SAINT VINCENT AND THE GRENADINES

IN THE COURT OF APPEAL

CIVIL APPEAL NO: 01/96

BETWEEN:

THE CHAIRMAN AND MEMBERS OF THE
PUBLIC SERVICE COMMISSION
KENNETH R.V. JOHN, ET AL

APPELLANTS

AND

ANGUS DENNIE

RESPONDENT

Before:

The Rt. Hon. Sir Vincent Floissac	-	Chief Justice
The Honourable Mr. C.M. Dennis Byron	-	Justice of Appeal
The Honourable Mr Satrohan Singh	-	Justice of Appeal

Appearances:
Dr Kenneth Ballantyne, Senior Crown Counsel, for the Appellants
Miss Nicole Sylvester for the Respondent

March: 27, 1996

JUDGMENT

On 1st November 1995, the respondent obtained judgment by default against the appellants. On 7th November 1995, the appellants unsuccessfully applied to set aside the judgment on the ground that it was irregular. On the 31st November 1995, the appellants again applied to set aside the judgment on the ground that the appellants have a prima facie defence to the action.

By judgment dated 4th December 1995, Cenac J dismissed the second application on the ground that he had no jurisdiction to entertain it. We do not agree. The first application was an application to set aside an irregular judgment on the ground of its irregularity. The second application was an

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application to set aside a regular judgment on the ground of the existence of a prima facie defence to the action. The dismissal of the first application cannot therefore be held to be res judicata in relation to the second application.

We would therefore allow the appeal, set aside the judge's ruling on the second application and remit the second application to the learned judge for his trial thereof on its merits. There will be no order as to costs.

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Vincent F. Floissac
Chief justice

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C.M. Dennis Byron
Justice of Appeal

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Satrohan Singh
Justice of Appeal

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