

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION**

2017/CLE/gen/00937

BETWEEN

SURF “N” TURF LTD

Plaintiff

AND

DELTEC BANK & TRUST LIMITED

Defendant

AND

MARIA IGLESIAS ROUCO

First Claimant

AND

LUCIA MARIA IGLESIAS

Second Claimant

AND

JAVIER JESUS IGLESIAS ROUCO

Third Claimant

AND

FERNANDO IGLESIAS

Fourth Claimant

AND

INDIRA IGLESIAS

Fifth Claimant

AND

ALEJANDRO IGLESIAS

Sixth Claimant

AND

PABLO IGLESIAS

Seventh Claimant

Before: The Honourable Madam Justice Indra H. Charles

Appearances: Mrs. Gail Lockhart-Charles with her Mrs. Lisa Esfakis of Gail Lockhart Charles & Co for the Plaintiff
Mr. Christopher Jenkins and Ms. Sebastian Masnyk of Lennox Paton for the Claimants

Hearing Date: 30 October 2020

Practice and Procedure – Order not perfected may be varied – Re Barrell Enterprises [1972] 3 All ER 631 – Joinder of representative of overseas Estate

The Plaintiff is a company now beneficially owned by Ingrid Iglesias Rouco, one of eight children of the late Jesus Iglesias Rouco, who died in Spain on 18 February 2017. The Plaintiff holds substantial assets at the Defendant Bank, transferred to it by the Deceased in December 2016 shortly before his death. The Plaintiff commenced this action in August 2017 to compel the Defendant Bank to transfer the assets to it. In response to correspondence from certain of the Claimants (being the other seven children of the Deceased) claiming that the assets were properly the property of the Spanish Estate, the Defendant Bank filed an interpleader application in September 2017, which was granted in December 2018. A Judicial Administrator representing the Spanish Estate of the Deceased was appointed by the Court in Estepona, Spain, in June 2019. On 22 September 2020, the Claimants applied by Summons for the Joinder to the Bahamian litigation of the Judicial Administrator. On 24 September 2020, the Bahamian Court ordered the Joinder of the Judicial Administrator to the Bahamian litigation on the application of the Claimants, with the Plaintiff's counsel indicating that the Plaintiff had no objection to the Joinder. The Bahamian Court gave the Joinder ruling *ex tempore*.

Before the perfection of the Joinder Order, the Plaintiff applied by Summons filed on 29 September 2020 to reconsider its decision to join the Judicial Administrator as a party on the basis that:

1. the Joinder Order usurped the function of the Spanish Court as under Spanish law,
 - a. The Judicial Administrator lacked the legal competence to take part in the Bahamian proceedings;
 - b. The Judicial Administrator could not take part in the Bahamian proceedings without the permission of the Spanish Court, which it did not have; and
2. the Judicial Administrator is not a necessary party to the litigation, which should be pursued by the Claimants alone.

The application was supported primarily by an affidavit of Ingrid Iglesias Rouco dated 16 October 2020 in which the deponent *inter alia* gave an account of Spanish legal advice that she claimed to have received.

Held: dismissing the Summons filed on 29 September 2020 for reconsideration of its own unperfected order made on 24 September 2020 and awarding costs to the Claimants fixed at \$19,000.

