

IN THE SUPREME COURT OF BELIZE, A. D. 2016

CLAIM NO. 696 OF 2016

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| BETWEEN | (SCOTT GJESDAHL | CLAIMANT |
| | (| |
| | (AND | |
| | (| |
| | (EGBERT YOUNG | FIRST DEFENDANT |
| | (FRANCISCO BONILLA | SECOND DEFENDANT |

BEFORE THE HONOURABLE MADAM JUSTICE MICHELLE ARANA

Mr. Andrew Bennett for the Claimant

Mr. Michel Chebat, S.C., for the Second Defendant

No appearance for and or behalf of the First Defendant

J U D G M E N T

Facts

1. This is a claim seeking declarations and damages regarding 859.80 square meters of land in Mullins River in the Stann Creek District, Belize. The Claimant is the Administrator of the Estate of Geoffrey Hazel who died on November 18th, 2009. At the time of his death, Mr. Hazel was the owner of

this property in Mullins River which he had purchased from one Merlene Clarke of Mullins River by virtue of a Conveyance No. 2094 of 2008 dated July 9th, 2008 of all that freehold piece or parcel of land situate in Mullins River Village, Stann Creek District being Lot 59 and comprising 859.80 square meters and being more particularly delineated and described as shown on Plan No. 1143 of 2007 attached to Minister's Fiat Grant No. 1143 of 2007. A Deed of Conveyance was purportedly made between Geoffrey Hazel and the First Defendant Egbert Young on November 21st, 2010, where Mr. Young purchased this property from Mr. Hazel. Mr. Young then sold this property to Mr. Bonilla by a Deed of Conveyance dated February 21st, 2011. By virtue of an order of this court for substituted service, the First Defendant Egbert Young has been duly served with notice of these proceedings by publication of the Claim form and Statement of Claim in a newspaper of general circulation in Belize for two consecutive weeks but has failed to enter an appearance or take any part in these proceedings. Since purchasing the property the Second Defendant has been in occupation and possession of the land and has remodeled and expanded a structure that was on the land. The Claimant's attorney wrote the Second Defendant on August 6th, 2014 accusing him of fraud and threatening to pursue civil and criminal actions

against him. The Claimant now brings this Claim against the Defendants seeking several declarations including a declaration that the Second Defendant is not a bona fide purchaser for value without notice. In addition to defending the claim on the basis that he is a bona fide purchaser for value without notice, the Second Defendant has counterclaimed seeking a declaration that his Deed of Conveyance is valid.

Issues

2. i. Is Mr. Francisco Bonilla a bona fide purchaser for value without notice?
- ii. Should the Conveyance dated February 21st, 2011 between Mr. Bonilla and Mr. Young be set aside on the basis of fraud?
- iii. Has Mr. Gjesdahl (in his capacity as Administrator of the Estate of Geoffrey Hazel) suffered any damages and are Egbert Young and Francisco Bonilla liable to pay said damages?

Evidence for the Claimant at Trial

3. Mr. Gjesdahl testified that he lives in Mullins River, Stann Creek District and that he is the Administrator of the Estate of Geoffrey Hazel by virtue of a Grant of Administration dated April 19th, 2016 (**Exhibit "SG 1"**). At the time

of his death, Mr. Hazel owned Lot 59 containing 859.80 square meters and situate in Mullins River Village, Stann Creek District Belize and shown and described on Plan of Survey by licensed land surveyor J. H. Hertular with reference to Entry Plan No. 10799 Register No. 7 lodged at the Office of the Commissioner of Lands and Surveys, Belmopan, Belize. This Deed of Conveyance is **Exhibit "SG 2"**.

This land was conveyed to Mr. Hazel and he went into possession by building a structure thereon which was to become a house. Mr. Hazel died in Colorado, U.S.A., on November 18th, 2009 and his Death Certificate showing the date of his death is **Exhibit "SG 3"**. At the time of his death Mr. Hazel was still in possession of the land and he did not enter into any agreement for the sale of his land to anyone. By Deed of Conveyance dated November 21st, 2010 and recorded at the Lands Registry in Belmopan, Egbert Young fraudulently conveyed the land to himself. Mr. Hazel was not alive on this date and therefore he could not have appeared before Mr. Moreira Justice of the Peace, or could the purported witness Joe Lightfoot have seen Mr. Hazel sign, seal and deliver the said Conveyance. The Registrar noted on the conveyance that Mr. Hazel had lodged the conveyance for recording on December 7th, 2010 when Mr. Hazel was already dead. Since this Deed of

