



1. *Notes: Land Law- indefeasible title under ss: 26, 30, 31, 41, 49 and 143 of the Registered Land Act, Cap. 194; whether unregistered lease obtained prior to sale of the land affects the subsequent registered title of the purchaser; whether there was a lease for 25 years between the vendor and the 'lessee'. Lease of over two years must be registered - s:49 of the Act, what is the effect of not registering? Whether a lessor cannot sell his land (the reversionary interest) without giving notice to the lessee or cancelling the lease; whether the 'lessee' was in actual occupation of the land which the purchaser bought and registered title to – whether there was an overriding interest of a person in actual occupation – s:31of Registered Land Act.*

*Procedure- a joint judgment in two claims- one a claim by a 'lessee' for breach of a lease, against a 'lessor' who sold off the land subsequent to the lease, the other, a claim by the purchaser for possession against the 'lessee' who claimed that he had taken possession and was in actual occupation of the land when sold.*

2. This is joint judgment in Action No. 136 of 2000 and Action No. 162 of 2000. They were commenced in the year 2000, but were ready for trial only seven years later in 2007. Action 136 of 2000 was filed on April 25<sup>th</sup> 2000; Action 162 of 2000 on May 12<sup>th</sup>. Mr. Orlando Castillo is the defendant in Action 136/2000, and the plaintiff in action 162/2000. Benny's Enterprises Limited is the plaintiff in 136/2000. I shall refer to it simply as Benny's Enterprises. The defendant in 162/2000 is Reconstruction and Development Corporation. I shall refer to it as Reconddev.
3. Action 136/2000 was first presented to court on 27.3.2000, the learned Acting Chief Justice, T. Gonzalez presiding. He granted an

interlocutory injunction order on that date, restraining Castillo, “from remaining on or continuing in occupation of land Parcel 3344, Block 20, in Belmopan Registration Section...” The order was made on the application of Benny’s Enterprises which claimed ownership of title to the land, and therefore the right to possession of it. Later on 21.7.2000, learned counsel Mr. Dean Lindo, S.C., for Mr. Castillo, gave an undertaking on behalf of Castillo to court, Gonzalez Acting Chief Justice, presiding again, that Mr. Castillo would withdraw his defence, and there was no need to continue the interlocutory injunction order.

4. On 7.5.2004, about four years later, Action 136/2000 was listed before me. I assumed that the court business of the day was an application for an order to enforce the undertaking by Mr. Castillo. However, there was no formal application by Benny’s Enterprises for such an order. Instead, parties brought to the attention of court that another action No. 162/2000, was also pending about the same subject matter, land Parcel, 3344, Block 20, Belmopan, and Mr. Castillo was the plaintiff in the action. I adjourned the action and directed that on the adjourned date both case files be brought up for the court to hear

counsel in both actions on the question whether the actions may be consolidated for purposes of trial.

5. Notwithstanding my direction order, the two actions were not listed in my court on the adjourned date, instead about 3 years later on 17.1.2007, they were presented to learned judge Minet Hafiz. The Supreme Court (Civil Procedures) Rules, 2005, had come into force. Hafiz J. made several usual case management orders, and directed that trial be in my court. The trial was scheduled for 12.6.2007. Before the trial I ordered consolidation of the two actions since the subject matter was the same land parcel, Mr. Castillo was a party in both actions, and the issue of title to the land and the right to possession of it was common to both actions.

6. ***The Claims***

In the earlier Action 136/2000, Benny's Enterprises claimed against Mr. Orlando Castillo in trespass that, while Benny's Enterprises was the holder of Land Certificate No. 3693/97 issued on 6.11.1997, by which it became, "the proprietor of title absolute in possession of land, Parcel 3344, Block 20, Belmopan", Mr. Orlando Castillo

unlawfully entered and occupied the land on 17.3.2000. Benny's Enterprises asked for the reliefs of: delivery up of possession, a permanent injunction order restraining Castillo from remaining on the land or in any way trespassing thereon, and damages for trespass.

