

The Court of Appeal refused Robert Sinclair’s application for leave to appeal to the Privy Council, finding that his grounds raised no arguable point of law of general public importance. The court held that the case involved only the application of established legal principles to specific facts.

[2025]GCA029

**IN THE COURT OF APPEAL GUERNSEY
(CIVIL DIVISION)
Court of Appeal Case No: 592**

**ON APPEAL FROM THE ROYAL COURT OF GUERNSEY
(ORDINARY DIVISION)**

15 May 2025

**JUDGMENT ON THE APPELLANT’S APPLICATION FOR LEAVE TO APPEAL TO THE
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL**

Before:

**JONATHAN CROW CVO, KC
DAVID PERRY KC
THE RT HON JAMES WOLFFE KC**

Between:

ROBERT ARCHILBALD GILCHRIST SINCLAIR

Plaintiff/Appellant

-and-

**(1) IAN CHARLES DOMAILLE
(2) DEBORAH JOAN GUILLOU
(3) MARK JONATHAN BRIGHT
(4) ARTEMIS HOLDINGS LIMITED**

Defendants/Respondents

Crow JA

1. This is the judgment of the court on the Appellant’s application (“**the Application**”) for leave to appeal to the Judicial Committee of the Privy Council (“**the JCPC**”) against the judgment of this court dated 10 April 2025, [2025] GCA 026 (“**the Judgment**”).
2. For the purpose of this ruling, there is no need to repeat the background facts or to summarize the rulings of this court in relation to the substantive appeal, both of which are fully explained in the Judgment.

3. Leave to appeal is required by virtue of s.16 of The Court of Appeal (Guernsey) Law, 1961, as amended in 2021.
4. The Appellant indicated in his application that he was content for the court to deal with the matter on the papers, and we intend to do so.
5. The three-part test for granting leave to appeal is not in doubt. Leave will be refused unless the proposed appeal raises **(i)** an arguable point of law **(ii)** of general public importance **(iii)** which ought to be considered by the JCPC at this time: *JJW Hotels & Resorts Inc v. Rhodes* [2022] GCA 102, at §8; JCPC Practice Direction, PD3.35,
6. The Appellant seeks to rely on three grounds of appeal:
 - a. Ground 1: The Appellant contends that the Judgment erred in its analysis of the duty of directors under the law of Guernsey to act for proper purposes. Specifically, it is alleged that the purpose for which shares may be issued does not cover the circumstances of this case.
 - b. Ground 2: The Appellant contends that the Judgment erred in its analysis of the duties of directors when issuing shares, and specifically the effect of s. 295 of the Companies (Guernsey) Law, 2008 (“**the Companies Law**”).
 - c. Ground 3: The Appellant contends that it follows, from the arguments under Grounds 1 and 2, that the court erred in concluding that there was no unfairness to him in the circumstances of this case.
7. In our judgment, none of the proposed grounds of appeal raises a point of law, let alone an arguable point of law, least of all one of general public importance that ought to be determined by the JCPC at this time:
 - a. As regards Ground 1, the legal principles applicable to the ‘proper purpose’ rule generally, and its specific application to the allotment of shares, have been clearly established for many years, and they are summarised in §59 – 62 of the Judgment. For the avoidance of doubt, and contrary to the assertion made in §9 of the Application, the Judgment does not assume that the decision in *Harlowe’s Nominees Pty Ltd v. Woodside (Lakes Entrance) Oil Co NL* (1968) 12 CLR, lays down any “legal test”. Rather, that case merely illustrates (and was treated in the Judgment as illustrating) a particular application of the ‘proper purpose’ rule in the circumstances of the case in hand, and the kinds of factors that are liable to be taken into account in deciding whether, on the facts of any given case, the directors’ duties have been broken. Properly analysed, it is apparent (particularly from §10 and §11 of the

Application) that the Appellant’s complaint under Ground 1 is not that this court applied the wrong legal test, or that the applicable legal principles need to be revisited by the JCPC. Instead, his complaint relates solely to the application of well-established legal principles to the unusual facts of this case.

- b. Ground 2 does not raise any point of law either. The Appellant contends that, when directors are issuing shares, they have a duty to satisfy themselves that the company is receiving a proper price for them. That was exactly the approach adopted in §72 of the Judgment. On analysis, the Appellant’s complaint is again founded, not on any error of law in the Judgment, but on the application to the unusual facts of this case of the directors’ duties under the general law and specifically under s. 295 of the Companies Law. Similarly, the fact-specific complaints about the expert evidence in §19 of the Application do not raise any point of law.
- c. Ground 3 does not raise any separate issue, as is apparent from its opening words (“*It follows that ...*”) and also from §21 of the Application (“*If Grounds 1 and/or 2 are upheld ...*”). Success on Ground 3 is accordingly dependant on the success of Grounds 1 and/or 2.

- 8. In short, the Judgment made no new law, but simply involved the application of existing legal principles to the specific circumstances of this unusual case. As such, none of the three limbs of the test for leave to appeal to the JCPC is satisfied.