1. In The Bahamas, the discretion of the court to reconsider an oral ruling before perfection of the Order is restricted to exceptional circumstances: **Re Barrell Enterprises and others** [1972] 3 All ER 631, CA, **Compagnie Noga D'Importation et D'exportation SA v Abacha (No. 2)** [2001] 3 All ER 513 and **RTL v ALD and others** [2015] 1 BHS J No. 82 applied. **Re L v B (Children)** [2013] UKSC 8 distinguished.
2. In the present case, there were no exceptional circumstances to justify reversing the Order. In particular:
 - a. Counsel for the Plaintiff expressly indicated that the Plaintiff had no objection to the Joinder Order at the hearing of the application, presumably after having taken instructions;
 - b. The assertions of Spanish Law contained in the Affidavit of Ingrid Iglesias Rouco, even if true and presented in an admissible form, did not justify the reconsideration and reversal of the Joinder Order.
3. Furthermore, the Joinder of the Judicial Administrator was plainly desirable. In particular:
 - a. Who the Bahamian Court joins as a party is a Bahamian matter governed exclusively by Bahamian law;
 - b. The Joinder of a representative of the Spanish Estate in the Bahamian litigation is beneficial to both sides, and to the Court, as:
 - i. from the perspective of the Plaintiff and Ingrid Iglesias, the Spanish Estate, if joined, would be bound by any decision in their favour;
 - ii. from the perspective of the Claimants, the Spanish Estate is the appropriate party to advance the challenge to the Impugned Transactions, the appropriate party to fund that challenge, and will be the sole beneficiary of any decision that upholds the challenge to the Impugned Transactions;
 - c. Joinder would ensure that there would not be parallel proceedings in The Bahamas addressing the same issues and that all relevant persons would be parties to these proceedings.
 - d. The Joinder Order did not interfere with the power of the Spanish Court to control the ability of the Judicial Administrator to take an active role in the Bahamian litigation.
 - e. There is no conceivable prejudice to the Plaintiff which is caused by the Joinder Order.

RULING

Charles J:

Introduction

- [1] By Summons filed on 29 September 2020, Surf 'N' Turf Ltd ("the Plaintiff") seeks the Court's reconsideration of its own unperfected order made on 24 September 2020 acceding to the Claimants' application for the joinder of Juan Jose Sanchez Busnadiago ("the Judicial Administrator") in his capacity as the Judicial Administrator of the Spanish Estate of Jesús Iglesias Rouco as a party to this action ("the Joinder Order"). In support of their application for a dismissal of the Joinder Order, the Plaintiff relies on the Affidavit of Ingrid Iglesias Rouco ("Ingrid Iglesias") filed on 16 October 2020 and the Affidavit of Peter Fletcher ("Mr. Fletcher") filed on 22 September 2020.
- [2] The Claimants oppose the application and rely on several documents including (i) the Second Affidavit of Candice Knowles filed on 29 September 2020; (ii) the Third Affidavit of McFalloughn Bowleg Jr filed on 22 September 2020 ("Bowleg No. 3") and the Fourth Affidavit of McFalloughn Bowleg Jr filed on 29 October 2020 ("Bowleg No. 4").
- [3] On 16 November 2020, I dismissed the Summons filed on 29 September 2020 for reconsideration of my unperfected order made on 24 September 2020 with costs to the Claimants fixed at \$19,000. Thereafter, I ordered, among other things, that the Judicial Administrator shall participate in the Bahamian proceedings and he shall apply to the Spanish Court for permission to do so within twenty-eight days hereof. I promised a written Ruling. I do so now.

Brief background

- [4] The Plaintiff is a company now beneficially owned by Ingrid Iglesias, one of eight children of the late Jesus Iglesias Rouco, who died in Spain on 18 February 2017. The Plaintiff holds substantial assets at the Defendant Bank, transferred to it by the Deceased in December 2016, shortly before his death. The Plaintiff commenced this action in August 2017 to compel the Defendant Bank to transfer

the assets to it. In response to correspondence from certain of the Claimants (being the other seven children of the Deceased) claiming that the assets were properly the property of the Spanish Estate, the Defendant Bank filed an interpleader application in September 2017, which was granted in December 2018. Mr. Juan Jose Sanchez Busnadiago (the Judicial Administrator”) representing the Spanish Estate of the Deceased was appointed by the Court in Estepona, Spain, in June 2019.