7. In action 162/2000, Mr. Castillo claimed breach of a lease that, despite the fact that he had on 12.8.1997, obtained from Reconddev a 25 year lease commencing on 1.1.1996, Reconddev subsequently, "wrongfully and fraudulently", sold off the property on 8.10.1997, to Mr. Lyle Hulse, without cancelling the lease or informing Mr. Castillo. Further, Mr. Castillo claimed that, Mr. Hulse in turn wrongfully sold and transferred the land to Benny's Enterprises. He asked for the reliefs of: a court declaration that he is, "entitled to a lien on the leased property", and an order for specific performance of the lease by Reconddev; in the alternative, damages for breach of the lease.
8. The claim of Benny's Enterprises in Action 136/2000 was in trespass. It was based on the averment that Benny's Enterprises was entitled to immediate possession of Parcel 3344, Block 20, in Belmopan Registration Section. The entitlement to possession was based on its

claim to ownership of title to the land, the registration of the title, and the issuance of a land certificate to it under *ss: 26 and 34 of the Registered Land Act, Cap. 194, Laws of Belize*. Benny's Enterprises claimed that as the owner of, "title absolute in possession", it was entitled to immediate possession of the land which it claimed was vacant when it obtained and registered title to, and so unauthorized entering of the land by Mr. Castillo was interference with Benny's enterprises' possession of the land, and was trespass.

9. The submissions by learned counsel for Benny's Enterprises, Mr. Phillip Zuniga S.C., may be summarised as follows. The first one was that, the registration of the title of Benny's Enterprises and the issuance of land certificate to it, conferred on Benny's Enterprises absolute title which was indefeasible and entitled it to possession of the land. Secondly, that no lease or other interest or encumbrance had been registered against the title of the first registered vendor, Recondov, so the title transferred to Mr. Hulse and then to Benny's Enterprises was not subject to the lease claimed by Mr. Castillo, or to any other interest or encumbrance.

10. Thirdly, Mr. Zuniga urged the court to accept the testimony of Mr. Julio Garcia who inspected the land, supervised debushing, clearing and cleaning the land on the instruction of Benny's Enterprises, and the testimony of Mr. Hannibal Avila who carried out the work. Both testified that, the land was not occupied by anyone at the time. Mr. Zuniga then submitted that on that evidence, taken together with the testimonies of Mr. Ralph Feinstein and Mr. Calvin Neal who inspected the property before the sale and registration, the court should find that Benny's Enterprises took the title free of any overriding interest that would have arisen, had someone been in actual occupation. Mr. Castillo was not in actual occupation of the land, Mr. Zuniga argued, and had no overriding interest of an actual occupier of land.
  
11. Trespass to land is any direct unjustifiable interference, that is, intrusion by one person upon land in the possession of another – see *Ellis v Loftus Iron Co. (1874) L.R. 10 CP* at page 10, and *Southport Corporation v Esso Petroleum Ltd. [1956] A.C. 218*.

12. Mr. Castillo did not deny that he entered and occupied the land. His justification was that, he had a valid lease which entitled him to possession; and in addition, he was in actual occupation when Benny's Enterprises bought the land and had its title registered. That again, contended Mr. Castillo, entitled him to an overriding interest against the registered title of Benny Enterprises, if the title was valid.
  
13. Learned counsel Mr. Hubert Elrington, for Mr. Castillo, submitted that Mr. Castillo had not been informed by Reconddev, the lessor in the lease between Reconddev and Mr. Castillo, that the land would be sold off, or that the lease would be cancelled, so the sale was fraudulent. He urged the court to hold that the title of Benny's Enterprises was subject to the lease interest of Mr. Castillo. Mr. Elrington also urged the court to accept the evidence for Mr. Castillo that, he was in actual occupation of the land when Benny's Enterprises registered its title; and so, the court should hold that the title of Benny's Enterprises was subject to Castillo's claim, it being a claim of a person in actual occupation when the title of Benny's Enterprises was registered.



14. *Determination*

In deciding claim 136 of 2000, the claim of Benny's Enterprises against Mr. Castillo, I start by assuming for the moment that, the parties had finalized a lease, and Mr. Castillo had a lease over the land before Recondex sold the land to Mr. Lyle Hulse, and he resold it to Benny's Enterprises. My determinations of the various questions follow below.

