

ANTIGUA AND BARBUDA

IN THE COURT OF APPEAL

CIVIL APPEAL NO.29 OF 2004

BETWEEN:

JEWELLERS WAREHOUSE

Appellant

and

CECIL NORDE

Respondent

Before:

The Hon. Mr. Brian Alleyne, SC

Justice of Appeal

On Written Submissions from:

Mr. Gerard A. Watt QC for the Appellant

Mr. Hugh C. Marshall for the Respondent

2005: January 7.

JUDGMENT

- [1] **ALLEYNE J.A.:** The issue which I directed be addressed is whether the Notice of Appeal was filed timely in compliance with the applicable Rule – Civil Procedure Rules 2000 Part 62.5(c). Under that Rule the relevant event from which time runs is the date when the order or judgment was served on the Appellant, not, as argued by the Respondent, the date of the delivery of the judgment. Provision for service of judgments and orders is made by Rule 42.6.
- [2] It is clear from the affidavit evidence that, given that commencement date, the Notice of Appeal was filed well within time, and there is a valid appeal before the court.
- [3] The substantive application before the court is for a stay of execution of the order pending the appeal. I make no finding on the merits of the appeal. It appears that

the applicant is able to satisfy the order. Nevertheless, the applicant fears, perhaps with some justification, that if payment were made it would be difficult to recover the amount in the event of a successful appeal.

[4] I would order that execution of the judgment be stayed pending the appeal upon condition that the applicant within 14 days of this order pay into court the amount of the said judgment, to be held by the Deputy Registrar of the Court (Registrar of the High Court) in an interest bearing account and not to be paid out until after the final disposition of the appeal or further order.

[5] The costs of this application to be costs in the cause.

BRIAN ALLEYNE S.C.
Justice of Appeal