

IN THE SUPREME COURT OF BELIZE, A.D. 2008

CLAIM NO. 116 OF 2008

JOSE HAMILTON
NICOLE HAMILTON
IBRAHAM SAFA
RABIH SAFA
ZEINAH SAFA
PAMELA SMITH
VIOLET PALACIO
ROMALDO BADILLO
KARLA SOSA
CHEOP ENTERPRISES LIMITED

Claimants

BETWEEN AND

THE ATTORNEY GENERAL
THE MINISTER OF NATURAL RESOURCES
REGISTRAR OF LANDS (AG.)

Defendants

—

BEFORE the Honourable Abdulai Conteh, Chief Justice.

Dr. Elson Kaseke and Mr. Godfrey Smith for the claimants.
Mrs. Tanya Herwanger, Solicitor General and Ms. Priscilla Banner for the
defendants.

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JUDGMENT

Introduction

From the evidence in this case, it would seem that the concatenation of
events that led to the present proceedings could be said to be, in a

material sense, part of the fall-out from the national events on 7th February 2008. On that day, there were General Elections held in the country. These resulted in a change of administration. And a new government was formed immediately thereafter.

But in the strict legal sense these proceedings are not about these elections. And this court is not concerned with the politics of those elections. However, from the evidence, it is manifest that certain events immediately prior to those elections and hot on the heels of the results of those elections, have combined to trigger the present application for judicial review before me.

2. The application relates to parcels of land in the Caribbean Shores subdivision of Belize City. It is common ground between the parties that all the parcels, fifty-seven in all, are in the Caribbean Shores Registration Section to which the provisions of the Registered Land Act apply. It is also fair to say that up until 21st January 2008, or thereabouts, when Land Certificates evincing the applicants as respective proprietors of the various parcels stated in their names were issued, all the said parcels, the subject of this application, were part of the national lands of Belize. “National lands” are defined by the National Lands Act as meaning:

“all lands and sea bed, other than reserved forest within the meaning of the Forests Act, including Cayes and parts thereof not already located or granted, and includes any land which has been or may hereafter become escheated to otherwise acquired by the Government of Belize.”

From the evidence the Government of Belize purchased the land where these parcels are located in March 2007 for the sum of \$1,050,000.00 from the University of Belize – see para. 3 of P. Noreen Fairweather’s second affidavit which is set out in para. 41 below of this judgment.

3. It is also, I think, fair to say that all the applicants acquired their land certificates to their respective parcels probably on 21st January 2008 or thereabouts (see **Exhibit JH 1** annexed to Mr. Jose Hamilton’s first affidavit in these proceedings, a copy of the joint land certificate in his and Nicole Hamilton’s favour). All the land certificates were issued by or on behalf of the Registrar of Lands in the Ministry of Natural Resources (the defendants in this case) pursuant to the Registered Land Act.

The heart of the case

4. At bottom, this case is about the circumstances attendant on the issuance of the land certificates in respect of these parcels of lands **and** the cautions put on them in the register of land by the Registrar at the behest of the Commissioner of Lands. This latter officer is charged by section 6(1) of the Registered Land Act with the responsibility for overseeing the administration of the Land Registry created by section 10 of the Act.
5. Soon after the applicants had obtained their respective land certificates in January 2008, a General Election was held in the country on 7th February 2008. This, as I have already mentioned, resulted in a change of national government.

6. On the 14th February 2008, just a week after the elections, cautions were lodged on the land register against the parcels of lands registered in the applicants' name. It is these cautions and how they came to be placed in the land registry against the claimants' parcels of land that constitute the heart of this case.

The Cautions

A photocopy of one of the cautions is exhibited to the second affidavit of Talbert W. Brackett dated 2nd April 2008, as **Exhibit TWB 2**. It is also common ground between the parties that all the claimants received similar letters from the acting Registrar of Lands advising them of the cautions against their respective parcels of lands: see paragraph 8 of the first claimant, Jose Hamilton's first affidavit and **Exhibit JH 4** referred to therein, which is the same as **Exhibit TWB 2**. The cautions were lodged as a result of an accompanying Memorandum from the Commissioner of Lands to the Acting Registrar of Lands which is exhibited together with **TWB 2** and it was dated 14th February 2008. It is perhaps helpful to reproduce this memorandum and it states as follows:



**Ministry of Natural Resources
the Environment**

Memo

Ref: LandGen. ISD/1/01 (119)
To: Talbert Brackett, Ag. Registrar of Lands
From: P. Noreen Fairweather, Commissioner of Land and Surveys
Date: 14 February 2008
Re: CAUTION ON PARCELS 4711-4767, 4880, 4881 CARIBBEAN SHORES AND 1077 KING'S PARK REGISTRATION SECTIONS

Regarding the above listed parcels, I submit a petition to place a Caution on the subject parcels under section 130 (1) (a) of the Registered lands Act. I have reason to believe that the processing of the related documentation was highly irregular and that fraud may have been committed against the Government of Belize. I have reason to believe that persons other than the Accountant General have collected monies for the sale of these lands and that no permits and/or agreements were issued not signed to develop the said lands.

Please cause the necessary entries to be made on the Register of the subject parcels prohibiting any transactions on same while an investigation into the validity of the land certificates in question is conducted.

7. The cautions themselves prohibited the registration of dealings and the making of entries in the land register in respect of the said parcels of lands. This was for the reason, the cautions stated, that the cautioner, the Commissioner of Lands, claimed an equitable interest in the lands in question.
8. On the 14th February 2008, the same day as the cautions were entered on the land register against the claimants' titles therein to the parcels of lands in question, the acting Registrar of Lands wrote to the claimants formally informing them of the cautions: see for example, **Exhibit JH 4** of Mr. Jose Hamilton's first affidavit exhibiting a copy of the caution.
9. On the following day, 15th February 2008, the second defendant in these proceedings, the Ministry of Natural Resources and the Environment, issued a Press Release informing the general public about the cautions and advising against any purchase or rental transaction in respect of these lands against which cautions had been entered and announcing the temporary suspension of work in some sections of the Land Registry. See also **Exhibit JH 3** to Mr. Hamilton's first affidavit.
10. A few days later, on 19th February 2008, the lead attorney for the claimants, Dr. Elson Kaseke, wrote to both the Attorney General and the Minister of Natural Resources complaining about the Press Release referred to in the preceding paragraph, and the letters of caution in respect of the parcels of lands in question and demanding that by the close of business (on that date, that is, 19th February 2008) both the Press Release and letters be formally withdrawn. This letter was copied to both the acting Registrar of Lands and the Commissioner of Lands: see **Exhibit JH 5** annexed to Mr. Hamilton's first affidavit; also **Exhibit PNF 3** of Ms. P. Noreen Fairweather's (the Commissioner of Lands) first affidavit,

which is the same as **JH 5**, although she stated that it was only received on 27th February 2008 and that it was only copied to her.

