

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO: 82/06

Motion No. 05/08

**BEFORE: THE HON. MR. JUSTICE PANTON, P.
THE HON. MR. JUSTICE SMITH, J.A.
THE HON. MR. JUSTICE COOKE. J.A.**

BETWEEN THE GENERAL LEGAL COUNCIL APPLICANT

AND ANTOINETTE HAUGHTON-CARDENAS RESPONDENT

John Vassel, Q.C., instructed by Dunn Cox for the applicant

**Paul Beswick, instructed by Ballantyne, Beswick & Company
for the respondent**

10th March 2008

ORAL JUDGMENT

PANTON, P.

We have before us an application for leave to appeal to Her Majesty in Council. This is in relation to a decision of the Court of Appeal (this Court) handed down on the 20th of December 2007. It was a decision which was against the applicant which is the General Legal Council. The respondent is an attorney-at-law. The decision involves the interpretation of certain provisions of the Legal Profession Act and Regulations made thereunder.

It has been brought to our attention by learned Queen's Counsel Mr. Vassel, that section 110(5) of the Constitution which deals with a matter of this nature is of some import. The subsection reads:

"A decision of the Court of Appeal such as is referred to in this section means a decision of that Court on appeal from a Court of Jamaica."

Without arguing the point, Mr. Vassel indicated that he was constrained to bring this provision to our attention as it appears that the disciplinary committee under the Legal Profession Act would not be regarded as a Court of Jamaica.

Mr. Beswick, on behalf of the respondent, unhesitatingly agreed with the view and we are constrained to say that we are not minded to say that the appeal was from a Court of Jamaica.

There are other considerations which have not been argued but which would be of importance, for example the provision under section 110(2)(a) wherein it is stated that an appeal lies to Her Majesty with the leave of this Court if this Court were of the opinion that the question involved in the appeal was one of "great general or public importance" so as to merit submission to Her Majesty in Council. That is a hurdle which would have had to be argued by the applicant, but we will not be going in that direction at this moment. Suffice it to say that it seems as if section 110(5) has not provided us with the necessary jurisdiction to entertain the application.

The application is refused and the costs awarded to the respondent.