

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE STRAW JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MISS JUSTICE SIMMONS JA**

SUPREME COURT CIVIL APPEAL NO COA2022CV00057

BETWEEN	HERZOG CONTRACTING CORPORATION	APPELLANT
AND	SEAL CONSTRUCTION COMPANY LIMITED	1ST RESPONDENT
AND	FIRST TROPICAL PROPERTIES LIMITED	2ND RESPONDENT
AND	COUNTERPOINT DEVELOPMENT COMPANY LIMITED	3RD RESPONDENT
AND	SEAL INVESTMENT COMPANY LIMITED	4TH RESPONDENT
AND	MATTHEW DONALDSON	5TH RESPONDENT

Ms Carlene Larmond KC and Miss Giselle Campbell instructed by Patterson Mair Hamilton for the appellants

Keith Bishop instructed by Bishop and Partners for the respondents

27 September 2024

Endorsement

STRAW JA

[1] On 28 June 2024, in **Herzog Contracting Corporation v Seal Construction Company Limited and Others** [2024] JMCA Civ 28, this court ordered as follows:

- “1. The appeal is allowed.
2. The counter-notice of appeal is dismissed.

3. The interlocutory injunction granted by Lawrence-Grainger J (Ag), on 17 December 2021, is set aside.

4. The appellants shall, on or before 15 July 2024, file and serve their submissions concerning costs of the appeal and the counter-notice of appeal, including possible costs sanctions.

5. The respondents shall, on or before 31 July 2024, file their submissions in response.

6. The court will consider the submissions on paper and, thereafter, issue its ruling.”

[2] The parties have communicated to the court an agreed position with respect to costs within the time extended to 30 September 2024 for compliance with orders 4 and 5 of the judgment dated 28 June 2024.

[3] It is hereby ordered that:

1. The parties are relieved from the requirement to file submissions as to costs.

2. **BY AND WITH THE CONSENT OF THE PARTIES** each party shall bear its own attorneys’ costs of the appeal and counter-notice of appeal, inclusive of costs incurred on the notice of application for court orders to apply sanctions dated 31 October 2023.