11. However, on 28th February 2008, the Commissioner of Lands formally replied to Dr. Kaseke – see **Exhibit PNF 3**.
12. But, on 26th February 2008, the claimants had already launched the present proceedings for judicial review of the Registrar of Lands' action in placing the cautions against the parcels of lands in question.

The claims of the claimants

13. The claimants obtained on 12 March 2008, the permission of this court to bring forward this action in which they claim as follows:

“(a) An Order of Certiorari to quash the decision of the Acting Registrar of Lands, contained in letters issued to the Claimants dated February 14th 2008, informing them that cautions against any dealing with their respective Parcels of land in Block No. 16 Caribbean Shores Registration Section had been registered in favour of the Government of Belize and to quash the said letters.

(b) A Declaration that the decision of the Acting Registrar of Lands to issue letters of caution over lands for which the Claimants held clear, absolute and indefeasible title without informing them of his intention to do so and without giving them an opportunity to make representations to the Registrar or anyone else as to why the cautions ought not to have been

issued was illegal and in breach of the Registered Land Act and the Claimants' right to natural justice.

- (c) A Declaration that the decision of the Acting Registrar of Lands to issue the letters of caution enjoining the Claimants to refrain from transacting in or developing their lands pending an assessment of the validity of tenure without informing them of the interest claimed by the cautioner and in breach of the Registered Land Act was arbitrary and a blatant interference with the Claimants' property rights that amounts to public law irrationality.*
- (d) Damages for unlawful interference with the Claimants use and enjoyment of property over which they hold clear, absolute and indefeasible title.*
- (e) Any other order which the Court thinks just in the circumstances of this case, including an order that the Defendants pay the cost of this application.”*

The Statutory Provisions on Caution

- 14. In my view, the claimants have in these proceedings raised in a stark form the issue of caution on registered lands: when, how and by whom a caution can be lodged against registered title to land in the land registry under the Registered Land Act.
- 15. The term “caution” itself is not defined in the Registered Land Act. But its effect can be gleaned from some of its provisions. Cautions are provided

for under Part VIII of the Act entitled “Restraints on Dispositions”. From a close reading of the Act it appears that for the purposes of the Registered Land Act there are three types of restraints on disposition of registered land under the scheme of the Act: namely, **Inhibitions** (sections 127 to 129); **Restrictions** (sections 135 to 137); and **Cautions**, which are provided for in sections 130 to 134 of the Act. Section 131, however, provides for the giving of notice in writing of cautions and their effect: so long as a caution remains registered no disposition of the land against which it is put that is inconsistent with it shall be registered except with the consent of the cautioner or by an Order of the Court.

16. For a proper appreciation of the issues and submissions of the parties in this case, it is helpful, I think, if I set out the statutory provisions dealing with cautions as provided for in sections 130 to 134 of the Act:

“Cautions

130.(1) *Any person who -*

- (a) *claims any unregistrable interest whatever, in land or a lease or a charge; or*
- (b) *is entitled to a licence; or*
- (c) *has presented a bankruptcy petition against the proprietor of any registered land, lease or charge,*

may lodge a caution with the Registrar forbidding the registration of dispositions of the land, lease or charge concerned and the making of entries affecting the same.

(2) *A caution may either –*

- (a) *forbid the registration of dispositions and the making of entries altogether; or*

- (b) *forbid the registration of dispositions and the making of entries to the extent therein expressed.*
 - (3) *A caution shall be in the prescribed form and shall state the interest claimed by the cautioner and the Registrar may require the cautioner to support it by a statutory declaration.*
 - (4) *The Registrar may refuse to register a caution which he considers unnecessary.*
 - (5) *Subject to this section, a caution shall be registered in the appropriate register.*
- 131.-(1) *The Registrar shall give notice in writing of a caution to the proprietor whose land, lease or charge is affected by it.*
- (2) *So long as a caution remains registered no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the court.*
- 132.-(1) *A caution may be withdrawn by the cautioner or removed by order of the court or, subject to subsection (2), by order of the Registrar.*
- (2)
 - (a) *The Registrar may, on the application of any person interested, serve notice on the cautioner warning him that his caution will be removed at the expiration of the time stated in the notice.*
 - (b) *If at the expiration of time stated the cautioner has not objected, the Registrar may remove the caution.*
 - (c) *If the cautioner objects to the removal of the caution, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit,*

and may in the order make provision for the payment of costs.

(3) On registration of a transfer by a chargee in exercise of his powers of sale under section 78, the Registrar shall remove any caution which purports to prohibit any dealing by the chargor and which was registered after the charge by virtue of which the transfer has been effected.

(4) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the caution previously incurred under section 134 shall not be affected by the cancellation.

133. The Registrar may refuse to accept a further caution by the same person or anyone on his behalf in relation to the same matter as a previous registered caution.

134. Any person who lodges or maintains a caution wrongfully and without reasonable cause shall be liable, in an action for damages at the suit of any person who has thereby sustained damage, to pay compensation to such person.”

The Evidence

17. Although I have alluded at the beginning of this judgment to what precipitated the placing of the cautions on the claimants parcels of land, it is these cautions and how they were placed that have moved the claimants to come to court in the manner they did. In my view, a determination of the several issues agitated by the claimants would necessarily involve an interpretation of the provisions of the Registered Land Act, in particular, as they pertain to cautions. The claimants have raised issues with the cautions and the way and manner in which the acting Registrar of Lands came to put them against their respective parcels of lands.

18. In support of their claim the claimants filed in all four affidavits: one by Jose Hamilton the first claimant and three by Colwin Flowers for an on behalf of the 10th claimant.
19. Four affidavits were filed by the defendants: two by P. Noreen Fairweather, the Commissioner of Lands; and two by Talbert W. Brackett, the acting Registrar of Lands.
20. I am satisfied that all the affidavit evidence throw illuminating light as to how, why and when the cautions came to be placed against the parcels of lands in question. More on this later. The question for resolution is whether or not they were lawfully and properly placed.