Conveyance dated November 21st, 2010 is fraudulent, the Deed of Conveyance dated February 21st, 2011 (**Exhibit "SG 4"**) is also tainted with fraud. The manner in which the 1st and 2nd Defendant conducted the sale and subsequent conveyance of the property was very suspicious and included some very sharp practices. The timespan between the recording and execution of both conveyances was little over a month. The 2nd Defendant was not an attorney nor a person with legal drafting skills, so he could not have drafted the Conveyance 378 of 2011 which was recorded at the Lands Registry. On August 6th, 2014 Oswald Twist Attorney-at-Law wrote (previously representing the Claimant) to the 2nd Defendant demanding the land be re-conveyed to the estate of Mr. Hazel. Despite further efforts of the Claimant's attorneys Glenn D. Godfrey & Co. demanding that the 2nd Defendant have his interest in the property re-conveyed to the Claimant, the 2nd Defendant has neglected or refused to do so.

4. Under cross-examination by Mr. Chebat, S.C., at trial, Mr. Gjesdahl was asked whether he was the Administrator of the estate of Geoffrey Hazel by virtue of a Grant of Administration. He agreed. He was then shown Conveyance between Geoffrey Hazel and Merlene Clarke. He was then asked whether he had produced any evidence to show that Geoffrey John Hazel also known as

Geoffrey J. Hazel was the same person as Geoffrey Hazel. He said no. The witness was then asked whether he had produced an inventory of the estate to show that at the time of Mr. Geoffrey John Hazel's death he was in possession of Lot 59. He said no. He was asked whether he provided any expert handwriting evidence to prove that Egbert Young fraudulently conveyed the property to himself. He said no. When asked whether, to the best of his knowledge that Deed of Conveyance has been found to be fraudulent by any court in Belize, the witness said no. He was asked whether he had any evidence to show that Mr. Bonilla was involved in any fraudulent activity. Mr. Gjesdahl said no. The witness was not re-examined by Claimant's counsel.

Evidence on behalf of the Defendant

5. The evidence given by Mr. Bonilla at trial is that he is a businessman residing at Burns Avenue, Cayo District, Belize. In 2011, Mr. Egbert Young of Neal's Pen Road Belize City visited him at his restaurant at Burns Avenue known as "*Mincho's Fast Food*". Mr. Young offered to sell him a parcel of land Lot 59 comprising 859.280 meters in Mullins River Village, Stann Creek District. Mr. Young showed him a Deed of Conveyance showing that he is the owner of this property (**Exhibit "FB 1"**). Prior to this date, Mr. Bonilla had never met

Mr. Young nor had any dealings with him. He said he had no reason to believe that Mr. Young was not the owner of the property. He said that he subsequently purchased the property from Mr. Young for the agreed price of \$25,000 BZ (twenty-five thousand Belize dollars). Mr. Bonilla says that Mr. Young provided him with a fully drafted Deed of Conveyance with detailed instructions on how to execute the document. He then proceeded to execute and register the document as per Mr. Young's instructions (**Exhibit "F.B.2"**). He said that he had a property search done at the Registry and at all material times he understood that the property belonged to Mr. Young and that he was legally entitled to sell the said property. He has been in occupation and possession of this property since purchasing it and he has since remodeled and expanded a small abandoned house that was on the property. He received a letter from Oswald Twist Attorney-at-Law for the widow of Geoffrey Hazel on August 6th, 2014; this is the first time he learnt of the alleged fraudulent activities of Mr. Young

(**Exhibit "FB 3"**). He went to the office of Mr. Twist and explained to him how he came to own this property. Mr. Bonilla states that prior to purchasing this property from Mr. Young, he had no knowledge of Mr. Geoffrey Hazel's ownership of the said property, nor did he assist in any alleged fraud that

Mr. Young may have perpetrated. He remains in occupation of the property to the exclusion of all others.

