

IN THE COURT OF APPEAL

1996, No. 187
(Civil)

BETWEEN

TRAN VAN TIEN and OTHERS

Applicants
(Appellants)

and

THE DIRECTOR OF IMMIGRATION

1st Respondent
(Respondent)

THE REFUGEE STATUS REVIEW BOARD

2nd Respondent
(Respondent)

Coram: Hon Litton V-P, Bokhary and Mortimer JJ.A. in Court

Date of hearing: 30 January 1997

Date of judgment: 30 January 1997

J U D G M E N T

Litton V-P giving the judgment of the Court:

This is an application for leave to appeal to the Privy Council under Rule 2(b) of the 1909 Rules.

On 15 January 1997 we gave judgment dismissing the applicants' appeal. The appeal fell within a narrow compass: namely whether the judge was right to conclude that the Refugee Status Review Board was entitled to determine upon its own findings that the applicants had no well-founded fear of persecution if returned to Vietnam.

The applicants have now put before us a notice of motion raising various points which they seek to submit to Her Majesty in Council for determination. These are set out in the notice of motion as paragraph 1(a) to (f).

As to paragraph 1(a) to (d), these seek to argue a number of propositions of law. As to these, the judgment of this court simply never depended upon the resolution of those points.

As to paragraph 1(e) this is in effect an objection to the admissibility of an affidavit made by Mrs Croxen, Chairman of the Review Board, which had been put before the judge as evidence at the judicial review hearing. It was never an issue before this court on appeal.

As to paragraph 1(f) which seeks to impeach the decision-making process of the Review Board, this was never part of the application for relief in the judicial review proceedings before the judge, and was not an issue on appeal.

For these reasons this motion is dismissed.

(Henry Litton)
Vice President

(K. Bokhary)
Justice of Appeal

(Barry Mortimer)
Justice of Appeal

Neville Sarony QC and Paul Harris (M/S Pam Baker & Co.)
assigned by DLA for the Appellants

Marshall QC and Joyce Chan, Crown Counsel (Attorney General's Chambers)
for the Respondents