The Arguments and Submissions of the Claimants

21. The principal relief claimed by the claimants is **certiorari** to quash the acting Registrar's decision to put cautions on their parcels of land. This decision was contained in letters dated 14th February 2008, to the claimants. The claimants' claim as well several **declarations** regarding the circumstances in which these letters were issued to them. They also claim damages for the unlawful interference with their use and enjoyment of their property, to which they claim they hold clear, absolute and indefeasible title.
22. I now turn to the several heads of the complaint by the claimants as advanced at the hearing and in the written submissions of their learned attorneys, Dr. Kaseke and Mr. Godfrey Smith. These are briefly that i) **the decision of the Registrar of Lands to place the cautions constituted public law illegality in that they should not have been placed without first informing the claimants of the reasons and that the failure to do so was contrary to natural justice;** ii) **the decision to issue the letters**

of caution (including the Press Release of 15th February 2008) was arbitrary and an interference with the claimants' property rights such as to amount to public law irrationality; iii) the placing of the cautions at the instance of the Commissioner of Lands breached the rules of natural justice prohibiting anyone from being a judge in his own cause, and iv) the Registrar of Lands did not allow representation from the claimants as to why the cautions should be removed and that he thereby acted ultra vires the Registered Land Act.

Determination

I now turn to a determination of these several heads of complaint and the responses of the defendants as articulated on their behalf by the learned Solicitor General, Mrs. Tanya Herwanger.

(i) **Were the claimants entitled to be informed before the cautions were put and the reasons for so doing?**

23. After a close study of the provisions relating to cautions and some anxious reflection, I am afraid I can find no warrant for the claimants' contention that **before** a caution is entered on the land register, the Registrar of Lands should first give notice of that fact to the proprietor whose land, lease or charge is affected by it. There is certainly no basis for this contention from my reading and humble understanding of the statutory provisions on cautions.

The learned attorneys for the claimants however pitched their tent on this score on the general considerations of fairness. That is, at the very least, administrative fairness, they argued, would warrant the Registrar of Lands to inform the claimants **beforehand** in putting the cautions on their lands and tell them the reasons for so doing. They relied on the dictum of Rose

LJ in the English Queen's Bench Division in the case of **R v Secretary of State for the Home Department ex parte Duggan** (1994) 3 All E.R. 277, where he stated:

"... the authorities show an ever-increasing variety of situations where depending on the nature of the decision and the process by which it is reached, fairness requires that reasons be given" at p. 286.

24. For my part, I find, with respect, this statement to be unexceptionable and would readily concur with it given this court's disposition on fairness by public officers towards persons affected by decisions they make. However, as Rose LJ himself recognized, the ever-increasing situations requiring, in fairness, reasons to be given for a decision are dependent on the **nature** of the decision and the **process** by which it is reached. In the context of this present case before me, dealing as it is with the statutory provisions regarding cautions, and the undoubted requirements of fairness, I am prepared to be guided by the six principles identified by Lord Mustill in **Doody v Secretary of State for the Home Department** (1973) 3 All E.R. 92 when he stated at p. 96:

"(1) Where an Act of Parliament confers an administrative power there is a presumption that it will be exercised in a manner which is fair in all the circumstances. (2) The standards of fairness are not immutable. They may change with the passage of time, both in the general and in their application to decisions of a particular type. (3) The principles of fairness are not to be applied by rote identically in every situation. What fairness demands is dependent on the context of the decision, and this is to be taken into account in all its aspects. (4) An essential feature of the context is the statute which creates the discretion, as regards both its language and the shape of the legal and administrative system within which the decision is taken. (5) Fairness will very often require that a person who may be adversely affected by the decision will have an opportunity to make representations on his own behalf either before the decision is taken

with a view to producing a favourable result; or after it is taken, with a view to procuring its modifications; or both. (6) Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interests fairness will very often require that he is informed of the gist of the case which he has to answer.” (Emphasis added)

25. From a reading of statutory provisions on cautions, I am satisfied that there is no duty incumbent on the Registrar of Lands to state or give reasons to the person (the proprietor) affected **before** putting a caution on the land. It is also clear that the Registrar is moved to put the caution by **any** person who satisfies the requirements of section 130(1) (a), (b) or (c) of the Registered Land Act. This person is the cautioner and he lodges the caution with the Registrar. In my view therefore, there is no duty on the Registrar to state the reasons for the caution at the lodgment stage. All that is required at the lodgment stage is that the caution should state the interest claimed by the cautioner. The Registrar may require the cautioner to support his statement of the interest claimed by a statutory declaration: subsection (3) of section 130.

However once the caution is in place the Registrar is under a duty to give notice in writing of the caution to the person (the proprietor) whose land, lease or charge is affected by it – section 131(1) of the Act.

26. From the evidence in this case, it cannot be argued or sustained that the Registrar did not write to the claimants informing them of the cautions that had been lodged against their parcels of lands: see in particular paragraph 8 of Mr. Jose Hamilton’s first affidavit where he states:

“8. I received a letter dated 14th February 2008 addressed to myself and signed by Mr. Talbert W. Brackett, Acting Registrar of Lands of the Ministry of Natural Resources advising me that a caution against any sort of dealing with

parcel No. 4740, my parcel of land, had been registered in favour of the Government of Belize and would remain in effect until removed by the Court or the Registrar of Lands. I am advised and do verily believe that all of the applicants received a similar letter notifying them of cautions registered against their parcels of land. There is now produced and shown to me marked "JH 4" a copy of the said letter."

27. "JH 4" in my view, needs no elaboration: it clearly satisfies the requirements of section 131(1) of the Registered Land Act. The claimants however, complain that they were not given any reasons for the cautions against their lands. This in my view is a misconception of **the notice in writing of the caution** (section 130(1)) and **the caution itself**. The latter shall be in the prescribed form and shall state the interest claimed by the cautioner, which the Registrar may require to be supported by a statutory declaration. The former is just notice of the latter and must be in writing addressed to the person against whose land (the proprietor) the latter has been lodged informing him of the fact
28. Again from the evidence, I am satisfied that the reasons for the cautions or the interest claim for them were all the while present in the land registry as Mr. Brackett states in paragraphs 16 and 17 of his second affidavit:

"16. On the 14th February, 2008 I received a request from the Commissioner of Lands and Surveys, Ms. P. Noreen Fairweather to lodge cautions against certain parcels of land. The said parcels were registered land in the Caribbean Shores Registration Section and numbered 4711 – 4767, 4880 and 4881 and in the King's Park Registration Section and numbered 1077. In her supporting document to the request Ms. Fairweather claimed an equitable interest in the parcels of land on behalf of the Government of Belize.

