

IN THE SUPREME COURT OF BELIZE, A.D. 2003

ACTION 160

(BELITUR LTD.

APPLICANT

(

(AND

(

(EUROCARIBE SHIPPING & SERVICES LTD.

RESPONDENT

BEFORE Conteh, C.J.

APPEARANCES:

Mr. Hubert Elrington for the Applicant

Mr. Fred Lumor, S.C. for the Respondent

DECISION

Having listened carefully to both Mr. Elrington for the Applicant and Mr. Lumor for the Respondent in this application wherein Belitur Ltd., the Judgment Debtor, seeks to have the appointment of Mr. Cedric Flowers as Receiver of the Applicant by way of equitable execution of judgment, entered against it be rescinded, I find myself unable, on the evidence before me, to accede to the application for the following reasons:

- (1) The Application is grounded on the fact of Mr. Flowers participation as a known television political analyst and commentator on a radio talk show called Kremandala. This ordinarily in and by itself is certainly not a sufficient or reasonable ground to remove a duly appointed Receiver by the Court by way of equitable execution. The Receiver is appointed by way of equitable execution as an Officer of the Court and therefore he is, in the discharge of his duties, amenable to the jurisdiction, control and supervision of the court.
- (2) This is in the nature of a receivership and therefore any malfeasance by him in the discharge of those duties is amenable to oversight, control and correction and if need be, removal from office as a receivership. In particular, see the New Supreme Court Rules Part 51.

- (3) I am not satisfied on the state of evidence that Mr. Flowers has neglected, failed, or rendered himself incapable of performing the duties of Receiver of the Applicant simply by his participation, as alleged, in the radio talk show. I have before me an affidavit by Mr. Flowers himself dated 2nd December, 2005 where in paragraphs 6 and 7 he categorically denies any allegation of impartiality whether perceived or manifest and this has not been rebutted by the Applicants.
- (4) In relation to the expertise or lack thereof of Mr. Flowers as submitted by counsel although this did not form part of his application which in my view strikes me as an afterthought, as a receiver Mr. Flowers is appointed primarily to take charge of the Applicant's business to ensure that all receipts therefrom are applied in the discharge of the debt declared to be found to be owing to the Respondent. Mr. Flowers before embarking on the Receivership was, as ordered by the Court, required to provide the necessary security for the proper discharge of his duties. If, as is claimed and there is no evidence before me as a matter of fact, that he lacks the competence, that may or may not come out in the wash during his Receivership and in the course of which if any harm is done to the interest of the Applicant an appropriate remedy is available in law.

For all these reasons, I refuse the Application and would Order Costs of \$1,000 against the Applicant.

DATED this 21st day of December, 2005

Abdulai Conteh
Chief Justice