[2018] QCA 264

COURT OF APPEAL

GOTTERSON JA
McMURDO JA
BOWSKILL J

Appeal No 1461 of 2018
SC No 12210 of 2017

GREGORY RAYMOND YOUNG **Applicant**

v

CRIME AND CORRUPTION COMMISSION **Respondent**

BRISBANE

WEDNESDAY, 10 OCTOBER 2018

JUDGMENT

GOTTERSON JA: The applicant, Gregory Raymond Young, has filed seven applications returnable before the Court today. The circumstances preceding the filing of them are as follows:

Mr Young instituted civil proceedings against the respondent, the Crime and Corruption Commission. On the 9th of February 2018, the claim and amended statement of claim that he had filed was struck out by Justice Martin in the trial division. Mr Young appealed to this Court on the 28th of March 2018.

A further amended notice of appeal filed by him was struck out by President Sofronoff, who at the time observed r 747(1(b)) of the UCPR requires that a notice of appeal must state

briefly and specifically the grounds of appeal. This notice does not comply with that rule. Worse, its contents are entirely irrational and incomprehensible and demonstrate that the proposed appeal, at least in its current form, would be vexatious. His Honour directed that Mr Young be entitled to file another amended notice of appeal, provided that he first have leave of the Court to do so.

On the 30th of April 2018, Mr Young filed an application for such leave. The application was heard by Justice Morrison on the 3rd of May 2018. In reasons published on the 17th of August 2018, his Honour recorded that, in the course of the hearing, Mr Young agreed that a sensible way to proceed was to take his latest draft notice of appeal and subject it to some analysis to see whether any points could be articulated in a way that would allow the appeal to progress.

The hearing before Justice Morrison proceeded over some 45 minutes, in which Mr Young made lengthy oral submissions, supplementing his 10 page written submissions. The course of debate over the draft notice of appeal resulted in four discrete grounds being identified as ones which Mr Young would seek to advance in his notice of appeal if leave were granted. They were that the learned primary judge (1) denied the appellant natural justice or procedural fairness by the refusal of his request for an adjournment, (2) gave inadequate reason for not granting the adjournment, (3) erred by striking out the claim and amended statement of claim as the pleading complied with the new UCPR and (4) gave inadequate reasons for concluding that the pleading did not comply with the UCPR and should be struck out.

Justice Morrison gave leave to file a further notice of appeal limited to those grounds. He also ordered Mr Young to pay the costs of the application. Of the seven applications now before the Court, Mr Young concedes that three of them are redundant and may be struck out. They are an application filed on the 23rd of August 2018 seeking a stay of the orders made by Justice Morrison; an application filed on the 5th of September 2018 advising this Court of a potential application for special leave to appeal to the High Court; and an application filed on the 11th of September 2018 to amend an earlier application to claim that costs of the

applications filed on the 23rd of August 2018 should be costs in the appeal. In light of the concessions made, these three applications should be refused.

The extant applications are: a second application filed on the 23rd of August 2018, by which Mr Young seeks orders setting aside the judgment of Justice Morrison given on the 17th of August 2018 and granting leave to file a further notice of appeal based on three grounds only. They are, firstly, a denial of natural justice or denial of procedural fairness on the part of Justice Martin; secondly, inadequate judicial explanation or reasons given by Justice Martin in attributing negligence, misunderstanding, legislative misunderstanding, judicial law misunderstanding and relationship misunderstanding to Mr Young; and thirdly, blatant fraud upon the Court, which Mr Young attributes to the respondent This is Mr Young's principal application.

On the 12th of September 2018, he filed two further applications seeking to amend the principal application. It is unnecessary to detail those applications. Finally, there was an application filed by Mr Young on the 3rd of October 2018 by which he seeks to apprise the Court of matters in an affidavit which he swore on the same date.

The principal relief sought by Mr Young in his principal applications is that the judgment of Justice Morrison be set aside. As it was observed in the decision of this Court in *Di Iorio v Wagener* [2016] QCA 346 at paragraph 15:

> "The sole avenue for review of a decision of a single judge of appeal is established by s 44(4) of the [*Supreme Court of Queensland Act*] 1991."

That provision empowers this Court to:

> "… discharge or vary a judgment given… or an order made or direction given by a judge of appeal."

I am prepared to regard Mr Young's principle application as one for discharge of the judgment given by Justice Morrison on the 17th of August 2018. It was further held in *Di Iorio* that, in order for this Court to grant an application to discharge or vary under s 44(4), an applicant must demonstrate:

> "… on the part of the judge of appeal an error of law, a material error of fact, a failure to take into account a material consideration, the taking into account of an irrelevant consideration, or unreasonableness in the *House v The King* sense."