17. *Ms. Fairweather completed the prescribed caution form R.L. 18 as required including a statement of the interest she was claiming. A copy of the caution lodged in the prescribed form is exhibited hereto and marked "TWB-2".*

29. The notice in writing of the caution from the Registrar to the person whose land is affected by the caution as is required by section 131(1) of the Act, need not strictly, in my view, state the reasons for the caution or the interest claimed by the cautioner. This is plain from a simple reading of the subsection itself. However, it is the caution itself, which shall be in the prescribed form that states the interest claimed by the cautioner – hence the reasons for the caution. All an affected person needs to do is, on receipt of the notice of the caution, go to the Land Registry and examine the relevant entry. However, in line with the requirements of fairness, it would, in my view, be the best practice for the notice in writing to the person affected by the caution, to state, if only briefly, the interest claimed by the cautioner, that is, the reason for the caution.
30. I am however satisfied that in the circumstances of this case, the claimants could not legitimately or properly complain of lack of knowledge of the reasons for the cautions against their parcels of land. I am satisfied as well that the statutory provisions on cautions, in particular on their removal contained in subsection (2) of section 132 secure to the claimants their entitlement to natural justice.
31. The force of the learned Solicitor General's argument that the person against whose land a caution is to be put should not, beforehand, be informed of this and be given the reasons for the caution, is in my view, irresistible. This is so, she submitted, for the simple reason that to do so would be counter-productive. A person informed of an impending caution on his land would simply dispose of it before the caution is in place thereby

stultifying the very **raison d'être** of a caution as stated in subsection (2) of section 131 of the Act. I agree.

32. Finally, I conclude on this point that the claimants are entitled to know the reasons for the cautions on their parcels of lands. I find, on the evidence however, that they were not denied or refused the reasons for the cautions. The cautions clearly state that the Commissioner of Lands claims an “equitable interest “ in the parcels of lands in question as per the attached memo: see **Exhibit TWB 2** and para. 6 of this judgment of the memorandum referred. The reasons for the cautions I think, they could simply learn by examining the cautions in the Land Registry.
33. Section 132 of the Act makes provision for the withdrawal and removal of cautions. On the evidence in this case, I am far from satisfied that the claimants had recourse to this procedure, in particular to the provisions of subsection (2) of this section. Rather, the claimants’ attorneys without any attention to **Exhibit JH 4** (the notification in writing by the Registrar of the cautions albeit with reference to the wrong section of the Act), focused instead on the Press Release from the Ministry of Natural Resources announcing the cautions and fired off a somewhat incendiary letter to both the Attorney General and the Minister of Natural Resources (**Exhibit JH 5**) and copied both the Registrar of Lands and the Commissioner of Lands. This letter simply overlooked the simple procedure for challenging a caution and securing its withdrawal or removal.
34. I am of the considered view that if the claimants or their attorneys had adopted this course, these proceedings would perhaps have had a different complexion. I therefore conclude that the claimants were not entitled to be informed **before** the cautions were put against their parcels of lands and they could simply have learnt the reasons for the cautions by inspecting the land register. I find therefore the assertion by the claimants

that they only learnt of the reasons for the cautions from the affidavit evidence filed in this case, to be unsustainable and unavailing. I find also, that in the circumstances of this case, the placing of the cautions on the claimants' parcels of land did not violate any principle of natural justice for failure to give them reasons for the caution: the claimants on the receipt of the statutory notice of the cautions (**Exhibits TWB 2** and **JH 4**) could have availed themselves of the opportunity to inspect the land register where they would have seen the cautions and the accompanying memorandum stating the reasons for them.

(ii) **Was the decision to issue the letters of caution (including the Press Release) arbitrary and an interference with the claimants' property rights?**

35. The claimants have asserted that the placing of the cautions against their parcels of land and the issuance of the Press Release on 15th February (Exhibit JH 3 issued by the Ministry of Natural Resources and the Environment announcing this fact and advising the general public not to enter into purchase or rental transactions in respect of these parcels of lands) was arbitrary and amounted to blatant interference with their property rights and a public law irrationality. This is so, they averred, because it was the very same Ministry of Natural Resources which issued their Land Certificates which has now turned around and issued the cautions through the office of the Registrar of Lands. In their learned attorneys' written submissions, and in their arguments, they aver as well, that this was a clear case of abuse of power.
36. On the evidence and in the light of the relevant statutory provisions, as I have found, in the preceding section (i) of this judgment, in particular at para. 34 above, the cautions were not illegally or improperly placed against the claimants' parcels of lands. But the question for determination in this part of the judgment is, whether the decisions to place the cautions

and put out the Press Release announcing this fact was arbitrary and an abuse of power, constituting an unlawful interference with the claimants' property rights.

37. It is, in my view, unarguable that the cautions placed against the claimants' title to the parcels of lands materially affect their ownership of those lands. For a cardinal incident of ownership of property is the right and ability to dispose of that property by sale, lease, exchange or gift. But the legal and practical effect of the cautions is to inhibit this right of ownership: because legally, for so long as the cautions remain registered and in effect, no disposition of any of the lands to which they relate which is inconsistent with the cautions, shall be registered, except with the consent of the cautioner, in the instant case, the Commissioner of Lands, or by an Order of the Court – this is effect of section 131(3) of the Registered Land Act. This of course, practically blights the claimants' ownership of the affected parcels, for only a rash or foolhardy purchaser would buy land title which cannot be readily registered. This is especially so for land which, like all the parcels in issue in this case, is situate in a compulsory registration section. Caution of course, is not, in and of itself, determinative or conclusive of title or lack of title to the land against which it is lodged. As the word itself implies, it is however a warning, an amber light, to the world including the title holder and prospective interested parties in the land in question, that all may not be well with the title to the land.
38. However, the crucial question for determination here is: whether the decision to issue the letters of caution to the claimants by the Registrar of Lands, and the issuing of the Press Release concerning the cautions by the Ministry of Natural Resources and the Environment, was arbitrary and an unlawful interference with the property rights of the claimants? I am constrained to point out that the Registered Land Act itself contemplate and provides for cases where cautions may be unwarranted or wrongful. It

provides in section 134 for just such cases. It gives a cause of action for damages by way of compensation against any person who lodges or maintains a caution, without reasonable cause, in favour of the person thereby affected. If the cautions were found to be wrongful, clearly the claimants would be entitled to be paid damages by way of compensation by the Commissioner of Lands at whose instance the cautions in this case were lodged. I have found on the evidence in this case that the cautions were legally placed against the claimants' parcels of lands: see section (i) of this judgment, in particular, paras. 30 – 34 above. Was the decision to place these cautions however, arbitrary? One cannot help but wonder whether but for the sea-change in national political fortunes on 7th February 2008, already referred to earlier in this judgment, the cautions would have been put in place? Mr. Hamilton, the first claimant, in his own first affidavit at paras. 6, 7 and 8, alludes as much to this possibility.