15. First, I do not accept that Recondex, the 'lessor', had a duty as a matter of law, to inform a lessee that it intended to sell its title, that is, its reversionary interest, unless it was a term in the lease, or the circumstances were such that failure to inform the lessee would amount to fraud. It would sure be commendable for Recondex to inform the lessee, in this case, Mr. Castillo, but it is not a requirement of law. Mr. Elrington did not cite any authority to support his proposition that there is a legal duty on a lessor to inform the lessee when the lessor intends to sell his interest, nor did Mr. Elrington point out any fraud perpetrated. The interest that a lessor may sell or transfer is title to the land subject to the lease, it is the reversionary

- interest, not the lease interest which in this case, Mr. Castillo claimed to have.
16. Secondly, the law in s: **49 of the Registered Land Act**, requires that a lease for a period exceeding two years, “*shall be in the prescribed form, and shall be completed by opening a register in respect of the lease in the name of the lessee, filing the lease, and noting the lease in the encumbrance section of the register of the lessor’s land...*” Mr. Castillo’s lease was not registered and filed, nor was it noted as an encumbrance on the register of Recondév’s land. At best the lease may be regarded as an equitable lease or an agreement for a lease – see **ss: 28 and 31 of the Act**, and so could be actionable. The claim of Mr. Castillo against Benny’s Enterprises based on the equitable lease or an agreement for a lease would be a claim *in personam*, not *in rem*.
  17. The unregistered and unnoted lease was evidenced in writing or at least a memorandum of it was signed by Recondév. It met the requirement in **s: 40 (2) of the Registered Land Act**, and so could be actionable. The relief for the claim *in personam* would be damages, not an order for delivery up of possession of the land which in effect

would be specific performance. I know not of a relief of, “a lien on the land”.

18. I suppose it is also arguable that a lease for a period of more than two years, which does not comply with the form and requirements for registration may be regarded as a lease for two years, and is equitable.
19. Thirdly, Benny’s Enterprises as the holder of a registered title absolute, holds its title free from any interest and claims of any person, or any encumbrance, which had not been registered by the time Benny’s enterprises had its title registered, unless the interest, claim or encumbrance is an overriding interest under *s: 31 of the Act*, or Benny’s Enterprises obtained its title without providing valuable consideration – *see s: 30 of the Act. Section 26 of the Act* states that law as follows:

*“26 Subject to section 30, the registration of any person as the proprietor with absolute title of a parcel shall vest in that person the absolute ownership of that parcel together with all*

*rights and privileges belonging or appurtenant thereto, free from all other interests and claims whatever, but subject-*

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any, shown in the register; and*
- (b) unless the contrary is expressed in the register, to such liabilities, right and interest as affect the same and are declared by section 31 not to require noting on the register”:*

*Provided that-*

- (i) nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee;*
- (ii) the registration of any person as the proprietor under this Act shall not confer on him any right to any minerals or any*

*mineral oil unless the same are expressly referred to in the register”.*

20. The provisions in s: 30 to which the provisions in s: 26 regarding the rights of the owner of a registered title are subject, qualify the rights so that the rights are not available to a holder of a registered title who did not provide valuable consideration for his title. Such an owner holds his registered title subject to any unregistered rights and interests that the title of the vendor was subject to.
  
21. It has not been proved that Benny’s Enterprises acquired its title without valuable consideration; on the contrary, it has been proved that Benny’s Enterprises paid \$50,000.00 (valuable consideration) for the land. Benny’s Enterprises is a holder of title absolute for valuable consideration, so section 30 does not apply. Benny’s Enterprises holds its title free of unregistered rights and interests which Reconddev might have held its title subject to.
  
22. Fourthly and most important, is that Benny’s Enterprises dealt with a registered proprietor Mr. Hulse. The transaction concerned a

registered parcel of land in a compulsory registration area. The title that Benny's Enterprises acquired is protected against defect, if any, in the registered title of the vendor and of those who held title before the vendor, right to the first holder of the registered title. In this case, Benny's Enterprises' title is protected against defects, if any, in the titles of Mr. Hulse and of Recondov. The protection is stated in **s: 41 of the Act**, as follows:

*“41.-(1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required-*

- (a) to inquire or ascertain the circumstances in or the consideration for which such proprietor or any previous proprietor was registered or the manner in which any such consideration or part thereof was utilized;*
- (b) to search any register kept under the General Registry Act”.*

23. *Sections 26 and 41* are together the centrepiece of what has become known as the Torrens System, so named after the Torrens people and Torrens Islands in Northern Australia.
  
24. Unfortunately in this jurisdiction the tendency has developed to regard indefeasibility of title conferred by ss: 26 and 41, that is, by registration of title, as some mathematical rule, so that once registration of title has been proved, the title is regarded as near impossible of being made void. That tendency continued, sometimes with approval of courts, even after the judgment of the Privy Council in, *British American Cattle Company v Caribe Farm Industries Limited and The Belize Bank Limited* 3 BLR 468, an appeal case from this jurisdiction.
  