The chronology

- [5] A chronology detailing the relevant events to date was attached to Bowleg No. 3. This chronology tracked the matter up to and including the hearing on 17 September 2020 at which the Court indicated that it was considering making an Unless Order as the matter was not progressing in a judicious manner as envisaged by the Court.
- [6] On 22 September 2020, the Claimants filed a Summons requesting the following Orders with regard to the Judicial Administrator:
1. An Order that Juan Jose Sanchez Busnadiago (“the Judicial Administrator”) in his capacity as the Judicial Administrator of the Spanish Estate of Jesus Iglesias Rouco, be added as a Party to the action as the Eighth Claimant herein, pursuant to Order 15, Rule 4 of the Rules of Supreme Court 1978 (‘RSC’) and/or the inherent jurisdiction of the Court (“the Joinder Order”).
 2. An Order granting leave for the Claimants to serve the Judicial Administrator with a copy of the Order out of the Jurisdiction pursuant to Order 11, Rule 1(j) of the RSC on the basis that he is a person out of the jurisdiction who is a necessary or proper party to the Action.
- [7] On 24 September 2020, the Court determined that an Unless Order was not appropriate since the Claimants had not breached any Order requiring them to do anything. The Court then proceeded to make the Joinder Order after considering the evidence and hearing from Counsel for the parties. Learned Counsel for the

Plaintiff, Mrs. Lockhart-Charles indicated that her client had no objection to the Joinder Order. The Court then proceeded to confirm trial dates and invited Counsel to agree to some workable directions and to submit a draft consent order to the Court.

[8] Later that same day, learned Counsel for the Claimants, Mr. Jenkins sent some proposed directions for trial to Mrs. Lockhart-Charles: see pages 1-3 of the Exhibit to Bowleg No. 4.

[9] On 28 September 2020, Mrs. Lockhart-Charles indicated that the Plaintiff intended to apply to the Court to reconsider the Joinder Order: see page 5 of the Exhibit to Bowleg No. 4. On the same day, Mrs. Lockhart-Charles provided the Plaintiff's proposed directions for trial. The Plaintiff's directions assumed that the Judicial Administrator is not a party and limited the Claimants to a claim against the Plaintiff (thereby excluding the possibility of advancing a cause of action against Ingrid Iglesias). The Plaintiff's directions provided for sequential discovery giving itself the opportunity to inspect the Claimants' documents prior to producing its own list. Similar sequential provisions appear for witness statements and expert reports. In contrast to the Claimants' proposed directions, no accommodation was made for any other interlocutory applications, including those that Mrs. Lockhart-Charles indicated would be likely to be brought by her client: see page 6 of the Exhibit to Bowleg No. 4.

[10] On 29 September 2020, the Plaintiff filed its Summons for review and reconsideration of the Joinder Order and its eventual dismissal.

Jurisdiction to reconsider order made but not perfected

[11] It is incontrovertible that the Court has the discretion to vary or reconsider its decision prior to the perfection of an Order. However, that discretion is not unfettered. It is well established in this jurisdiction that the exercise of this discretion is limited to exceptional circumstances. In **Re Barrell Enterprises and others** [1972] 3 All ER 631, CA, Russell LJ stated at p 636:

“When oral judgments have been given, either in a court of first instance or on appeal, the successful party ought save in most exceptional circumstances to be able to assume that the judgment is a valid and effective one”. [Emphasis added]

[12] Further, Russell LJ also stated the following (at p 636):

“The cases to which we were referred in which judgments in civil courts have been varied after delivery (apart from the correction of slips) were all cases in which some most unusual element was present.”

[13] In her written submissions, Learned Counsel Mrs. Lockhart-Charles relies on the English Supreme Court case of **Re L v B (Children)** [2013] UKSC 8, and in particular the following excerpt from the judgment of Baroness Hale which she invites the Court to adopt:

“27] ... This court is not bound by the Barrell case or by any of the previous cases to hold that there is any such limitation upon the acknowledged jurisdiction of the judge to revisit his own decision at any time up until his resulting order is perfected. I would agree with Clarke LJ in *Stewart v Engel* [2000] 1 WLR 2268, 2282 that his overriding objective must be to deal with the case justly. A relevant factor must be whether any party has acted upon the decision to his detriment, especially in a case where it is expected that they may do so before the order is formally drawn up. On the other hand, in *In re Blenheim Leisure (Restaurants) Ltd*, Neuberger J gave some examples of cases where it might be just to revisit the earlier decision. But these are only examples. A carefully considered change of mind can be sufficient. Every case is going to depend upon its particular circumstances.”