39. Mr. Godfrey Smith, the other learned attorney for the claimants, therefore not unnaturally argued, with some brio, that the lodging of the cautions in this case was both irrational and an abuse of power because it was the same authority that received payment for the lands from the claimants and issued land certificates in respect of them that later turned around and put cautions on the very lands.
40. This argument, I must confess, is not without some attraction and, I dare say, some plausibility. But sitting as the judge in this case, I cannot be unmindful of the circumstances attendant on the obtaining of the land certificates for the parcels of lands by the claimants in this case. The evidence on this is amply elaborated in the affidavits of both the acting Registrar of Lands and the Commissioner of Lands. I must state that there has been no countervailing evidence or refutation by or on behalf of the claimants on the circumstances the land certificates came to be issued.

The Evidence concerning the issuance of the land certificates which necessitated the cautions on the claimants' lands

41. It is perhaps best that the affidavit evidence speak for itself regarding the circumstances in which the land certificates for the parcels of lands were issued.

Mr. Talbert Brackett, the acting Registrar of Lands and the third defendant states in relation to this in his second affidavit as follows:

- ”3. *The applications for land certificates for the parcels in relation to which this case relates came to my attention as non routine applications when I received a call on 8th January, 2008 from the Commissioner of Lands, Ms. Noreen Fairweather, asking me to take a few files to her for discussion.*
4. *I arrived at Ms. Fairweather’s office accompanied by Ms. Ethel Gladden, Acting Deputy Registrar of Lands, and noticed that Ms. Fairweather was with then Minister of Health Mr. Jose Coye and Mr. Bryan Neal.*
5. *A discussion ensued in which the Minister of Health became very irate with the Ministry employees, including myself, and demanded that we issue titles to some of the properties which are the subject of this claim, that very same day.*
6. *Ms. Fairweather looked through the files and she informed Mr. Coye that it was late, being after 5:00 p.m. and that the Land Registry would work on them the following day.*
7. *At this point Minister Coye became extremely upset and insisted that he wanted the title that day. I was deeply troubled by the manner in which Mr. Coye was acting and the statements he was making so I volunteered and so did Ms. Gladden, to stay behind and work on the land titles that evening.*

8. *While in the Registry that evening I received a call from Ms. Fairweather. She stated that she realized that there was no purchase price stated in the document. She asked me to review a few of the files to determine whether the purchase approval form stating the purchase price was on file.*
9. *I checked about 4 or 5 of the files and reported that there was no purchase approval form on the files I checked, no receipt of payments and there was in fact none of the usual calculations stated. This was irregular to me because the Titles had already been transferred by signature of the Minister of Lands and we were in the process of issuing the Land certificates even though the properties were not paid for.*
10. *Because of the omissions discovered the Commissioner instructed me to stop processing the files.*
11. *That same evening at about 7:00 p.m., I received a call from Minister of Health Mr. Jose Coye who requested that the completed land certificates relating to the Caribbean Shores subdivision be given to his agent, one Mr. Bryan Neal. I informed Mr. Coye that I was under strict instructions from the Commissioner not to complete or release the said land certificates. He asked me to release the documents nevertheless. I refused.*
12. *About ten minutes later, I received a call from the then Minister of Natural Resources Mr. Florencio Marin. Mr. Marin instructed me to give the titles to Mr. Coye that evening. I was already on my way to Belize City at the time of this call, he asked me to turn back and return to the office and give the titles to Mr. Coye. I did return to the Land Registry in Belmopan.*
13. *That same evening I called back the Commissioner of Lands and informed her of the telephone conversation with Minister Marin. She repeated her instruction to me not to release the Land Certificates and that she would raise the matter directly with Minister Marin the following day. I did not release the certificates that evening.*

14. *The following day, the Commissioner sent me a copy of a Memo issued by Minister Marin stating that the purchase price for the parcels in question was \$4,000 each. A copy of the Memo is exhibited as “PNF-6” to the Second Affidavit of Ms. Noreen Fairweather filed in this claim. I therefore proceeded to have the files updated and purchase approval forms drafted.*
15. *Mr. Bryan Neal delivered copies of payment receipts for the parcels in due course and the Land Certificates were issued once the receipts were provided confirming that the purchase price was paid.”*

Ms. P. Noreen Fairweather, the Commissioner of Lands, states as follows in her second affidavit:

- “3. *In March 2007, the Government of Belize (“GOB”) purchased 10.002 acres of land from the University of Belize, University Drive, West Landivar, Belize City, for the price of One Million, Fifty Thousand Dollars (\$1,050,000.00). The purchased land is located in the Caribbean Shores Registration Section (hereafter “Caribbean Shores Property”). A copy of the Transfer of Land form evidencing GOB’s proprietorship is exhibited hereto and marked “PNF-4”.*
4. *In the normal course of procedure, I would not be involved with the entire process relating to direct sales of national land as occurred with each of the parcels forming part of the Caribbean Shores Property which is the subject of this claim. By direct sales I mean any land which goes directly from national lands to freehold title, bypassing the lease stage. The files are normally sent from the Land Registry directly to the Minister for his signature on the Transfer of Land form and then returned to the Registry for further processing. The only time I would see such files is at the beginning of the process where either myself or the Deputy Commissioner of Lands would sign the application form or the purchase approval form.*

5. *However, in the case of the Caribbean Shores Property, which comprised solely of direct sales, the transactions concerning those properties were for the first time brought to my attention by former Minister of Health, Mr. Jose Coye. Neither myself nor the Deputy Commissioner signed either the Applications for Grant of National lands form nor the Purchase Approval forms.*
6. *On the 8th January, 2008 Mr. Coye visited my office and complained that the documents relating to the Caribbean Shores Property were not being processed quickly enough by the Land Registry. He was livid. He was swearing at me and demanded that he receive all the land certificates that day and said that he would not leave without the Land Certificates. Bryan Neal was also in the room at that time and he tried to calm the Minister.*
7. *Mr. Coye went on to say that “the Company” had invested a lot to develop the property. I asked Mr. Coye to which Company he was referring but he did not answer my question and he just kept on making demands and complaining about the employees of the Land Registry.*
8. *While Mr. Coye was there, I requested Talbert Brackett, Acting Registrar of Lands, to bring the files to me so that I may determine if there was a problem with the processing of the files. I took a cursory look at some of the files and noticed that the Transfer of Land form had been signed by the Minister of Natural Resources, Mr. Florencio Marin.*
9. *I knew that the next step in the process after signature of the Transfer of Land form by the Minister was issuance of the land certificate. So that at a glance all appeared to be in order. However, it was after 5 p.m. at the time and the staff were leaving for the day and I noticed that the files were numerous and I did not think that the processing could be completed that evening.*
10. *I therefore informed Mr. Coye that it would not be possible for him to have the land certificates that day and that the Registry needed to be given time to complete the processing of the files.*

