



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE

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CCJ VARIES COMPENSATION FOR LAND ACQUISITION BY THE GOVERNMENT OF BELIZE

Port of Spain, Trinidad and Tobago. On Wednesday, 26 June 2024, the Caribbean Court of Justice (CCJ) varied the decision of the Court of Appeal of Belize to send back to the High Court the assessment of compensation for compulsory acquisition of land, and itself assessed the compensation that should be paid by the Government of Belize.

On 13 December 2019, Ms Primrose Gabourel filed a claim seeking damages for breach of her right not to be unlawfully deprived of property under the Belize Constitution. A High Court judge ordered payment of full and fair compensation for the various claims and after mediation was unsuccessful, the assessment proceeded before the High Court.

The High Court rejected Ms Gabourel's valuation and accepted that of the Government, which valued the land at BZ\$1,050,000.00. The judge awarded BZ\$150,000.00 as nominal damages and BZ\$300,000.00 for lost landfill and interest and costs to the claimant.

Ms Gabourel appealed to the Court of Appeal, and by a majority, that court set aside the High Court decision that accepted the Government's valuation and sent the matter back for assessment in the High Court. The Government then appealed to the CCJ.

In a judgment authored by the Honourable Mr Justice Denys Barrow, the CCJ held that Ms Gabourel should receive compensation for the compulsory acquisition of her land which reflects the value of the land at the date of the acquisition. It held that the courts below had overlooked that the development potential of land and its significance to the value of the land is a standard part of any credible land valuation.

The CCJ disagreed with the Court of Appeal that there was not sufficient evidence before the courts to arrive at a valuation and decided there was no need to send the case back to the High Court.

On the choice between the valuations, the CCJ considered the number of comparable parcels of land provided by both valuers and determined the parcel that was the most appropriate comparator for arriving at the value of the acquired land.

In addition, the Court emphasized the seriousness of the principle and rule of court that the duty of an expert was to the court and not the party who called them. The breach of this duty in this case was especially noticeable on the part of the Government's valuer. The Court also regretted the failure to appoint a Board of Assessment to determine the value of the acquired land, which was the proper mode of deciding value and was a course that had been clearly open to the parties.

In a concurring opinion, the Honourable Mr Justice Winston Anderson highlighted that the establishment of the Board of Assessment, along with the work of the authorized officer under the Acquisition Act, is intricate to the process of the land to be acquired. He expressed the view that an unpaid landowner whose land has been acquired in circumstances such as the present case is not really entitled to seek "damages" but rather to have the law followed by the establishment of the Assessment Board. "Damages" is not the same as finding the value of the land. The process for arriving at damages for breach of a constitutional right is separate and distinct from the process of arriving at the value of land compulsorily acquired. Mr Justice Anderson opined that, as a rule, the appropriate remedy for a constitutional action for damages for compulsorily acquired land should be mandamus to the Minister to appoint a Board of Assessment.

On these bases, the appeal was dismissed. The decision of the Court of Appeal to order a remission to the High Court of the assessment of compensation was set aside, and Ms Gabourel was awarded compensation of BZ\$4,545,325.00 with interest from 3 February 2007 at the rate of 6% per annum until the date of judgment and thereafter at the statutory judgment rate of 6% per annum. The sum of BZ\$300,000.00 as reimbursement for landfill was also awarded. Prescribed costs in the High Court, costs in the Court of Appeal, and standard costs in the CCJ were awarded to the claimant.

The appeal was heard by the Honourable Mr Justice Adrian Saunders, CCJ President, and Justices Anderson, Rajnauth-Lee, Barrow, and Jamadar. Ms Samantha Matute-Tucker acted for the Attorney General of Belize and the Ministry of Natural Resources. Mr Godfrey P Smith SC, Mr Hector D Guerra and Mr Mikhail Arguelles acted for Ms Gabourel.

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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, five 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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