[14] **Re L v B (Children)** was a case decided in England & Wales where the Civil Procedure Rules (“the CPR”) governs civil procedure and practice. The Bahamas does not yet have the CPR and operates under the Rules of the Supreme Court.

[15] It is noted that similar arguments that a judge in The Bahamas could reconsider a prior unperfected ruling without exceptional circumstances being present were raised by the Respondents in the Bahamian case of **RTL v ALD and others** [2015] 1 BHS J No. 82. However, in that case, Winder J affirmed that the **Re Barrell** jurisdiction remains the law of The Bahamas. He stated at para 37:

“The authority advanced by the Respondents does suggest that the rule is no so rigid as to require the exceptional circumstance. Having considered these authorities it appears to me that they are all largely based upon environments, which have undergone CPR reforms. The Bahamas however, has not as yet introduced any CPR changes and therefore I find the *Barrell* jurisdiction remains the state of our law. This position has been confirmed by Barnett CJ in the case of *Re: Petition of Henry Armbrister 2007/CLE/qui/01438 & 2008/CLE/qui/845*. I accept therefore that it is only in the most exceptional circumstances that I ought to revisit a decision made by me...”

- [16] **Re Barrell** was also applied by this Court in **Hong Kong Zhong Qing Development Company Limited v (1) Squadron Holdings SPV0164HK, Ltd et al 2016/CLE/gen/01295**.
- [17] Accordingly, once the Court has made its decision, it is only in exceptional circumstances that a judge can be invited to reverse that decision, since an appeal is the more appropriate course for the aggrieved party: **Compagnie Noga D’Importation et D’exportation SA v Abacha (No. 2)** [2001] 3 All ER 513, following the approach adopted in **Re Barrell**.
- [18] All of these cases emphasized the principle of the finality and binding effect of an orally delivered decision. In **Edmund v The State** TT 2007 CA 39, a criminal appeal, the Trinidad & Tobago Court of Appeal was of the view that the delivery of its oral judgment at the end of the hearing of the appeal was immediately binding. The Court considered itself *functus officio*. This reflected the view of Russell LJ in **Re Barrell**, namely that when oral judgments have been given, either in a court of first instance or on appeal, “*the successful party ought, save in the most exceptional circumstances, to be able to assume that the judgment is a valid and effective one.*”
- [19] While **Re Barrell** affirmed the principle of finality of oral judgments, it does however leave the door open to the reopening of such judgments in exceptional circumstances.

The grounds of the application for reconsideration

[20] Two grounds were advanced by the Plaintiff for the application for reconsideration namely:

1. The Judicial Administrator is neither a necessary nor proper party to the Action and;
2. The Joinder Order 'effectively' usurps or circumvent the authority of the Spanish Court.

Submissions by Counsel

[21] The Plaintiff argues that the Judicial Administrator is neither a necessary or proper party to the Action. The Plaintiff relies on the Affidavit of Ingrid Iglesias filed on 16 October 2020 which sets out the details of the expert evidence of Mr. Rafael Gernando Gonzalo on highly relevant matters of Spanish law including the following:

1. The functions of the Judicial Administrator are to be distinguished from the functions of the executor, who is charged with the responsibility of ensuring compliance with the last wishes of the testator and guarding his assets.
2. The Judicial Administrator does not have legal competence to intervene as a party in the judicial procedure in the Court of The Bahamas, without the due authorization of the Spanish Court.
3. It is highly unlikely that the Spanish Court will authorize the Judicial Administrator to intervene in The Bahamas procedure because his function is limited to the formation of an inventory and its presentation in the Court, which he has already carried out,
4. If in the judicial procedure followed before the Court of The Bahamas, assets to be integrated into the inheritance of the deceased emerged, the Claimants would have the ability to communicate such judgment to the Court in Spain which would then decide whether to include in the

inventory of the inheritance the assets to which the Bahamas judgment refers.