11. *Mr. Coye restated that he would not leave without the land certificates. After a while the Acting Registrar of Lands and Ms. Ethel Gladden, Assistant Registrar of Lands who had come up to my office together with the Acting Registrar, volunteered to stay after work to process the files.*
12. *After this was said, Mr. Coye stated that Mr. Bryan Neal would wait for land certificates to be issued and take them that night.*
13. *I then left the office for home. It was about 6:40 p.m. As I was driving it struck me that I had not seen evidence of payment on the files I had just looked at. On arriving at my gate I parked and immediately called the Acting Registrar. I asked him whether there was any evidence of payment on the files. He checked several files and responded no in each instance. I also asked him to check whether there was any evidence of a purchase price. He did and said no there was none. He also stated that the files had a valuation form to be completed by the Chief Valuer but that it was blank. I attach a copy of the signed Transfer of Land Forms, corresponding receipts and blank valuation reports for each applicant, except that for the last applicant I attach the same for only one of the 22 parcels transferred as an example. The exhibit is marked **“PNF-5(a)-(j)”**.*
14. *If in fact the Minister had signed the Transfer of Land form prior to receipt of payment as appeared to be the case then the land certificates could not be issued because that would be very irregular and unlawful. If the land certificates were issued and the transferees entered as the proprietors in the register we would have no basis for collecting our revenues.*
15. *In light of this discovery I became concerned that Mr. Coye was demanding the certificates be issued that evening. I instructed Mr. Brackett not to release the land certificates and to inform Mr. Neal to go home because he would not be getting the certificates that evening.*
16. *Mr. Brackett called me again that same evening and informed me that the then Minister of Natural Resources, Mr.*

Florencio Marin had called him and given him a directive to issue the certificates that evening. I told him he was not to do that because there was no purchase and no evidence of payment. He expressed concern that the Minister had given him a directive which he would not be following. I advised him that we both knew it was irregular and illegal to issue the certificates without first receiving payment and that I would speak to Minister Marin the following day.

17. *The following day, the 9th of January 2008, I spoke to Minister Florencio Marin, and informed him of my findings regarding the sale of the Caribbean Shores Properties. I told him that I had informed Mr. Brackett that he should not issue the land certificates because the purchase price had not been paid. Mr. Marin agreed that the purchase price had to be paid. He responded that yes we needed to collect our revenues. I also told him that there was no purchase set for the properties and that no valuation information was on the files. He did not comment on this.*
18. *My Coye called me that same day and I told him that the purchase price had to be paid before the land certificates could be issued. Mr. Coye informed me that the purchase price was \$4,000.00 per parcel. He said that this purchase price had been agreed in a meeting of himself, Minister Martin and the then Prime Minister.*
19. *I was surprised by that information and I called Mr. Marin and relayed to him the conversation with Mr. Coye. I asked him whether he had agreed the price of \$4,000.00. Mr. Marin said yes that was the price for each parcel of land.*
20. *I told Minister Martin that I would need to have that information in writing before proceeding. That same day I received a written directive from Minister Marin informing me that the purchase price on parcels 4711 – 4772 in the Caribbean Shores Property was \$4,000.00 which price had been collectively agreed to by himself, the Minister of Health Jose Coye and the Prime Minister. A copy of the memo is exhibited hereto and marked “PNF-6”.*

21. *I also spoke to the Minister and he told me that I now knew what the purchase price was and that he expected the certificates to be processed immediately.*
22. *I felt at the time that the price was highly irregular for sale of land in the Caribbean Shores Registration Section because I knew from experience that lot sales in that area by Government would have been much higher based on the Pricing Policy of the Ministry of Natural Resources.*
23. *The procedure which obtains in the Ministry of Natural Resources is that where the Minister prescribes the value for national lands, that value would always be informed by technical advice as the Minister is not in a position to value national land himself. Such valuations are therefore conducted by the Chief Valuer and guided by the Pricing Policy set by the Ministry of Natural Resources.*
24. *I believe that the Minister cannot arbitrarily set the price for national lands. Neither can he set it in conjunction with other Ministers of Government. The Minister may, prescribe a price but only after having received the necessary technical advice which he did not seek in this case.*
25. *Despite knowing this I did not feel at the time that I could persist in my objection to the transactions relating to the Caribbean Shores Property because the Minister had made it abundantly clear in his conduct and in his instructions that Mr. Coye was to get the land certificates that day.*
26. *I forwarded a copy of the Memo from Minister Marin to the Land Registry. I did not have any further involvement with the process and I believe that the titles were subsequently issued.*
27. *In the week of February 11th, I was contacted by persons querying land certificates of parcels of land which they had not yet received. The land certificates being queried related to the Caribbean Shores Property. I was disturbed by the queries because claims were made that parcels for the Caribbean Shores Property were purchased at \$60,000.00 each, such*

payments being made to then former Minister of Health, Mr. Jose Coye.

28. *I therefore began a preliminary process of reviewing all the transactions relating to the Caribbean Shores Property.*
29. *I discovered several irregularities in the documentation on the files. The files had no or incomplete minute sheets; no information sheets which would include data on the applicants; no company registration certificates on behalf of Cheop Enterprises Limited which was registered as proprietor for up to 22 properties; no Valuation Report from the Chief Valuer' no Purchase Contracts were signed by applicants/purchasers; no Location or Survey Plan which would show the layout of the property; and no recommendation for purchase from the Commissioner of Land and Surveys nor from the Deputy Commissioner of Land and Surveys.*
30. *These irregularities were in addition to the discovery that the Transfer of Land forms for the parcels of land were signed by the Minister before the purchase price for the lands was determined and paid which we had discovered at the issuance stage.*
32. *After reviewing the files and seeing that Cheop Enterprises Limited was the owner of 22 of the parcels in the Caribbean Shoes property, I asked for information from the Company's Registry to verify the shareholders of the Company. I discovered that Bryan Neal and Norman Neal were shareholders in Cheop Enterprises Limited.*
33. *After conducting the review of the files in depth, it became apparent to me that the irregularities were numerous and fundamental including those irregularities as to valuation and transfer prior to payment discovered earlier, and that cumulatively they brought into question the legitimacy of the transfer and the land certificates.*
34. *At around the same time the Land and Surveys Department was engaged in a review of all land transactions generally and had decided that an audit of all transactions for the period*

September 1, 2007 – February 7, 2008 was warranted. The audit was ordered. The transactions relating to the Caribbean Shoes Property including those of the applicants in this action would be covered by the audit.