In his written outline of argument, Mr Young has listed eight grounds of appeal. Presumably, these are the grounds on which he seeks the judgment of Justice Morrison to be discharged. They are, verbatim: (1) breach of High Court law via a denial of natural justice and breach of High Court law and other law via a denial of procedural fairness, and (2) breach of s 20 of the *Criminal Code* 1899 (Qld) via judicial corruption and (3) breach of Privy Council laws for failing to find that the defendant committed blatant fraud upon the Court at law and in equity in two Queensland Supreme Court proceedings, namely BS 8580 of 2017 and BS 12210 of 2017 and (4) the judgment constitutes illegal concealment of purported fraud and perjury and other unconscionable conduct of the defendant during the legal proceedings in (3) and (5) breach of the orders of the President of the Queensland Supreme Court of Appeal, his Honour Justice Sofronoff, that he made on the 28th of March 2018, by his Honour, Justice Morrison, which is an internal Court error and it breaches internal Court authority and (6) breach of his Honour's, Justice Morrison's, own undertaking on 3rd of May 2018, that the appellant and applicant would prepare his own grounds of appeal and (7) three major inutile judicial errors made in the judgment by Justice Morrison and (8) the Court breached the principles of equity exercised in an equitable jurisdiction in regards to its costs order against the applicant, who was, until recently, bankrupt.

I should say at once that grounds 2, 4, 5 and 6 are scandalous in alleging variously judicial corruption, illegal concealment and breaches of an order and an undertaking by Justice Morrison. Significantly, for present purposes, they fail to raise any matter of a kind that an applicant must demonstrate in order to have a judgment discharged.

With regard to ground 1, insofar as it proposes that there was a denial of natural justice or procedural fairness on the part of Justice Morrison, that proposition is contradicted by the transcript of that proceeding. A perusal of it reveals that his Honour was at pains to

understand the points that Mr Young was seeking to make and afforded him ample opportunity to explain them.

Ground 3 contends that the judgment of Justice Morrison is tainted by fraud upon the Court, allegedly committed by the respondent, to which his Honour turned a blind eye. This allegation makes no sense. The respondent did not adduce evidence before either Justice Martin or Justice Morrison of facts concerning Mr Young. To suggest that the respondent sought to perpetrate a fraud on the Court is nothing short of scandalous.

As to ground 7, it seeks to attribute error to Justice Morrison in formulating the grounds of appeal for which he was prepared to grant leave. As I understand his argument, Mr Young's complaint is that those grounds of appeal all have, as he puts it, zero prospects of success. That may well be so. That it might be does not, however, manifest legal error on his Honour's part. His Honour did not formulate grounds of appeal which, in his view, were strong or even viable. He sought merely to identify within Mr Young's material and submissions grounds that are, in the eyes of the law, recognised as competent grounds of appeal. Subject to what I will say later about the ambit of orders 1-(3) and (4), that is to say sub (3) and sub (4) of order 1, there is no demonstrated legal error in the way that his Honour did that.

Finally, as to ground 8, there is a misapprehension on Mr Young's part that Justice Morrison was exercising equitable jurisdiction when he heard and determined the application before him. Clearly, he was not. Moreover, Mr Young's complaint is as to the outcome of the exercise of the discretion as to costs. He has not advanced any matter which would, within the *House v King* frame of reference, impugn the exercise of the costs discretion.

For these reasons, none of Mr Young's stated grounds of appeal are capable of justifying a discharge of the judgment given by Justice Morrison on the 17th of August 2018. I would, however, vary order 3 by deleting the words:

> "As the pleading complied with the UCPR –"

And order 4 by deleting the words:

"Did not comply with the UCPR –"

On the basis that the words to be deleted unnecessarily confined the ambit of those orders. The four extant applications filed by Mr Young ought otherwise be refused. Given the very limited success Mr Young has had today, the costs of the applications should be costs in the appeal. I will propose the following orders:

1. Vary order 1 made on the 17th of August 2018 by

   (a) deleting from 3 the words "as the pleading complied with the UCPR"; and

   (b) deleting from 4 the words "did not comply with the UCPR"

2. The applications filed by the applicant on the 23rd of August, 5th, 11th and 12th of September and 3rd of October 2018 are otherwise refused

3. The costs of the applications be costs in the appeal.

McMURDO JA: I agree.

BOWSKILL J: I agree.

GOTTERSON JA: The orders of the Court are those that I have just announced and unless there is a need for me to repeat them - - -

APPELLANT: No.

GOTTERSON JA: - - - for any reason. Very well. Adjourn the court.