- [22] Learned Counsel Mrs. Lockhart-Charles submits that the above principles were made in the absence of evidence of Spanish law as to the role and functions of the Judicial Administrator and had these points of Spanish law and matters set out in the affidavit of Ingrid Iglesias been drawn to the Court's attention, it would have been readily apparent that the joinder of the Judicial Administrator is contrary to the objective of dealing with the present interpleader proceedings justly.
- [23] Counsel next submits that the Judicial Administrator is not a necessary party since the Claimants are quite competent of advancing their claim without the participation of the Judicial Administrator and the Judicial Administrator is not a proper party since he is subject to the jurisdiction of the Spanish Court and he is obliged by Spanish law to seek the permission of that court before he may bring a claim.
- [24] Mrs. Lockhart-Charles refers to the Affidavit of Mr. Fletcher which detailed the intervener process which was commenced more than 3 years ago by the Defendant Bank who filed an application pursuant to RSC Ord. 17 for interpleader relief. She submits that it is not an appropriate use of the Interpleader process for the Claimants to seek to have the Judicial Administrator effectively take their place as Claimants when the Judicial Administrator requires the permission of the Spanish Court to bring a claim and no such permission has been received.
- [25] Accordingly, says Counsel, the decision of this Court to join the Judicial Administrator as a party to the present proceedings ought to be reversed, as the joinder is improper and unnecessary and was made in the absence of highly relevant evidence of Spanish Law as to the role and functions of the Judicial Administrator. Counsel next submits that the Joinder Order effectively aids in the

Claimant's actions in usurping and/or circumventing the authority of the Spanish Court.

[26] Learned Counsel for the Claimants, Mr. Jenkins submits that the Plaintiff's application is misconceived. He submits that, while the Court does have the jurisdiction to reconsider its own orders prior to perfection, the circumstances in which this jurisdiction can be exercised are extremely limited.

[27] Mr. Jenkins argues that, in this case, the application has been heard, and Counsel for the Plaintiff indicated clearly at the hearing that her client had no objection to the joinder of the Judicial Administrator. He submits that there are no changed circumstances or any valid reason being proffered as to why the position that is currently being advanced was not argued at the hearing on 24 September 2020.

[28] On the jurisdiction of the Court to reconsider an oral ruling, the above judicial authorities, when properly dissected, appear to suggest that the following three principles are applicable:

1. An oral decision made by a judge is normally binding from the moment it is pronounced;
2. The Court retains a residual jurisdiction to vary its earlier decision until the order of the court is recorded or otherwise perfected. The jurisdiction is exercisable on narrowly defined principles. There must be exceptional circumstances warranting its exercise. A relevant factor in deciding whether the jurisdiction should be exercised is whether any party has acted upon it to his or her detriment and;
3. The Court is *functus officio* once the order has been recorded or otherwise perfected.

[29] Applying these principles to the present application, while I do have limited jurisdiction to reconsider an oral order that I made, I agree with Mr. Jenkins that

there is no factual or legal basis for the assertion that the Judicial Administrator, the lawful representative of the Spanish Estate, should not be joined as a party to the Bahamian litigation, nor would it usurp the function of the Spanish Court if the Bahamian Court was to confirm the Joinder Order. Rather, Mr. Jenkins correctly points out:

