



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE

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CCJ DISMISSES CHALLENGE AGAINST ELECTRICAL CONSUMPTION ARREARS

Port of Spain, Trinidad and Tobago. On Tuesday 9th April 2024, the Caribbean Court of Justice (CCJ) delivered judgment in *Che Jain Ping and Xiao Guang Zhao v Guyana Power and Light Inc.* [2024] CCJ 8 (AJ) GY, a decision in its Appellate Jurisdiction. In a judgment authored by Mr Justice Andrew Burgess, the CCJ upheld the decision of the Court of Appeal of Guyana.

The appellants were individuals doing business in Guyana under the trading names, ‘New Thriving Restaurant’ and ‘New Thriving Fast Food’. The respondent was Guyana Power and Light Inc (GPL), a public utility company. The matter concerned a dispute between the parties in respect of arrears accrued by virtue of consumption by the appellants of electricity supplied by GPL. The electricity was supplied by GPL to the appellants for the period from January 2002 to July 2009. The appellants were billed monthly and at the end of the period, arrears on the appellants’ account exceeded payments credited to the account by the sum of GYD13,768,937.

An action was commenced before the High Court on 29 October 2010. The Court held that the appellants were liable to pay to GPL the sum of GYD13,768,937 as arrears for electricity supplied and not paid for by them. This decision was upheld by the Court of Appeal.

By notice of appeal filed on 12 May 2023, the decision of the Court of Appeal was appealed to the CCJ. Firstly, the Court explained that s 23 of the Electricity Sector Reform Act expressly creates a statutory contract for the supply of electricity between the parties as consumer and public electrical supplier. Next, the Court explained that reg 31(2) of the Public Electricity Supply Regulations (PESR) entitled GPL to access the Court by an action for breach of the electrical supply contract. Finally, it was held that the requirements of PESR reg 31(2) had been met, thereby entitling GPL to back bill the appellants beyond the 12-month period mentioned in PESR reg 31 (2) and claim full arrears in accrual.

In all the circumstances the appeal was dismissed, and the orders of the Court of Appeal were affirmed.

The matter was heard by the Honourable Mr Justice Adrian Saunders, President and the Honourable Justices Winston Anderson, Maureen Rajnauth-Lee, Denys Barrow, and Andrew Burgess. Mr Stephen Fraser SC and Mrs Shantel Scott-Lall appeared for the appellants. Mr Timothy M Jonas SC and Ms Krystal Abrams appeared for the respondent.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of six judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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