

Director of Public Prosecutions (Appellant) v Jugnauth and another (Respondents)
(Mauritius) [2019] UKPC 8

This is an appeal against a decision of the Supreme Court of Mauritius quashing the conviction of Mr Pravind Kumar Jugnauth (“the defendant”) for an offence of “conflict of interests” contrary to section 13(2) and (3) of the Prevention of Corruption Act 2002 (“POCA”).

The offence under section 13(2) and (3) creates a duty on an official not to vote or take part in proceedings relating to a decision in which he, a relative or associate has a personal interest.

The Judicial Committee of the Privy Council held on dismissing the appeal that:

- (1) The prosecution is not only required to prove the four elements which form the actus reus of the offence but it also has the obligation to prove mens rea in relation to each element of the actus reus contrary to section 13(2).
- (2) The use of the words “any proceedings” in section 13(2) and the underlying policy of the provision strongly suggest that these words are to be given a wide interpretation so as to include any kind of proceedings.
- (3) An “interest” within section 13(2) is required to be “a personal interest”. It draws a distinction between the individual interest of a public official, his relative or associate and the more general interest shared by members of the public at large in decisions made by public officials. This reading is consistent with and furthers the objective of the provision which is to prohibit participation in decision-making where the official, his relative or associate has an interest which gives rise to a conflict. Moreover, the interest is not required to be a financial interest.

The crucial issue in this appeal was whether the defendant’s sister, Mrs Malhotra, had a personal interest in the decision within section 13(2). It was held that the decision taken by the defendant to approve a reallocation of funds at the stage after funds had been identified, after the payment deadline had been determined, after the contract had been awarded and after the contract amount had been determined was not a decision in which his sister had any personal interest. It was merely concerned with a choice between two available internal sources of funding.

Short Summary

This is an appeal against a decision of the Supreme Court of Mauritius quashing the conviction of Mr Pravind Kumar Jugnauth (“the defendant”) for an offence of “conflict of interests” contrary to section 13(2) and (3) of the Prevention of Corruption Act 2002. The crucial issue was found to be whether the defendant’s sister had a personal interest in the decision taken by the defendant for the reallocation of funds. It was held, dismissing the appeal, on the facts of the case, this was not a decision in which the defendant’s sister could have a personal interest.