- a. Who the Bahamian Court joins as a party is a matter governed exclusively by Bahamian law.
- b. Joinder of the Spanish Estate is beneficial to both sides and to the Court (I may add), as:
 - i. from the perspective of the Plaintiff and Ingrid Iglesias, the Spanish Estate, if joined, would be bound by any decision in their favour;
 - ii. from the perspective of the Claimants, the Spanish Estate is the appropriate party to advance the challenge to the Impugned Transactions, the appropriate party to fund that challenge, and will be the sole beneficiary of any decision that upholds the challenge to the Impugned Transactions;
 - iii. Joinder would ensure that there would not be parallel proceedings in The Bahamas addressing the same issues, and that all relevant persons would be parties to these proceedings.
- c. It is accepted that the Judicial Administrator will require the leave of the Spanish Court before he can actively participate in the Bahamian proceedings. However, by making the Joinder Order, the Bahamian Court did what it could to assist this process. Under no circumstances is this the usurpation of the function of the Spanish Court. If the Spanish Court declines to give leave for the Judicial Administrator to participate, he would not, and the Bahamian Proceedings will proceed regardless, driven by the Claimants, as provided for in the directions proposed by the Claimants. On

the principles of comity, this Court will and must respect the decision of the Spanish Court.

[30] Further, as Mr. Jenkins properly asserts, there is no conceivable prejudice to the Plaintiff which will be caused by the Joinder Order. On 24 September 2020, this Court gave firm trial dates for the trial of the Action to commence on 12 April 2021 with a time estimate of five days. This is now an insurmountable task given the delay which this unanticipated application has caused. In the past, the Plaintiff has penetratingly complained of delays. In this instance, it is the Plaintiff who has caused the setback of what was previously a feasible schedule for the trial to commence in April 2021.

Should the Court exercise its jurisdiction to reconsider the Joinder Order?

[31] The Plaintiff argues that the Judicial Administrator is neither a necessary nor proper party to the Action and that the Joinder Order effectively usurps the authority of the Spanish Court.

[32] Mr. Jenkins submits that the application to reconsider did not rely on any affidavit of Spanish law, but rather the affidavit of Ingrid Iglesias, the beneficial owner of the Plaintiff, who claimed to summarize an opinion she had received from a Spanish attorney (presumably before the affidavit was circulated on 28 September 2020). Ingrid Iglesias' affidavit alleged that a certified translation of the Spanish law advice was being obtained, though at the time of writing this has not been received in any form by the Claimants. Nor has any Spanish language opinion been received.

[33] According to Mr. Jenkins, even the 'summary' provided by Ingrid Iglesias does not actually support the central contentions of the Plaintiff that a representative of the Estate is not a necessary and proper party, that taking part in the Bahamian litigation lies outside of his powers, nor the contention that the Joinder Order in some way usurps the authority of the Spanish Court.

[34] Furthermore, says Mr. Jenkins, the summary does not contradict the contentions the Claimants advanced at the hearing, namely that:

- a. The Judicial Administrator is the legal representative of the Estate;
- b. By virtue of his position as legal representative of the Estate and physical location in Spain, the Judicial Administrator will be able to obtain documentation relevant to the matter that the heirs (i.e. the Claimants) would not;
- c. The Estate would be the beneficiary of the setting aside of the Impugned Transactions; and
- d. Although leave of the Spanish Court may be required for the Judicial Administrator to actively intervene:
 - i. There is no reason to suspect that this leave will not be given; and,
 - ii. In the event that leave is refused, the litigation in the Bahamas will continue (as specifically provided for in the draft directions proposed by the Claimants).

[35] It is therefore common ground between the parties that:

- a. The Judicial Administrator is the legal representative of the Spanish Estate;
- b. The Judicial Administrator would (for obvious reasons) wish to first obtain the leave of the Spanish Court before actively participating in the Bahamian Proceedings and incurring costs on behalf of the Estate;
- c. The Spanish Court has the power, notwithstanding the Joinder Order, to decline to give such leave.