6. Mr. Bonilla was cross-examined by Mr. Bennett for the Claimant. He was asked whether he describes himself as a businessman. The witness said that he is an Agronomist, an Engineer in Agronomy. He agreed that he did not put that in his witness statement. He said that he would say that he is an honest person. If someone were to sell him stolen property, he agreed that he would have difficulty giving it back to its rightful owner. He was asked whether in his defence he had challenged whether Geoffrey John Hazel and Geoffrey Hazel were one and the same. The witness said no. He was asked whether he met Mr. Young in 2011, and he replied yes. He said he had never met Mr. Young before and that he came several times insisting on that property. He said he did not find it strange that someone that he had never met before sought him out to sell this property, because he owns the property in front of Lot 59. When asked whether he sought the advice of an attorney, Mr. Bonilla said he did a title search. He did not bring evidence of this title search and he does not recall the name of the person in Belmopan who did the search. He said he paid for the land with a check but he did not provide any evidence of this to the court. After the sale, he has not seen Mr. Young.

Mr. Bonilla agreed with counsel's suggestion that he is an agronomist and not an attorney, and that he is not qualified to draft legal documents. He was asked whether he told the Registrar that he was the one who drew up the conveyance. The witness said he did not draw up the conveyance and did not tell the Registrar that he did. When the document was shown to Mr. Bonilla he acknowledged that the signature after the phrase "*This document was prepared and drawn by me, one of the parties concerned herein*" was his. He agrees that he did not mention in his defence that he went to look at the land or that he had had a title search done. Learned Counsel asked the witness whether he paid \$25,000 for a property that he had never seen and a land that he had never done any title search for. Mr. Bonilla replied that he had seen the land one thousand times because he used to go on his land every two weeks to spend weekends in a house that he had. The witness was asked whether he wanted the land, and he said no, the land was offered to him. He was asked whether he saw a structure on the land and he said yes; he was asked whether he did not think that someone had an interest in the land when he saw the house on it, Mr. Bonilla said they built the house on Mr. Hazel's land not on his land. He did not know Mr. Hazel, but he used to see workers who told him that they were working for the owner of Lot 59.

He said he did not know the name of the person the employees were working for. He was asked whether he saw the structure on the property and he said yes. When asked whether the house was on the property before he purchased the land the witness said no. He said he did not know that the land had a house on it. He said he learnt that the land had a house on it at the time he bought it, not before. Counsel asked Mr. Bonilla whether it occurred to him to transfer the property back to the estate of Mr. Hazel after he learned of the alleged fraud and saw Mr. Hazel's death certificate shown to him by attorney Oswald Twist. The witness said no it did not because in the old Mullins River plan that he has, there was an overlap between his property and the property of Mr. Hazel. He investigated this in Belmopan where he was advised by the Commissioner of Lands to build a wall between the 2 properties in order to create a division and avoid confusion. He said he did not know of Mr. Hazel but he followed the Commissioner's instructions and built his wall. He has looked for Mr. Young since he learnt of the fraud, but he has not commenced legal proceedings against him for the return of his money.

Legal Submissions on behalf of the Claimant

7. Mr. Bennett on behalf of the Claimant argues that the evidence before this court is that Geoffrey Hazel (“the Deceased”) acquired the freehold estate of Lot 59 containing 859.280 square meters and situate in the Mullins River Village, Stann Creek Village, Belize and more particularly shown and described on Plan of Survey by Licensed Land Surveyor J H Hertular with Reference Entry Plan No. 10799 Register No. 7 lodged at the Office of the Commissioner of Lands and Surveys in Belmopan, Belize (“the Land”) by virtue of a Deed of Conveyance dated the 9th day of July, 2008 and recorded in Deeds Book Volume 24 of 2008 at Folio 1399-1408.

The Deceased Geoffrey Hazel died at home in Colorado, U.S.A. of 18th November, 2009. There is no evidence that Mr. Hazel made any disposition of the Land prior to the date of his demise. Learned Counsel for the Claimant submits that by virtue of Section 13 of the Administration of Estates Act, the whole of Mr. Hazel’s estate became vested in the Chief Justice until a Grant of Administration over the estate has been issued. He further argues that during the period 18th November, 2008 to 19th April, 2016 when the Claimant obtained a Grant of Administration in the estate, the only person vested with

any lawful authority to deal with the property of the Deceased was the Chief Justice.

8. On November 21st, 2010, a purported Deed of Conveyance between Mr. Hazel and Mr. Young was recorded at the Lands Registry in Belmopan. Mr. Bennett submits that this Conveyance was fraudulent since Mr. Hazel had died one year before this conveyance was recorded. He refers to Section 70 of the General Registry Act which provides the definition of a deed:

*“70. In this Part, **deed means***

...