35. *In the premises I felt it prudent to lodge a caution to protect the interests of the Government should the Land Certificates be found invalid by the audit.*

36. *I lodged the cautions on the 14th February, 2008 by writing to the Acting Registrar of Lands and submitting the Caution Form with the supporting memo. The Caution form and the memo are attached to the Second Affidavit of Talbert Brackett filed in this claim.”*

42. I dare to say that the picture that emerges from this evidence is one of alarm, especially for the proper conduct of public affairs by government officials in the face of what would seem to be importunate pressure from, for want of a better expression, the ‘political directorate’, in particular Ministers of government. This however, is a field which this court is loath to traverse; suffice it to say that I have felt constrained to recount the full evidence surrounding the issuance of the land certificates in this case. This I have done in the teeth of the claimants’ averment of abuse of power. From this uncontradicted or refuted evidence concerning the issuance of these land certificates, the rhetorical question can be asked: who in fact abused power?

43. The claimants have maintained that there was an abuse of power in this case. This court has therefore, to be mindful of and astute to claims of abuse of power especially as Laws LJ observed pertinently, with respect that:

“Abuse of power has become or is fast becoming, the root concept which governs and conditions ... general principles of public law” - R

**v Department of Education and Employment, ex p
Begbie (2000) 1 WLR 1115 at 1129 F-G.**

44. For the purposes of this case, I shall take as my point of reference, given the statutory provisions in issue here and the surrounding circumstances as recounted in paragraph 41 above, the dictum of Lord Macnaghten expressed as long ago as 1905 in the case of **Westminster Corporation v London & North Western Railway (1905) A.C. 426:**

“It is well settled that a public body invested with statutory powers ... must take care not to exceed or abuse its powers. It must keep within the limits of the authority committed to it. It must act in good faith. And it must act reasonably. The last proposition is involved in the second, if not in the first” at p. 430.

45. I am accordingly, satisfied that, on the evidence in this case, there is nothing arbitrary or approaching an abuse of power that would amount to public law irrationality in the Registrar of Lands issuing the letters of cautions in this case to the claimants. Yes, their land certificates were issued by the Registrar of Lands, but given the circumstances and the evidence, which is so far unrebutted, of how they were procured, and in the face of the claim by the Commissioner of Lands, as stated in the Memorandum to the former, regarding the parcels of lands in issue, I find nothing arbitrary or abusive of the statutory powers vested in the Registrar of Lands in placing the cautions in question in this case.
46. I therefore conclude, on this score, that there was nothing arbitrary or abusive of his statutory powers by the Registrar of Lands in issuing the letters of cautions to the claimants regarding the parcels of lands. In my

view, he acted within the remit of his statutory powers concerning cautions.

Indeed, as Mr. Brackett stated in paragraph 10 of his first affidavit:

“In accordance with section 132(2)(a), I am currently in the process of preparing the notice to be served on the cautioner to warn that the caution will be removed at a specified time. If at the expiration of the time specified the cautioner has not objected to the removal of the caution, I am authorized under the Registered Land Act to exercise my discretion in deciding whether the caution should be removed.”

47. I therefore find nothing arbitrary or abusive of power by the Registrar of Lands. I find, as well, accordingly, that there was nothing arbitrary or abusive of power in the Ministry of Natural Resources issuing the Press Release about the cautions. The Press Release, I find, was necessary for the public information as it talked not only about the cautions on the claimants' parcels of lands, it also spoke about the suspension of work in certain sections of the Ministry during an assessment of these sections. The Press Release also stated that the suspension would end on 14th March 2008 and it apologized to the general public for the inconvenience caused. I therefore view the Press Release as a whole, as necessary for the information and guidance of the general public. There was nothing arbitrary or abusive of power in it.

(iii) **Was the placing of the cautions at the instance of the Commissioner of Lands contrary to the rules of natural justice?**

48. The claimants have argued that in placing the cautions against their parcels of land, the rules of natural justice were breached. This was so

they argued, because the Commissioner of Lands in writing to the Registrar of Lands to put the cautions was, in effect, acting as a judge in her own cause. The Commissioner of Lands, the argument ran, was the head of the Land Registry as she is statutorily vested with the responsibility for overseeing the administration of that registry. Therefore, the claimants submitted, the Commissioner was only instructing a subordinate to place the caution and was thereby a judge in her own cause.

49. Natural justice is undoubtedly today a desideratum of good public administration. It has been described as “*an umbrella term for the legal standards of basic fairness*” – see **Judicial Review Handbook**, 3rd ed. by Michael Fordham at 10.2 and following. The two principal strands of natural justice are compendiously expressed as (a) the rule against bias – **nemo iudex in re sua causa**: No man should be a judge in his own cause; and b) the right to a fair hearing – **audi alteram partem**: hear the other side. See generally **Administrative Law** 9th ed. by the late Sir William Wade and Christopher Forsyth, Chapters 13 and 14.
50. The claimants have argued that because of the Commissioner of Land’s position in relation to the Registrar of Lands in putting the cautions and in writing to the their attorneys that “*the question of removal of the cautions will be considered as soon as the investigation into the validity of the land certificates in question has been concluded*”, there was a breach of natural justice. That is in this instance the Commissioner of Lands was really acting as a judge in her own cause. This is because, they argued, as the cautioner she was also the one who would have to determine when the cautions would be removed.