[36] I agree with Mr. Jenkins that the primary duty of the Judicial Administrator at this stage of the Spanish proceedings (under Art 791 of the Spanish Civil Code) is to collect in the property, books and records of the Estate, and produce an inventory is not relevant to the reconsideration application. Nor is it relevant to the

reconsideration application that once the Spanish Court accepts the Inventory at the hearing in Spain on 1 December 2020, the powers of the Judicial Administrator are likely to be expanded to include the power to deal with the assets of the Estate under Art 795 of the Spanish Civil Code.

- [37] I also agree that when one examines the affidavit evidence, it is clear that there is nothing that could be considered to be “exceptional circumstances” at all.
- [38] In addition, there is nothing in the evidence that explains why an experienced attorney like Mrs. Lockhart-Charles would categorically express to the Court that her client had ‘no objection’ to the joinder of the Judicial Administrator. As Mr. Jenkins properly submits, Mrs. Lockhart-Charles had received the application two days previously, and skeleton arguments in advance of the hearing, presumably having taken instructions. She did not request further time to consider the application and was unequivocal in communicating her instructions to the Court.
- [39] Mr. Jenkins implores the Court to dismiss the Plaintiff’s application as he surmises that after Mrs. Lockhart-Charles had no objection to the Order which was made, she later took the view that the non-objection to Joinder did not sit well with Ingrid Iglesias’ litigation strategy. The Court makes no factual finding on this argument. However, in my opinion, Ingrid Iglesias will be perfectly able to argue in Spain against the Judicial Administrator being given leave to actively take part in the Bahamian proceedings and to use the resources of the Spanish Estate to do so. Nothing in the Joinder Order affects this right, interferes with the power of the Spanish Court, nor prejudices any party’s legitimate interests.
- [40] In my considered opinion, it is important for the Judicial Administrator to be a party to the Bahamian proceedings. If the Court were to reverse the Joinder Order, the Judicial Administrator would be faced with a situation where he may be compelled to bring his own proceedings against Ingrid Iglesias and the Plaintiff in The Bahamas to recover the Plaintiff’s assets for the benefit of the Estate, which would duplicate and embarrass the current Bahamian proceedings. As learned Counsel

Mr. Jenkins properly pointed out, it is sensible that all parties who ought to be parties are joined in these proceedings and that the Claimants as well as the Judicial Administrator are able to raise all arguments that they wish to raise challenging the Impugned Transactions, including any causes of action arising upon the same facts in order that the dispute can be fully and finally determined within one set of proceedings. In this regard, RSC Order 15 Rule 4 is useful. It provides:

“4. (1) Subject to rule 5(1), two or more persons may be joined together in one action as plaintiffs or as defendants with the leave of the Court or where —

(a) if separate actions were brought by or against each of them, as the case may be, some common question of law or fact would arise in all the actions; and

(b) all rights to relief claimed in the action (whether they are joint, several or alternative) are in respect of or arise out of the same transaction or series of transactions.

(2) Where the plaintiff in any action claims any relief to which any other person is entitled jointly with him, all persons so entitled must, subject to the provisions of any Act and unless the Court gives leave to the contrary, be parties to the action and any of them who does not consent to being joined as a plaintiff must, subject to any order made by the Court on an application for leave under this paragraph, be made a defendant. This paragraph shall not apply to a probate action.”

[41] For all of these reasons, I will dismiss the Summons for Reconsideration filed on 29 September 2020 with costs to the Claimants fixed in the amount of \$19,000. I further ordered that:

1. The application for permission of the Spanish Court for the Judicial Administrator to actively participate in the Bahamian Proceedings shall be made to the Spanish Court within 28 days of this Order;
2. The Judicial Administrator shall enter a Notice and Memorandum of Appearance within seven (7) days of obtaining permission of the Spanish Court to actively participate in the Bahamian proceedings.

3. The matter is adjourned to 27 January 2021 at 10 o'clock in the forenoon for further directions.

Dated this 5th day of January, A.D, 2021

**Indra H. Charles
Justice**