*(b) after the commencement of this Act, **any document** other than a will or codicil or an instrument required to be registered under Parts III and IV, **whether under seal or not, by which estates, interests, and rights in or over land may be created, transferred, charged, encumbered or otherwise affected in Belize.**” (Emphasis added)*

Mr. Bennett submits that any deed of conveyance in respect of the Land falls within the meaning of a ‘deed’ as defined in Section 70 of the General

Registry Act and as a result requires the same to be registered in accordance with Part VI of the Act. Section 71 of the General Registry Act further requires that any deed be submitted within a certain timeframe as follows:

*“71 . **No deed** executed after 14th December, 1888 **shall have any validity or effect unless it is lodged for record in the office of the Registrar, within one month after thereof if executed within Belize, and within three months after the date thereof if executed out of Belize:***

Provided that...” (Emphasis added)

The Deed of Conveyance dated 21st November, 2010 at page 4 thereof purports that the Deceased acknowledged execution of the said Deed at Dangriga on 21st November, 2010. Mr. Bennett argues that the Deed of Conveyance ought to be declared fraudulent on the following grounds:

- a. The Deceased died one year prior on 18th November, 2009 and was therefore incapable of executing the same either in the United States or in Dangriga;
- b. Even if the Deceased actually signed the said Deed of Conveyance prior to his demise, which is denied, Section 71 of the General Registry Act would have the effect of

rendering any such deed invalid and of no effect as it was recorded 12 months after the Deceased's demise; and

- c. On the 21st November, 2010 the only person vested with any lawful authority to deal with the Defendant's property was the Chief Justice of Belize as no Grant of Administration had been issued in the estate of the Deceased at that time by the Supreme Court of Belize-Probate Side.

9. Mr. Bennett further argues that the Second Defendant Francisco Bonilla had notice of the fraud by Egbert Young so he is not a bona fide purchaser for value without notice. He cites Lord Browne-Wilkinson in ***Barclays Bank Plc v. O'Brien*** [1994] 1 AC 180 as follows:

*"The doctrine of notice lies at the heart of equity. Given that there are two innocent parties, each enjoying rights, the earlier right prevails against the later right if the acquirer of the later right knows of the earlier right (actual notice) or would have discovered it had he taken proper steps (constructive notice). ***In particular, if the party asserting that he takes free of the earlier rights of another knows of certain facts which put him on inquiry as to the possible existence of the rights of that other and he fails to make such inquiry or take such****

other steps as are reasonable to verify whether such earlier right does or does not exist, he will have constructive notice of the earlier right and take subject to it. (Emphasis added)

Mr. Bennett goes on to point out that from the evidence Mr. Bonilla admitted that he is the owner of the property in front of this disputed property. He further said that he was in fact very familiar with the land in question because every two weeks he would go and spend weekends on his land and because he has a house there; he said he saw the land not once, but a thousand times, many times. Bonilla also admitted under cross-examination that he knew the land was owned by Mr. Geoffrey Hazel because that is what Mr. Hazel's workers told him. The witness also admitted that Mr. Young was not known to him prior to selling him this land, but that Mr. Young came to him several times insisting on that property. Mr. Bennett submits that when the evidence of Bonilla is considered in light of Lord Browne-Wilkinson's dictum, i.e., Bonilla knew of the deceased's interest in the land as a result of him seeing the land not once but a thousand times, Bonilla was fixed with constructive notice of the Deceased's interest in the land. In addition, Bonilla's lack of prior knowledge of Egbert Young, the short space of time that the conveyance took place between November 2010 and

February 2011 should have put Bonilla on notice or at the very least aroused his suspicion that regarding the transaction between himself and Young to prompt him to make inquiries as to how Young acquired ownership of this land. Mr. Bennett further argues that Mr. Bonilla has not provided any evidence that he carried out a title search. He cites the definition of constructive notice in *Halsbury's Laws of England* 5th Ed. Vol. 16(2) para. 581:

"581 Constructive notice in relation to dealings with land.

A purchaser of land without actual knowledge, by himself or his agent, of a matter prejudicially affecting his vendor's title may yet be regarded as having constructive notice of it.

Constructive notice has been defined as the knowledge which the courts impute to a person upon a presumption of the existence of the knowledge so strong that it cannot be allowed to be rebutted, either from his knowing something which ought to have put him upon further inquiry or from his willfully abstaining from inquiry to avoid notice. (Emphasis added)

10. Mr. Bennett submits that the following factors stand out from the evidence of Mr. Bonilla:

- a. He knew Geoffrey Hazel was the owner of the Land;
- b. He visited the Land on a fortnightly basis;
- c. The unsolicited insistence of Young a person previously unknown to him to sell him the Land; and
- d. No title search conducted nor inquiries made as to the soundness of Young's title.

