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**NOTICE TO PARTIES OF THE COURT'S
MEMORANDUM OF REASONS FOR DECISION**

APPLICATION NO 188/2018

BETWEEN	BLANDFORD TAYLOR	APPLICANT
AND	MARIE FALCONER JEFFERS	RESPONDENT

TAKE NOTICE that this matter was heard by the Hon Mrs Justice Foster-Pusey JA, the Hon Mr Justice Brown JA, and the Hon Mrs G Fraser JA, on 22 September 2025, with Miss Vanessa Wallace instructed by JNW Taylor & Associates for the applicant, and Miss Janene Laing of counsel for the respondent.

TAKE FURTHER NOTICE that the court's memorandum of reasons, as delivered orally in open court by the Hon Mrs Justice Foster-Pusey JA, is as follows:

[1] The decision of Bertram Linton J ('the learned judge') was made on 13 December 2017.

[2] The first notice of application for an extension of time to appeal the decision was filed on 22 August 2018, with a hearing date of 8 April 2019.

[3] The respondent indicated that this notice of application for court orders was not served on her attorney-at-law, and this was not denied by the applicant's attorney-at-law.

[4] On 25 February 2019, this court wrote to the attorneys-at-law for the parties, indicating that the matter could not be accommodated in the week of 8 April 2019 and it

would instead be rescheduled to the week commencing 29 April 2019. Counsel for the applicant wrote to indicate that that week would not be convenient. The matter was removed from the list and, by email of 17 April 2019, counsel was asked to file a relisted notice of application to secure a new hearing date.

[5] In August 2019, the court wrote to remind counsel for the applicant that they needed to file a relisted notice of application.

[6] A relisted notice of application was filed on 15 November 2024, and the court set a hearing date of 19 May 2025. This was the first application served on the respondent. However, the matter was removed from the hearing list due to non-compliance with Practice Direction 1/2019.

[7] A relisted notice of application was then filed on 20 May 2025, supported by an affidavit filed on the same date and sworn by an attorney-at-law for the applicant, Ms Janet Taylor.

[8] The principles for the court to consider on an application for extension of time to file an appeal are well established by the case of **Leymon Strachan v The Gleaner Company Ltd and Dudley Stokes** (unreported), Supreme Court Civil Appeal Motion No 12/1999, judgment delivered 6 December 1999. Panton JA helpfully summarised the relevant principles, at page 20, when he stated:

- “(1) Rules of court providing a time-table for the conduct of litigation must, *prima facie*, be obeyed.
- (2) Where has been a non-compliance with a time-table, the Court has a discretion to extend time.
- (3) In exercising its discretion, the Court will consider-
 - (i) the length of the delay;
 - (ii) the reasons for the delay;
 - (iii) whether there is an arguable case for an appeal and;

(iv) the degree of prejudice to the other parties if the time is extended.

(4) Notwithstanding the absence of a good reason for delay, the Court is not bound to reject an application for an extension of time, as the overriding principle is that justice has to be done.”

[9] The relisted notice of application will be assessed against the guidance provided by **Leymon Strachan v Gleaner Company Ltd.**

The length of the delay

[10] The first filing of the notice of application for an extension of time was made on 22 August 2018. This was eight months after the judgment was handed down in the court below. The appeal ought to have been filed by January 2018. Rule 1.11(1)(c) of the Court of Appeal Rules indicates that, aside from an interlocutory appeal or an appeal where permission is required, the appeal must be filed and served within 42 days of the date on which the order or judgment appealed against was made. Additionally, the application for extension of time was not served on the respondent until 2024.

[11] In our view, the length of delay in filing the application was considerable and was aggravated by non-service for over six years.

The reason for the delay

[12] The reason put forward by counsel for the applicant is that the applicant had to undergo surgery on his eyes in or around February-March 2018, and, coupled with his advanced age, counsel were unable to communicate directly with him. Eventually, counsel received a letter from the applicant in March 2018. Counsel referred to difficulties preparing for the application due to lengthy closing submissions filed by counsel for the applicant and the respondent in the court below, and counsel had to review the notes of trial counsel, which lengthened the time for preparation of the application.

