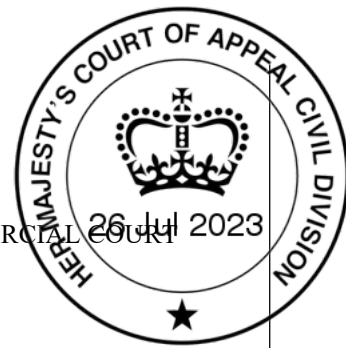




WEDNESDAY 26 JULY 2023

IN THE COURT OF APPEAL

ON APPEAL FROM BUSINESS AND PROPERTY COURTS, COMMERCIAL COURT
(QBD)
CL-2020-000859



BEFORE SIR JULIAN FLAUX, CHANCELLOR OF THE HIGH COURT
LORD JUSTICE POPPLEWELL
LORD JUSTICE PHILLIPS

CA-2022-002042

IN COURT

Application No.

CA-2022-002042

B E T W E E N

1. CRANE BANK LIMITED
2. SUDHIR RUPARELIA
3. JYOTSNA RUPARELIA
4. MEERA RUPARELIA
5. RAJIV RUPARELIA
6. TOM MUGENGA
7. SHEENA RUPARELIA

CLAIMANTSS/
APPELLANTS

- and -

1. DFCU BANK LIMITED
2. DFCU LIMITED
3. JIMMY MUGERWA
4. JUMA KISAAME
5. WILLIAM SEKABEMBE
6. CDC GROUP PLC
7. NORFINANCE AS
8. RABO PARTNERSHIPS BV
9. ARISE BV
10. STEPHEN CALEY
11. MICHAEL ALAN TURNER
12. ALBERT JONKERGOUW
13. WILLEM CRAMER
14. OLA RINNAN
15. MR DEEPAK MALIK

DEFENDANTS /
RESPONDENTS

UPON the application of the First and Second Defendants by Application Notice dated 26 October 2021 challenging the jurisdiction of the Court

AND UPON the application of the Third, Fourth and Fifth Defendants by Application Notice dated 26 October 2021 challenging the jurisdiction of the Court

AND UPON the Judgment of HHJ Pelling KC dated 7 October 2022

AND UPON HHJ Pelling KC's order dated 19 October 2022 (the "**Pelling Order**")

AND UPON HHJ Pelling KC's order dated 21 December 2022 (the "**Second Pelling Order**")

AND UPON the Claimants' Appellants' Notice to appeal against the Pelling Order dated 21 October 2022, attaching the Claimants' Grounds of Appeal

AND UPON the Order of Lord Justice Males granting the Claimants permission to appeal against the Pelling Order, dated 25 November 2022

AND UPON hearing Leading Counsel for the Claimants, Leading Counsel for the First and Second Defendants, and Counsel for the Third to Fifth Defendants

AND UPON the court determining in its judgment handed down on 26 July 2023 that there are serious issues to be tried in relation the Claimants reliance on the Commercial Activity Exception and the Public Policy Exception, but not in relation to the Kirkpatrick Exception or the Article 6 Issue

IT IS ORDERED THAT:

1. The Claimants' appeal is allowed.
2. Paragraphs 1-4 of the Pelling Order are set aside.
3. The applications made by the First and Second Defendants and the Third to Fifth Defendants recited above are dismissed.
4. The First to Fifth Defendants shall pay 75% of the Claimants' costs of the appeal and of the costs below, such costs to be to subject to detailed assessment if not agreed.
5. The First to Fifth Defendants shall pay the Claimants the sum of £700,000 on account of the costs at paragraph 4 above within 14 days.
6. The sums paid to the First to Fifth Defendants in accordance with paragraph 4 of the Pelling Order (as amended by the Second Pelling Order) shall be repaid to the Claimants within 14 days, plus interest at a rate of 4.5% per annum from 27 October 2022 up to and including the date of repayment.

7. The First to Fifth Defendants must file and serve acknowledgements of service within:
 - (a) Seven days after the date on which the time limit expires for the First to Fifth Defendants to apply to the Supreme Court for permission to appeal this Order, if such application has not been made in that time;
 - (b) Seven days after the refusal by the Supreme Court of permission for the First to Fifth Defendants to appeal this Order, if an application for such permission has been made and refused; or
 - (c) Seven days after the determination by the Supreme Court of the First to Fifth Defendants' appeal of this Order, if such an appeal is unsuccessful, and if the First to Fifth Defendants have brought such an appeal and been granted permission by the Supreme Court to do so.
8. The First to Fifth Defendants must file Defences within 14 days of service of their acknowledgements of service.
9. The applications of the First and Second Defendants and of the Third to Fifth Defendants for permission to appeal are refused.

Service of this Order

The Court has provided a sealed copy of this order to: Greenberg Traurig LLP, The Shard, Level 8, 32 London Bridge Street, solicitors for the Claimants.

(The Court sat on 3rd April 2023 from 14.00 to 16.00 and on 4th April 2023 from 10.26 and 16.20 and on 5th April 2023 from 10.30 to 15.46)

BY THE COURT