51. At first blush the claimants' contention appears attractive; but this attraction fades away in the face of the statutory scheme on cautions and the evidence in this case. From a close perusal of the provisions of the Registered Land Act, I am satisfied that though the Commissioner of Lands is, by section 6 declared to be responsible for **overseeing** the Land Registry, this she must however do "in accordance with the provisions of the Act." The Registrar of Lands is also granted by section 7 of the Act express responsibility for administering the land registry and various other provisions of the Act expressly confer on the Registrar the relevant powers. This is so in the case of cautions. Therefore, though hierarchally, the Registrar may be subordinate to the Commissioner, the former's functions and duties in relation to cautions, are expressly stated. I therefore cannot find any "instruction" to a subordinate in the Commissioner of Lands' memorandum to the Registrar of Lands regarding the placing of the cautions. In that Memorandum (reproduced at para. 6 of this judgment) the Commissioner of Land states that she is submitting a **petition** to place the cautions. This in my view, was a clear recognition that under the Act, cautions and other restraints on disposal of land, fall under the purview of the Registrar of Lands. In these matters, a superior would hardly submit a petition. I am therefore not convinced that the Commissioner of Lands acted as a judge in her own cause in having the Registrar place the cautions. However, there is some merit in the complaint that the Commissioner's letter to the attorneys for the claimants in its closing paragraph stated that it was she who would consider the question of the removal of the caution after the investigation into the validity of the land certificates had been concluded. This, I am satisfied, is a misunderstanding about the statutory procedure for the removal or withdrawal of cautions as provided for in section 132 of the Act. It does not however, advance the claimants' case any further.

52. I am however, satisfied and convinced, on the evidence, that the Registrar of Lands, in whose province the matter of cautions falls is autonomous and will follow the correct procedure. He says as much in paragraph 10 of his first affidavit which I have quoted above at para. 46 of this judgment.

53. I am therefore unable to find anything in the evidence that the claimants were denied natural justice in relation to the cautions on the parcels of lands.

(iv) **Did the Registrar of Lands act ultra vires by not allowing representation from the claimants on the removal of the cautions?**

54. It was, again vigorously, contended for the claimants that the Registrar of Lands failed to adhere to the provisions of the Act, in particular his obligation to allow the claimants the opportunity to make representation before making a decision whether or not to lift the cautions. This, it was submitted, made his decision unlawful, null and void.

55. In my view, from the evidence, I am bound to conclude that on this score, the claimants' case is being pitched at a level not borne out by the facts and cannot be sustained. I had in paragraphs 6, 8, 9, 10, 11 and 12 of this judgment, recounted the sequence of events relating to the cautions and culminating on 26th February 2008 in the present proceedings before me.

Briefly, the sequence was as follows:

- i) On 14th February 2008, the cautions were placed against the parcels of lands;
- ii) On the same day the Registrar of Lands wrote formally to the claimants informing them of the cautions;

- iii) On 15th February 2008, the Ministry of Natural Resources issued a Press Release about the cautions and informing the general public about the temporary suspension of the activities of some sections in the Land Registry;
- iv) On 19th February 1008, the lead attorney for the claimants wrote to both the Attorney General and the Minister of Natural Resources complaining about the Press Release and the letters of caution to the claimants and demanded that by close of business that day the Press Release and the letters of caution be formally withdrawn. This letter was copied to both the Commissioner of Lands and the Registrar of Lands;
- v) The Commissioner of Lands replied to Dr. Kaseke's letter on 28th February 2008 rejecting his demands.

There is no evidence that the Registrar of Lands replied. And it should be noted that he was only copied the letter.

56. Section 132 of the Registered Land Act provides for the withdrawal and removal of cautions. The provisions of the Act on cautions are set out at paragraph 16 of this judgment. A caution once in place can be withdrawn by the cautioner or removed by an Order of the Court. A caution can also be removed by the Registrar of Lands and subsection (2) of section 132 provides for this. There is manifestly no evidence in this case that the claimants who are undoubtedly, persons interested in the cautions, applied to the Registrar to serve warning notice on the cautioner (the Commissioner of Lands) that the cautions would be removed at the expiration of the time stated in the notice. It is patently obvious that the claimants have not had recourse to the provisions of subsection (2) of section 132 of the Act which has a built in requirement for both the

cautioner and the claimants to be heard by the Registrar as to whether or not the caution should be removed or maintained.

57. I therefore cannot see how they can conceivably complain about being denied the opportunity to make representation about the removal of the cautions. I am clear in my mind that in launching these proceedings the claimants somewhat precipitately jumped the gun. Paragraph (c) of subsection (2) of the Act has, in my view, an in-built procedural safeguard regarding representation on the removal or maintenance of cautions. In these proceedings, the claimants' case is fatally flawed on this score.

Conclusion

58. It is for all these reasons that I must refuse the orders the claimants are seeking from this court. Their case is unsustainable.

Some concluding observations

59. I must, before concluding this judgment, make some observations on the sale, allocation and distribution of national lands. It is, as I mentioned earlier in this judgment, common ground that all the parcels of land in issue here are or were part of national land (see paras. 3 and 4 of P. Noreen Fairweather's second affidavit).

The National Land Act governs the sale, lease and disposal of national lands. But given the interest this case has excited in the general public, I am constrained to observe that it is common knowledge that the provisions of the Act are in practice honoured more in their breach than in their observance. This has resulted in considerable public disquiet, anxiety and even resentment. The facts giving rise to this case bear much on this state of affairs.

It is my considered view that if the provisions of the National Land Act were followed and implemented much of the sting, anger and resentment of the public would be blunted. Considerable advancement in this regard would be made by the simple implementation of section 5 of the Act with the appointment by a transparent process, of an Advisory Committee to advise the Minister on all matters relating to land matters, and also the appointment of local committees, again on transparent basis, to assist the Minister in the consideration of applications for all tenants of national lands and other matters relating to land distribution.

National Lands, it should be remembered after all, form the heritage and patrimony of every Belizean national. It is imperative that there is transparency, confidence and integrity in its allocation and distribution that is in accordance with the law.

Section 13(1) of the Act provides for the sale of national lands and subsection (2) states that an application for the sale of national lands shall be made in the form of the 2nd Schedule to the Act. I have not been directed at any time during this case to any evidence that the 2nd Schedule of this Act was ever utilized or considered in the disposal of what are evidently part of national lands.

This may perhaps explain the somewhat Freudian slip by the acting Registrar in referring to section 13 when he sent out notices of the cautions to the claimants. This was however corrected to mean section 131(1) of the Registered Lands Act (see paras. 6 and 21 of the 1st and 2nd affidavits respectively of Mr. Brackett).

60. I am forced to conclude that the claimants' case must be dismissed and it stands dismissed. The claimants completely ignored Part XI of the Registered Lands Act regarding decisions of the Registrar and appeals relating to those decisions.

A. O. CONTEH
Chief Justice

DATED: 16th April 2008.