25. The tendency has been convenient for the malpractice of granting a parcel of national land for lease or purchase to two or several different applicants, one after the other, sometimes by error, but often deliberately because it was intended to favour the later applicant. Usually the last applicant is assisted by having his title registered, and certificate of title issued as a matter of urgency. The registered title is

then conveniently regarded as indefeasible. That has led to many court claims. Another malpractice has been that one child or relative of a deceased registers himself as the owner of title on the ground that the deceased had given him the land; then on the strength of indefeasibility of title, he would evict the other children or relatives from the property.

26. It is my respectful view that, the judgments of the Privy Council, the final appeal court, in the *British American Cattle Company Case*, and in the recent appeal case, *William Quinto and Jimmy Quinto v Santiago Castillo Limited, Privy Council Appeal No 27 of 2008*, have charted clearly the scope of indefeasibility of a registered title and pegged its limits in Belize. Indefeasibility of a registered title is not absolute in Belize.

27. In *the Quinto Case*, the Judicial Committee of the Privy Council in its opinion delivered by Lord Phillips stated the scope and limits in the following words:

*“The Torrens system in Belize*



4. *Under the Torrens system registration confers title on the registered proprietor. A merit of the system is that a purchaser from the registered proprietor does not normally need to look further than the register for reassurance that the vendor has good title. Under some systems once a title is registered it is indefeasible. Under other systems the title of a bona fide purchaser from the registered proprietor will, once it is registered, be indefeasible. The indefeasibility of title is, however, capable of giving rise to injustice if the registration of the title is brought about by fraud, or by a mistake. For this reason, many Torrens systems make provision for rectification of the register, but the nature of such provision varies from system to system. The effect of each depends on its own terms”.*

28. The final decision in the case allowed the appeal of William Quinto and Jimmy Quinto against the decision of the Court of Appeal, reversing the decision of the learned Chief Justice A. Conteh, in which he authorized rectification of the Land Register by ordering cancellation of the registration of the title of the respondent on the grounds of fraud and mistake. The crucial legislations considered

were *ss: 26, 41 and 143 of the Registered Land Act*, commencement date, 10.12.1977. The judgment of the Chief Justice had clearly departed from the prevalent erroneous tendency.

29. A summary of the facts of *the Quinto Case* is this. The appellants, William Quinto and Jimmy Quinto, owned the land in question. They had registered their title under the General Registry Act, 1954. They applied as required, for registration of their title under the new Act, the Registered Land Act, 1977. Their application was on a file in the Land Registry. The respondent, Santiago Castillo Ltd, knew or believed that the appellants owned the land. It had made an offer to the appellants to buy the land, but they could not agree on price. Then one Ms. Williams who owned an adjoining land offered to sell the land in question to the respondent who told her that it had been of the impression that the land belonged to the appellants. However, the respondent was prepared to buy the land from Ms. Williams if she acted through an attorney. She engaged an attorney who agreed sale of the land with the respondent and its attorney.

30. Ms. Williams then asked her attorney to register title to the land in question in her favour. She gave her attorneys papers that proved her title to the adjoining land, to be used in the registration of the land in question. She had already used the papers to register her title to the adjoining land. Having registered title to the land in question in her favour, Ms. Williams transferred the newly acquired title to the respondent who registered itself as the owner of the title. In all this, the Registrar was informed that it was an urgent matter, and was requested to expedite registration. The Registrar obliged. She said that she was not aware of the pending application of the appellants. The facts obviously disclosed that there were mistakes and fraud in the transactions. The Privy Council held that the respondent knew of the mistake and fraud.

31. In the earlier case, *the British American Cattle Company Case*, the Privy Council had confirmed the point of law that, by registration of title (the Torrens system) under *Part III of the General Registry Act Cap. 327*, an earlier Act, of commencement date, 15.5.1954, and by the provisions of *s: 41 of the law of Property Act Cap. 190*,

indefeasibility of title and interests was achieved. Their Lordship stated at page 437 that:

*“Although the details of the Torrens system vary from jurisdiction to jurisdiction it is the common aim of all systems to ensure that someone dealing with the registered title to the land in good faith and for value will obtain an absolute and indefeasible title whether or not the title of the registered proprietor from whom he acquires title was liable to be defeated by title paramount or some other cause”.*

32. But their Lordships added that there were exceptions to the rule of indefeasibility of title such as where registration was obtained by fraud, and where a subsequent Act included a provision that was inconsistent with the provisions in the earlier Acts conferring indefeasible title. Their Lordships held in the claim that, *ss: 4 and 5 of the Aliens Landholding Act Cap. 179*, rendered the registered title of an alien land holder, the Caribe Farm Industries Ltd; defeasible since the company had not obtained a licence under the Act for

holding the entire 2,400 acres of land which the company registered title to and mortgaged.

33. The brief facts were this. One Avilez, was a registered owner of 2,400 acres of land, part of which had been conveyed to BACC, the appellant, before Avilez obtained title. The right of BACC was merely an equitable one because the transfer by conveyance did not comply with the General Registry Act, 1954. Subsequently Avilez transferred to Caribe the entire tract of 2,400 acres, and Caribe was registered as the title holder under the General Registry Act. However, Avilez had written to Caribe explaining that transfer of the entire land was to avoid delay that would occur in subdividing and therefore mortgaging, and that the intention was to transfer only 2000 acres, 400 acres would be transferred back to Avilez. The letter was signed by the general manager of Caribe. A copy was sent to the Registrar General and to Atlantic Bank. Caribe nevertheless charged the entire 2,400 acres in favour of Atlantic Bank and the Belize Bank in that order.

34. Later when Avilez requested transfer back of the 400 acres, Caribe ignored the request. BACC then filed a court action in which it claimed, “a declaration that the Transfer Certificate of Title dated March 5<sup>th</sup>, 1987, in the name of Caribe is void and of no effect”, by reason that Caribe, an alien, obtained transfer of the entire 2,400 acres and registered title to the entire, despite having obtained licence for only 2000 acres, contrary to the Aliens Landholding Act. BACC succeeded on appeal to the Privy Council.
35. In both the *British American Cattle Company Case* and the *Quinto Case*, the Privy Council confirmed that under statutory laws in Belize, a purchaser obtained indefeasible title by registration of title, but that the purchaser must have dealt with the registered proprietor, “*in good faith and for value*” – *the British American Cattle Company Case*; or be a, “*bona fide purchaser*” – *the Quinto Case*, at paragraph 39. In the latter case, the Privy Council regarded even knowledge by the purchaser of the mistake and the fraud as enough for the court to order rectification of title.

36. These are now the highest case law authorities in this jurisdiction that, mistake or fraud, or knowledge of mistake or fraud, in the registration of the title in question or even in the registration of the title of the vendor, or in the first registration of title, will render the title in question defeasible. One hopes that the practice of turning a blind eye to mistake and fraud when having a title registered will now stop, and the number of cases raising the question of mistake or fraud, or knowledge will abate. Of course the decision regarding fraud or mistake in each case will depend on the particular facts proved in the case.

37. In the present two claims, there has been no claim by Mr. Castillo that the registration of the title of Benny's Enterprises was obtained by fraud or mistake, or that Benny's Enterprises knew of any fraud or mistake in the registration of its title, or of the title of Mr. Hulse. Rather, the claim has been that Reconddev, had not informed Mr. Castillo of the sale of the land, and had not cancelled the lease between Reconddev and Castillo before the sale. It has not been demonstrated by evidence that, the terms of the lease imposed those obligations, or how failure to inform Mr. Castillo or to cancel the

lease was fraudulent. Fraud was pleaded, but not canvassed in the evidence and cross-examination.

38. It is my decision that according to the evidence, Benny's Enterprises must be taken to have dealt with Mr. Hulse and Recondes in good faith and for valuable consideration. The registration of the title of Benny's Enterprises was not tainted with fraud or mistake. It was a valid registration which conferred on Benny's Enterprises title absolute which is indefeasible, subject only to the overriding interest in *s: 31 of the Act Registered Land Act*, which overriding interests need not be noted on the register. The only relevant overriding interest would be at subsection (g), "*the rights of a person in actual occupation of land...*"
39. I do not believe that Mr. Castillo was in actual occupation when Benny's Enterprises inspected the land. It follows that Benny's Enterprises was the owner of title absolute and also became an owner '*in possession*', because there was no one in actual occupation of the land when it acquired and registered title. As owner of '*title absolute in possession*', Benny's Enterprises was entitled to immediate



possession of the land. Any unauthorized entry on its land, Parcel 3344 Block 20, Belmopan, after 6.11.1997, the date of the registration of Benny's Enterprises' title, is trespass.

40. Mr. Castillo did not get authorization from Benny's Enterprises to enter the land on 17.3.2000. That is the date I accept as the date on which he entered the land. I reject the evidence for Castillo that he had entered upon the land earlier, and before Benny's Enterprises registered its title. I accept the evidence for Benny's Enterprises that when it bought the land and had its title registered, Mr. Castillo was not in occupation of the land. Entry upon the land by Mr. Castillo was trespass unless he had lawful justification.

41. The justification given by Mr. Castillo was that, he entered upon the land because he was entitled to possession of it under a lease between himself and Recondex, a predecessor in title to Benny's Enterprises. So Mr. Castillo's claim is based on privity of estate. The determination of the issue in the justification also provides the determination of the claim in action 162/2000. I shall deal with it as part of the determination of that claim as well.

42. I have already decided above that, if there was a lease for 25 years between Recondév and Castillo, then the lease could not be regarded as a legal lease, because it was not in the prescribed form and was not registered and filed, and was also not noted on the register of the land of the lessor as required by *s: 49 of the Registered Land Act*. The form and formalities required for a lease of over two years were not complied with. At the highest, if the parties did finalise a lease, it would be deemed an equitable lease.
43. An equitable lease is as good as an agreement for a lease, for purposes of enforcing. It is enforceable as a claim *in personam*, not a claim *in rem*. In claim 162/2000 the equitable lease will be enforceable only against Recondév since Benny's Enterprises, the holder of registered title, that is, of a legal estate, did not know about the lease and did not find Mr. Castillo in actual occupation of the land. There has been no privity of estate in the transactions beyond that between Recondév and Mr. Castillo. The equitable lease does not affect the right of Benny's Enterprises to possession of Parcel, 3344, Block 20, Belmopan Registration Section. Mr. Castillo had no right, no justification to interfere with the right of Benny's Enterprises to possession.

44. The question that I must now pose, although it is no longer that important, is whether Recondav and Castillo finalized a lease.
45. My answer is that Recondav and Mr. Castillo finalized a lease, which they signed on 12.8.1997. It is exhibit No. D(AP) 6 I. I reject the submission by learned counsel Mr. Oswald Twist for Recondav, that because Castillo failed to deposit \$3,000.00 which was a condition for finalizing the lease, the parties never finalized a lease. The demand for payment of \$3,000.00 was a proposal like so many others, such as producing an acceptable building plan and obtaining approval for mortgaging the land. Mr. Castillo was also told that the offer would remain open for 90 (ninety), days which he did not meet. All those were offers and counter-offers rendered useless by the parties signing the lease, document exhibit No. D(AP) 6 I.
46. The terms of the document met the requirements for a lease. They included the right of the lessee to exclusive possession of a specific land, a definite and certain period of 25 years commencing 1.1.1996, for the lease, and a rent of \$252.44 in return – see *Glenwood Lumber*

*Company Co Ltd v Phillips [1904] AC. 405, Street v Mauntford [1985] 2 All E.R. 289, and Lynes v Snaith [1989] 1Q.B. 486.*

47. The lease for more than two years was not registered. It operated as an equitable lease between Recondex and Castillo. It never created privity of estate between Benny's Enterprises and Mr. Castillo. It could not affect the title of Benny's Enterprises which it took in good faith and for value. The justification that there was a lease entitling Mr. Castillo to enter upon the land owned by Benny's Enterprises fails. Mr. Castillo is liable to Benny's Enterprises for trespass.
  
48. As between Recondex and Castillo, I find as facts that: Mr. Castillo failed to take possession of the land, failed to pay the rent and failed to clear the land. He made one payment only after the land had been sold off. He never at all took up the lease, let alone in reasonable time. He was unable to pay the rather small rent and meet the other conditions of the equitable lease; he simply abandoned the lease and land.

49. *Orders*

Judgment is entered in claim No. 136 of 2000 for the plaintiff, Benny's Enterprises. A permanent injunction order is made restraining Mr. Orlando Castillo from entering or remaining on land Parcel 3344, Block 20, Belmopan Registration Section. He is also ordered to deliver up possession to Benny's Enterprises. There has not been sufficient evidence on which to assess damages. For example, the rental value of the land and the period of trespass were not put in evidence. No order as to damages is made.

50. The claim of Mr. Orlando Castillo against Reconstruction and Development Corporation is dismissed.

51. Costs of Benny's Enterprises Ltd are to be paid by Mr. Orlando Castillo. Costs of Reconstruction and Development Corporation are also to be paid by Mr. Castillo.

52. Delivered this Wednesday the 9<sup>th</sup> December 2009  
At the Supreme Court  
Belize City

Sam L. Awich  
Judge  
Supreme Court