[13] In our view, the reason proffered for the period of delay between March and August 2018 is not good, as counsel Ms Taylor appeared in the matter below. The delay was, therefore, inordinate.

[14] In addition, after the matter was removed from the list at the court's instance, there was a considerable delay in filing a relisted notice of application, and no explanation was given for this period. It is understandable that counsel for the respondent submitted that the reasons advanced for the delay are contrived.

[15] Nevertheless, as indicated by the authority of **Leymon Strachan v Gleaner Company Ltd**, we still considered whether there is an arguable ground of appeal.

Whether there is an arguable ground of appeal

[16] The applicant's proposed grounds of appeal were as follows:

Ground 1: the learned judge misapprehended the law and the facts before her in such a manner that her finding on the issue of a promise or assurance is demonstrably and palpably wrong.

Ground 2: the learned judge failed to consider the alternative relief of a life interest in the property or such further or other relief as deemed just, despite having found that the appellant paid the mortgage and expended significant sums towards the refurbishing of the property.

Ground 3: the learned judge acted injudicially [sic] when she failed to allow the [applicant] to rely on several receipts and documents which were annexed to the claim documents, disclosed in the [applicant's] list of documents, and identified in the [applicant's] witness statement on the basis that there was no notice of intention to tender into evidence hearsay statements contained in a document pursuant to the Evidence Act, in respect of same."

[17] The applicant's claim was based on the doctrine of proprietary estoppel. He had to prove that the respondent, the landowner, made a representation to him leading to his expectation that she would not insist on her strict legal rights. He would also have to

prove that he relied on the representation, and acted to his detriment in doing so, see para. [39] of the learned judge's decision in **Blandford Taylor v Marie Falconer Jeffers** [2017] JMSC Civ 207.

[18] The learned judge decided that the evidence was insufficient to show that there was a common understanding or agreement between the applicant and the respondent regarding the future of the disputed property, see para. [51] of the learned judge's decision. Consequently, the court could not reasonably impute a promise or representation by the respondent to the applicant from the conduct of the parties. This was a finding of fact arrived at after analysis of the evidence and considering the credibility of the parties. In such circumstances, the applicant would need to show that he had an arguable appeal that the learned judge was 'plainly wrong', see **Watt (or Thomas) v Thomas** [1947] AC 484, and **Rayon Sinclair v Edwin Bromfield** [2016] JMCA Civ 7 at para. [7]. The proposed ground of appeal on the gravamen issue as to whether the respondent made a promise or representation to the applicant, which is ground one, does not indicate what would demonstrate that the court's decision was plainly wrong. Therefore, this proposed ground of appeal does not have any prospect of success.

[19] The proposed ground two, in which reference was made to a life interest, would not be arguable in the face of the learned judge's determination that there was no promise or representation made by the respondent to the applicant.

[20] The proposed ground three was advanced on the basis that the learned judge disallowed evidence that would have shown that the applicant made significant improvements to the property and made payments towards the mortgage. In our view, the proposed ground three is unnecessary as the learned judge expressly found that the applicant did, in fact, make payments on the mortgage and carried out considerable improvement works on the property.

[21] Although the three proposed grounds have no prospect of success, and this finding would determine the application, we, nevertheless, for the sake of completeness, proceeded to address the issue of prejudice.

Prejudice

[22] The respondent has demonstrated considerable prejudice if an extension of time to appeal were to be granted. She has been kept out of the fruit of her judgment since December 2017, and has been put to expense and inconvenience, as the applicant has refused to vacate the premises since the decision.

Decision

[23] The lack of an arguable appeal is a death knell to the application; the delay in applying was inordinate, and the proof of prejudice is potent.

[24] The order of the court is as follows:

- i. The application for an extension of time to appeal the judgment of Bertram Linton J, made on 13 December 2017, is refused.
- ii. Costs of the application to the respondent to be taxed if not agreed.