



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

CAUSE NO: FSD 190 OF 2021 (DDJ)

**IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)
AND IN THE MATTER OF HQP CORPORATION LIMITED (IN OFFICIAL LIQUIDATION)**

Before: The Hon. Justice David Doyle

Heard: On the papers

**Draft Judgment
circulated:** 9 August 2023

Judgment delivered: 11 August 2023

HEADNOTE

Determination of application for leave to appeal

JUDGMENT

Introduction

1. There is before the court an application for leave to appeal against paragraphs 2 and 3 of an Order made on 19 July 2023 (the “Order”) following my judgment delivered on 7 July 2023.

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2. I have considered:
- (1) the application bundle (leave to appeal);
 - (2) the skeleton argument dated 1 August 2023 of Access Industries Holdings and AI Autoparts LLC (the “Applicants”);
 - (3) the authorities bundle of the Applicants (with some 42 authorities);
 - (4) a letter dated 7 August 2023 from the attorneys acting for the Joint Official Liquidators indicating they “are not supportive of the Application but they do not propose to incur costs filing written submissions in opposition.”; and
 - (5) an email dated 9 August 2023 from the attorneys acting for the Petitioners indicating “While our clients do not support the application for leave to appeal, and reserve their rights in relation to the merits of the proposed appeal, they do not intend to file any opposing submissions in relation to same.”

The relevant test

3. In *Wang v Credit Suisse AG* (unreported FSD judgment delivered on 10 May 2022) I referred to *Telesystem International Wireless Incorporated v CVC/Opportunity Equity Partners LP* 2001 CILR N-21 (Grand Court: Sanderson J) and the general test:

“Does the appeal have a real (i.e. realistic, not fanciful) prospect of success? ... In exceptional circumstances, leave will be granted even where no such prospect exists if the appeal involves an issue which should be examined by the Court of Appeal in the public interest, e.g. when a public policy issue arises or a binding authority requires reconsideration ... if the Court is unsure whether leave should be granted, it should then refuse leave and allow the Court of Appeal to decide the matter.”

4. Morrison J.A. in his reasons delivered on 21 September 2017 in *Select Vantage Inc. v Cayman Islands Monetary Authority* (Civil Appeal No 22 of 2017) reiterated the general rule as follows at paragraph 26:

“The general rule is that leave to appeal will be given only in the case of an appeal with a realistic (as distinct from a fanciful) prospect of success. In exceptional circumstances, leave may also be given if there is an issue which, in the public interest,

should be examined by the Court of Appeal. Leave will generally not be given in the case of an appeal from a judge's exercise of a discretion (unless it can be shown to have been palpably wrong); nor will leave usually be given in the respect of a proposed appeal from a decision based on a judge's evaluation of oral evidence as to the primary facts.²¹"

Footnote 21 reads:

"See generally Practice Direction (Court of Appeal: Leave to Appeal and Skeleton Arguments) [1999] 1 WLR 2."

Determination

5. In my judgment leave to appeal should be granted in this case as there are issues which, in the public interest, should be examined by the Court of Appeal namely:
 - (1) specifically, whether *Houldsworth v City of Glasgow Bank* (1880) 5 App. Cas. 317 (H.L. (Sc.)) should be followed in the Cayman Islands and
 - (2) generally, the status of foreign (including English) authorities in the law of the Cayman Islands.

6. I therefore grant leave in the exceptional circumstances of this case.

David Doyle

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT