IN THE COURT OF APPEAL OF BELIZE, A.D. 2026
CIVIL APPEAL NO. 3 OF 2025

BETWEEN:

DONALD LAVALLEE
JANET SKUCE

Appellants

and

DAVID NICHOLAS MAFFEI

Respondent

Before:

The Hon. Mme. Justice Marguerite Woodstock Riley KC	Justice of Appeal
The Hon. Mme. Justice Michelle Arana	Justice of Appeal
The Hon. Mme. Justice Melissa Balderamos Mahler SC	Justice of Appeal (Ag)

Appearances:

Mr. Donald Lavallee in person
Ms. Kelly Bouloy for the Respondent (submissions on paper)

2025: October 9
2026: August 13

DECISION

Background

[1] **BALDERAMOS MAHLER J.A. (Ag):** By way of High Court Claim No. 476 of 2023, the Appellants sought an order seeking the cancellation of title held by the Respondent in respect of Parcel No. 3460, Block 24, Society Hall Registration Section, situated in the Cayo District on the basis that it had been obtained by fraud or mistake and sought an order that the said parcel be transferred to them. Further, the Appellants sought the sum of $96,000.00 as rent (damages) and the sum of $200,000.00 as exemplary damages for the use and

enjoyment of the said parcel of land by the Respondent herein. The Respondent (Defendant in the High Court claim) denied the claim on the basis that he is the registered proprietor of the said parcel of land, that he holds freehold title by way of a duly registered Land Certificate and that he is a bona fide purchaser of the said land.

[2] By way of Judgment dated the 14th day of January 2025, the High Court dismissed the claim of the Appellants and further ordered costs in favor of the Respondent in the sum of $49,600.00[1] (with interest thereon at the rate of 6% per annum from the date of judgment) and costs in favor of the Crown in the sum of $5,000.00 (with interest thereon at the rate of 6% per annum from the date of the said judgment). Notably, the Assistant Solicitor General participated in the proceedings as 'amicus curiae' as the state was not a party to the proceedings. The Court further ordered that if the Appellants failed to pay the costs ordered in favor of the Crown within two months from the date of judgment that the Registrar may move the court for contempt proceedings.

[3] By Notice of Appeal dated the 3rd day of February 2025[2], the Appellants appealed against the said decision of the High Court (the Honorable Mr. Justice Rajiv Goonetilleke). The Notice of Appeal contains 116 grounds of appeal with the relief sought numbering 32 in total. The Grounds of Appeal include assertions of contempt of court, misdirection to witnesses, perjury and obstruction of justice, errors of law, errors of fact, and Constitutional law. The relief sought by the Appellant in this Court include certain declarations regarding the findings of the trial judge and orders.

[4] By way of Notice of Application filed on the 17th day of February 2025, the Appellants (Applicants herein) have sought an order granting a stay of execution of the judgment/order of the said Goonetilleke J. The Respondent replied by way of an Affidavit in Reply dated and filed on the 31st day of July 2025. The Appellants responded by way of an Affidavit dated and filed on the 6th day of August 2025.

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[1] Having been calculated as prescribed costs pursuant to the Senior Court Rules and based on the value of the claim as filed in the High Court by the Appellants
[2] Filed on the 17th day of February, 2025

[5] The Appellants filed Written Submissions in support of the current stay application, such submissions filed on the 27th day of August 2025, and the Respondents replied by way of Written Submissions filed on the 18th day of September 2025. The Appellants filed further submissions on the 19th day of September 2025.

[6] Due to circumstances regarding the medical condition of Counsel for the Respondent, a request was made for the matter to be determined on paper. The Appellant vehemently objected to that request and the application was heard by the Court with the Appellant appearing in person (unrepresented) and the position of the Respondent being as set out in the Written Submissions filed by his Counsel[3].

The Appellant's application for a stay of execution

[7] The Appellants have relied on 7 primary grounds as set out in their Notice of Application to support their application for a stay of execution. These are as follows:

i. That the Applicants are dissatisfied with the decision of Rajiv Goonetillke, High Court Judge made on the 14th day of January 2025.
ii. That the Applicants have filed a Notice of Appeal on grounds of error in law, fact, misdirection, mischief and contempt of court.
iii. That the Appellants believe that Honorable Rajiv Goonetilleke failed to weigh the evidence, testimonies and had misquoted the witnesses and had failed to mention numerous evidence and fact that if properly considered the decision would have been in the Applicant (Appellants) favor.
iv. That a stay would not adversely affect the Respondent (Defendant) or the Department of Lands.
v. That the Applicants (Appellants) would be adversely affected if a stay is not granted.
vi. That the Applicants (Appellants) claim has merit and a reasonable chance of success if the evidence, facts and the law were properly weighed by the court.
vii. That the Applicants (Appellants) believe Honorable Rajiv Goonetilleke was biased towards the Applicants in his decision as self-represented

[3] With the approval of said Counsel

[8] While a draft Order in support of the stay application was not filed, the Appellants list the relief that such order should contain, which include (in summary) an order setting aside the High Court Order, an order granting a new trial, declarations regarding inferences made by the trial judge, declarations as to the strength of the High Court decision, declarations regarding the witnesses relied on in the High Court, declarations regarding alleged errors of law and fact committed by the trial judge, declarations as to the applicable legislation governing the substantive property issues, declarations of bias and misdirection on the part of the trial judge, orders seeking rectification of the Respondent's title, orders as to costs and punitive damages in favor of the Appellants.

[9] It is important to emphasize that this Court's consideration of a stay application is not the determination of the substantive appeal. And the order that this Court can make on the current application is limited in its scope and nature. So, while the Appellants have sought an extensive list of relief to be granted by this Court, the Court is confined by the application currently before it, i.e. the grant or refusal of a stay of execution.

[10] Further, while not explicitly stated by the Appellants, the stay application is seemingly in regard to the costs order made by the High Court judge. This is assumed as, other than the dismissal of the claim, there were no declaratory orders or other substantive orders made by the trial judge that would otherwise warrant the application currently before the court (or similarly an application for stay of proceedings).

General Legal Principles

[11] As highlighted by this Court in ***Sagis Investment Limited v Radio Krem Limited***[4]***,*** the starting position regarding the principles that govern whether to grant a stay of execution is that the Respondent has an Order in his favor and should not be deprived of the fruits of the decision in his favor.

[12] As such, the power of this Court to grant a stay of execution pending appeal is a discretionary one. The principles which govern the exercise of that discretion are well settled and have

[4] Civil Appeal No. 13 of 2008

been dissected in a plethora of cases, particularly in this jurisdiction. These include ***Camilla Yamasaki v Dean Reiber and Reiber Holdings Ltd[5], Stevan Stanley Gentle v Gina Tillett and Insurance Corporation of Belize Ltd[6]. and Bryant Williams dba Griga Line and others v Minister of Youth, Sports and Transport[7].***

[13] In considering an application of this nature, the Court shall have regard to the following:

i. whether the appeal raises a serious issue or discloses a real prospect of success;
ii. whether the applicant would suffer irreparable harm if the stay is refused and the appeal ultimately succeeds;
iii. whether the balance of convenience as between the parties favours the grant of a stay; and
iv. whether the respondent would suffer prejudice if the stay were granted.

[14] No single factor is in itself determinative and the Court must weigh all relevant circumstances to arrive at the outcome which best serves the interests of justice.

Prospects of Success

[15] The relevant test is whether the intended appeal has a reasonable or legitimate prospect of success. A fanciful prospect is insufficient.

[16] In **Yamasaki**, Mansoor J. cited[8] the English Court of Appeal case of ***Linotype-Hell Finance Ltd. v Baker[9]*** regarding what was necessary to succeed in a stay of execution application:

> *"It seems to me that, if a defendant can say that without a stay of execution he will be ruined and that he has an appeal which has some prospect of success, that is a legitimate ground for granting a stay of execution."*

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[5] Claim No. 591 of 2022, High Court of Belize
[6] Claim No. 707 of 2023, High Court of Belize
[7] Claim No. 134 of 2022, High Court of Belize. While this case dealt with a stay of proceedings pending the outcome of an appeal, Hondora J. also discussed the applicable principles regarding stay of execution
[8] At para [21]
[9] *[1993] 1 WLR 321*

[17] The authorities have shown that the existence of merely an arguable appeal cannot by itself amount to a sufficient reason to justify a stay. That, in my view, is the minimum requirement before a court can consider granting a stay. If the Court is not convinced that there exists grounds of appeal with a prospect of success, no stay should be granted.

[18] The first ground of the Appellants' stay application is that they are dissatisfied with the decision of the learned trial judge. That is not a matter for the Court's consideration at this stage.

[19] The second ground cited is that they have filed a Notice of Appeal *"on grounds of error in law, fact, misdirection, mischief and contempt of court"*. Just the filing of a Notice of Appeal on those or any other grounds of appeal would not, on its own or combined with the other elements required for a stay, be sufficient for this Court's exercise of its discretion to grant a stay.

[20] The Appellants have also argued[10] that the learned trial judge failed to *"weigh the evidence and testimonies and had misquoted witnesses and failed to mention numerous evidence and fact that if properly considered the decision would have been in the Applicants favor".* They further argue that the claim has merit and a reasonable chance of success *"if the evidence, facts and the law were properly weighted (sic) by the Court".* And, they assert that the learned trial judge was biased towards them in his decision as self-represented. These grounds all form the basis of the Appellants' argument that they have a prospect of success.

[21] In analysing the current appeal that is before this Court, this Court is not convinced that the Appellants have met the threshold of establishing that they have a prospect of success, whether real or otherwise.

[22] The evidence before the lower court showed that the Respondent owns the subject property (Parcel 3460), having obtained the same by way of a land transfer by way of a bona fide

[10] Grounds 3, 6, and 7 of the stay application

sale from Mr. Paddy Munro in 2015 or 2016. The Appellants argued in the court below that they entered into a sale agreement in November of 2017 with Ms. Carina Tyler, pursuant to which they agreed to buy parcel 3393 and 3460. They claim that by virtue of the results of surveys undertaken, the said Parcel 3460 is connected to Parcel 3393 and therefore part and parcel of the First Appellant's land, being Parcel 3463.

[23] However, the evidence showed that the original Parcel 3393 was owned by Mr. Munro and was subdivided resulting in the following:

a. Parcel 3460 – transferred in 2015 by Mr. Munro to the Respondent.
b. Parcel 3461 – sold in 2005 by Mr. Munro to Sharon Kurgis and thereafter sold in 2015 by her to the Respondent.
c. Parcel 3462 – sold in 2005 by Mr. Munro to Sharon Kurgis and thereafter sold in 2015 by her to the Respondent.
d. Parcel 3463 – sold in 2006 by Mr. Munro to Carina Tyler who obtained Land Certificate in 2013. This was later transferred by her to the Appellants by virtue of Land Certificate dated the 24th day of February 2021.

[24] In 2017, Ms. Tyler entered into a sale agreement to sell Parcels 3393 and 3460 to the Appellants. However, at no time did she legally have title to either parcel, as Parcel 3393 was the original parcel owned by Mr. Munro and Parcel 3460 had not been transferred to her by Mr. Munro. While the Appellants have relied on this sale agreement as the basis of their entitlement to Parcel 3460, the evidence before the High Court showed that Ms. Tyler did not have title to Parcel 3460 and so could not have conveyed what she did not legally own. The evidence showed that Mr. Munro had sold Parcel 3463 to Ms. Tyler, comprising 92.01 acres of land, and not Parcel 3460, which comprised 0.96 hectares.

[25] Because the Appellants had no legal or beneficial title or right to the said Parcel 3460, they failed in their claim for rent or for the exemplary damages claimed.

[26] The Appellants had urged the court to set aside the Respondent's title on the basis of mistake in the registration of the subject property, which registration was effected upon the

original owner's application for subdivision. Mr. Munro was the original owner of the bigger parcel of land, being Parcel 3393. After that parcel was subdivided, Parcel 3460 was the remaining portion, referred to by the trial judge as *"the residue*" and comprised 0.96 acres. As Mr. Munro was the original owner of the larger parcel 3393, he remained the owner of the resulting parcels subsequent to subdivision including Parcel 3460. Ms. Tyler could not have gained title to this parcel so as to transfer rights in that parcel to the Appellants.

[27] The Appellants argued in the lower court that the remaining portion (Parcel 3460) is connected to Parcel 3393 and is therefore part and parcel of his Parcel 3463, due to "*hooks*" on the survey plans due to bifurcation. However, this argument is untenable at best.

[28] The Court notes further that the Appellants are self-represented litigants. The Appellants have argued that Section 6 of the Constitution of Belize guarantees the right of every person to a fair hearing, which includes the right to appear before the courts in their own behalf. That section affords equal protection of the law without any discrimination to all persons. The Court must be careful not to penalise litigants for the exercise of that constitutional right, nor should the mere fact of self-representation of itself give rise to adverse procedural or substantive consequences.

[29] The Appellants have raised the breach of their Constitutional rights as a ground of appeal and have alleged bias on the part of the judge particularly due to the fact that they were self-represented. However, the evidence shows the contrary. The Appellants in the court below relied on affidavits, which were undated and unattested. Despite this, the judge allowed such affidavits to comprise the evidence of the Appellants and to be treated as witness statements, particularly as they were self-litigating. The lower court further allowed the First Appellant to give *viva voce* evidence.

[30] The learned trial judge seemed to have gone to great lengths to accommodate the Appellants as self-litigants particularly as he allowed the claim to proceed even though the plea of fraud was not particularized as required by the Rules of Court. The judge specifically

noted that *"as the Claimants are self-litigating the court in the interests of justice has permitted the claim … "*

[31] The Notice of Appeal includes assertions regarding the handwriting expert's evidence particularly as she noted differences in the signatures of Mr. Munro in the 2015 transfer to the Respondent and the earlier 2006 transfer to Ms. Tyler. While the expert witness did note an inconsistency in the signature, the learned judge found that the explanations offered by the expert as to possible reasons for such differences (accident, injury, lapse of time) were plausible and found no evidence of forgery on the part of the original landowner in his transfer to the Respondent.

[32] It is the view of this Court that the Appellants have not shown any reasonable prospects of success on the Notice of Appeal and grounds as stated therein. This Court finds that the Appellants have not satisfied the elements necessary for the grant of a stay of execution and it would be unjust to grant a stay in the circumstances.

Risk of Injustice, Prejudice or Irreparable Harm

[33] The court must determine whether there is a risk of injustice to either or both parties if a stay is granted or refused. This would entail a comprehensive examination of the nature and circumstances of the case and consequences of enforcement.

[34] The Appellants have argued[11] that they would be adversely affected if a stay is not granted and that such stay would not adversely affect the Respondent or the Department of Lands. Notably, the Department of Lands is not a party to this appeal so no findings will be made in regard to that entity.

[35] In ***Marie Makhoul v Cicely Foster[12]*,** the OECS Court of Appeal held, in relation to the test applicable for a stay of execution, that:

[11] Grounds 4 and 5 of stay application
[12] HCVAP 2009/014

"(1) Whether the court should exercise its discretion to grant a stay will depend on all the circumstances of the case, but the essential question is whether there is a risk of injustice to one or other or both parties if the stay is granted or refused. This calls for an examination of the nature of the case and the consequences flowing from enforcement of the judgment.

(2) The burden is on the applicant to satisfy the court that she will be personally and financially ruined without a stay. It is not enough for the applicant to merely make a bald assertion to the effect that she will be ruined. Rather what is required is evidence which demonstrates that ruination would occur in the absence of a stay…"

[36] There has been no evidence put forth by the Appellants of any "ruination" that would be suffered by them if the lower court's judgment is enforced. No financial information has been provided and no evidence of the risk of severe loss as a result. Bald or vague assertions of financial or personal ruin, without a factual foundation or basis, are not sufficient to satisfy this Court that a stay should be granted and are insufficient to tip the balance in favor of the Appellants.

[37] Further they have argued that if the stay is refused and they are compelled to satisfy the costs order before the appeal is determined, they face a real and substantial risk of being unable to recover such funds should the appeal succeed. The basis of this concern is seemingly that the Respondent resides outside of Belize and has no meaningful assets in this jurisdiction. However, the Respondent is the owner of the property in dispute, Parcel 3460, on which the Appellants had placed a caution. That does not suggest a risk of dissipation by the Respondent as the caution would restrict his ability to dispose of that asset.

[38] **Blackstone's Civil Practice 2015**[13] further sets out a test that applies generally in relation to a stay of execution.

[13] Para 74.46

"The basic rule is that a litigant is entitled to enjoy the fruits of its success. This means that enforcement should be allowed to proceed unless in all the circumstances of the case and having regard to the risk of injustice to the parties a stay ought to be imposed. The Court has an unfettered discretion to impose a stay of execution if the justice of the case so demands. Relevant questions are:

(a) if a stay is refused, what are the risks of the appeal being stifled?
(b) If a stay is granted and the appeal fails, what are the risks that the respondent will be unable to enforce the judgment?
(c) If a stay is refused and the appeal succeeds, and the judgment is enforced in the meantime, what are the risks of the appellant being able to recover what has been paid to the respondent?"

[39] The evidential burden of proof rests with the Appellants, as the Applicants seeking the stay. Upon a perusal of the affidavits filed by the Appellants in support of this application, there is no evidence to support the assertion that the appeal would be stifled by the refusal of a stay. The lower court ordered the dismissal of the Appellants' claim and ordered costs in favor of the Respondent. This Court is not convinced in any way that the payment of costs by the Appellants would stifle their appeal from proceeding. The Appellants have not provided sufficient evidence to this Court that their appeal is at risk of being stifled should this Court refuse the stay, as sought by them.

[40] This Court also has regard to the principle that appellate courts have an inherent jurisdiction to prevent an appeal from being rendered nugatory. Where refusal of a stay would have the practical effect of defeating the purpose of the appeal entirely, that consideration weighs heavily in favour of the grant of a stay. However, there is no evidence before this Court that the appeal would be rendered nugatory by the refusal of a stay of execution of the lower court's judgment.

[41] Staying the execution of a judgment or order of the court below pending an appeal should only be done under exceptional circumstances. A stay pending an appeal is an exceptional

remedy granted only after evaluation of all the circumstances of the case, with a focus on the avoidance of injustice being done to either party.

[42] In the case at hand, it is the view of this Court that the Appellants' likelihood of success is slim. Absent a stay, the Appellants will suffer no irreparable harm, injustice or prejudice particularly as the appeal would not be rendered nugatory and can proceed.

[43] Having considered all the circumstances of this case and the application at hand, including the affidavit evidence of the parties and the written submissions filed for both sides, this Court is not satisfied that this is a proper case for the grant of a stay of execution.

[44] The Court must point out that while the Respondent had also opposed the application on the basis of certain procedural irregularities (service, format, non-compliance with Practice Directions), this Court is of the view that such procedural matters should not delay or hinder and would not necessarily have an impact on the Court's determination of the substantive application.

[45] For all the reasons noted above, this Court refuses the Appellants' application for the grant of a stay of execution.

[46] Costs of this application shall be costs in the appeal.

Melissa Balderamos Mahler SC
Justice of Appeal (Ag.)

[47] I concur.

Marguerite Woodstock Riley KC
Justice of Appeal

[48] I concur.

Michelle Arana
Justice of Appeal