly an abuse of process.
7. For all those reasons, the application for leave to appeal against my judgment of 16th February 2011 is refused.
8. Notwithstanding that Mr. Al Sanea's current application for leave to appeal was filed before his application to the Privy Council for leave, his decision to persist

in this application I also regard as being in itself an abuse of the process of this Court. It should not have been brought and argued. It has been very unreasonably persisted in. I consider that an order for costs to the Plaintiff to be paid by Mr. Al Sanea on the full indemnity basis is justified and I so order.


Hon. Anthony Smellie
Chief Justice



Delivered orally on May 20 2011
Issued on July 6 2011