

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MRS JUSTICE MCDONALD-BISHOP P
THE HON MISS JUSTICE EDWARDS JA
THE HON MR JUSTICE D FRASER JA**

MOTION NO COA2024MT00012

BETWEEN	FAY CHANG RHULE	APPLICANT
AND	ANGELLA SMITH	1ST RESPONDENT
AND	GENERAL LEGAL COUNCIL	2ND RESPONDENT

Mrs Caroline P Hay KC and Mrs Tereece K Campbell-Wong for the applicant

Ms Chris-Ann Campbell instructed by NEA | Lex for the 1st respondent

2nd respondent not appearing or represented

4 November 2024

Endorsement by McDonald-Bishop P

[1] On 14 June 2024, the court (F Williams JA, Simmons JA and Shelly-Williams JA (Ag)) granted the applicant, Fay Chang Rhule, conditional leave to appeal to His Majesty in Council from the decision of the court handed down on 26 May 2023. Conditional leave to appeal pursuant to section 110(2)(a) of the Constitution was granted on the basis that the proposed appeal raises a question of great general importance which ought to be considered by His Majesty in Council.

[2] On 18 September 2024, the applicant filed a notice of motion with an affidavit in support seeking final leave to appeal to His Majesty in Council on the basis that she has complied with the conditions expressed in the court's order granting conditional leave and is, therefore, entitled to the grant of final leave.

[3] We are satisfied that the applicant has complied with the conditions imposed by the order granting conditional leave to appeal and, therefore, that the motion for final leave to appeal should be granted.

[4] At the hearing of the motion, we identified two editorial issues with the framing of the question certified by this court for consideration by His Majesty in Council. With the parties' consent, the certified question was amended to address the editorial issues (to remove the word "is" from the chapeau of the question and place it at the start of para. i., and to place the word "and" at the end of para. iii.).

[5] For the foregoing reasons, we order that:

1. The motion filed on 18 September 2024 for final leave to appeal to His Majesty in Council from the decision of this court handed down on 26 May 2023 is granted.
2. By consent, the question certified as being of great general or public importance for consideration by His Majesty in Council (as amended) is as follows:

"Question (b) – whether there is any duty on an Attorney-at-Law in Jamaica to look behind a foreign power of attorney which:

- i. is regular on its face being signed by the donor and witnessed by a duly commissioned notary public;
- ii. satisfies the requirements of the 16th Schedule of the Registration of Titles Act [J];
- iii. satisfies the due execution requirements of the Probate of Deeds Act [J]; and
- iv. contains no requirement on its face to look behind it."

3. Costs to be costs in the appeal to His Majesty in Council.