

IN THE COURT OF APPEAL

1995 No. 196
(Civil)

BETWEEN

NGUYEN TUAN CUONG

1st Applicant
(1st Appellant)

LONG QUOC TUONG

2nd Applicant
2nd Appellant

AND OTHERS

and

THE DIRECTOR OF IMMIGRATION

1st Respondent
(1st Respondent)

THE SECRETARY FOR SECURITY

2nd Respondent
(2nd Respondent)

CHAIRMAN OF THE REFUGEE STATUS
REVIEW BOARD

3rd Respondent
(3rd Respondent)

Coram: Bokhary, Mortimer & Mayo JJA in Court

Date of Hearing: March 8, 1996

Date of Judgment: March 8, 1996

J U D G M E N T

Bokhary JA:

It is difficult to identify any disputed legal principle which would arise in this proposed appeal. But the relevant part of the Order in Council does include the formula “or otherwise” And this, in our view, is a case of such a dimension that leave to appeal is appropriate even if no disputed legal principle arises. A very large number of persons are

concerned; and they are concerned in a sense vital to them. We must hesitate of course to exercise our discretion so as to force upon the Judicial Committee of the Privy Council an appeal in which we are unable to identify a disputed legal principle. But the formula “or otherwise” is there for a purpose; and we consider that the present case comes within it.

In those circumstances, we think it right to grant leave to appeal to Her Majesty in Council. Such leave at this stage is of course conditional. The usual conditions pertain to security for costs and the time for the dispatch of the record.

On such conditions and costs, we will now hear counsel.

[Submissions on Conditions and Costs]

No security for costs is sought, so none will be ordered. The time for the preparation and dispatch of record will be two months. And as far as the costs of this application is concerned, they will be in the appeal to Her Majesty in Council.

(K Bokhary)
Justice of Appeal

(Barry Mortimer)
Justice of Appeal

(Simon Mayo)
Justice of Appeal

Mr Philip Dykes (instructed by M/s Pam Baker & Co) for the applicant

Mr William Marshall QC & Ms D Watson (of the Attorney General’s Chambers) for the respondent