The court should therefore find that Bonilla is fixed with notice of the fact that the Deceased was and still is the owner of the Land, and that Young's title was procured by fraud. Bonilla is not a bona fide purchaser for value without notice as he did have constructive notice of Mr. Hazel's interest in the land, or his suspicion ought to have been aroused at the fact that a stranger whom he did not see on any fortnight while visiting his land, suddenly became the owner of the Land across from his. Mr. Bonilla also failed or refused to make proper inquiries along the line of a title search or to make any inquiry at all regarding Young's ability to convey good title to him. The Claimant therefore prays that the Deed of Conveyance between Young and Bonilla be set aside as fraudulent and that an Order be made directing the Registrar to cancel such deed.

Legal Submissions on behalf of the Second Defendant

11. On behalf of Mr. Bonilla the Second Defendant, Mr. Chebat, S. C., cites **Jessie**

Stephenson v. Stephanie Jones Claim No. 652 of 2016 where Young J. stated:

“To qualify as a bona fide purchaser for value without notice, the Claimant must have acted in good faith- no sharp practices or unconscionable conduct. She must also have given valuable consideration whether money/money’s worth and the full consideration must have been paid.”

Learned Counsel also drew the court’s attention to dicta of Liverpool JA in

MaryAnn Boggess et. al. v. Badder Hassan Civ. App. 4 of 1990 where His

Lordship cited Lord Wilberforce in **Midland Bank Trust Co. v Green**:

*“In **Midland Bank Trust Co. v Green**, Lord Wilberforce, in delivering the opinion of the House of Lords had this to say about the bona fide purchaser for value:*

‘My Lords, the character in the law known as the bona fide (good faith) purchaser for value without notice was the creation of equity. In order to effect a purchaser for value of a legal estate with some equity or equitable interest equity fastened on his conscience and the composite expression was used to epitomize

*the circumstances in which equity would, or rather would not, do so. I think that it would generally be true to say that the words 'in good faith' related to the existence of notice. Equity, in other words, required not only absence of notice, but genuine and honest absence of notice. As the law developed, this requirement became crystalloid in the doctrine of constructive notice which assumed a statutory form in the Conveyancing Act 1882, s.3. But, and so far I would be willing to accompany the Respondents, it would be a mistake to suppose that the requirement of good faith extended only to the matter of notice, or that when notice came to be regulated by statute the requirement of good faith became obsolete. Equity still retained its interest in, and power over, the purchaser's conscience. The classic judgment of James L. J. in **Pitcher v Rawlins** (1872) LR 7 CH App. 259 at 269 is clear authority that it did: good faith there is stated as a separate test which may have to be passed even though absence of notice is proved. And there are references in cases subsequent to 1882 which confirm the proposition that*

honesty or bona fides remained something which might be inquired into..."

Mr. Chebat, S.C., submits that the 1st Defendant presented the 2nd Defendant with a Deed of Conveyance showing himself as the owner of the said property. Prior to that occasion, Mr. Bonilla had never met Mr. Young and therefore he had no reason to believe that Mr. Young was not the owner of the property. Mr. Bonilla testified that he had a property search done and that at all material times he understood the property belonged to Mr. Young and that he was legally entitled to sell the property. He then paid Mr. Young \$25,000 BZ for the property. Mr. Bonilla said that at the time that he purchased the land it had a small abandoned house on it and the land was overgrown. He further testified that since he purchased the property in 2011 he has been in exclusive occupation and possession of the said property. Mr. Bonilla testified that three years after he purchased the property he received a letter from Mr. Twist Attorney at law on behalf of Melinda Hazel widow of Geoffrey Hazel. He says it is the first time that he learnt of the alleged fraud of Mr. Young. He visited the office of Mr. Twist to explain to him how he came to own the property. Mr. Chebat, S.C., submits that the evidence of the 2nd Defendant remains unchallenged and the Claimant has

not provided any evidence to prove that in fact the 2nd Defendant participated in or knew of the alleged fraud perpetrated by the 1st Defendant. The fact that the 2nd Defendant admitted that he knew that the land belonged to Geoffrey Hazel is not an indication of fraud or that the 2nd Defendant did not act in good faith. The burden to prove fraud rests on the Claimant who must show the court that Mr. Bonilla knew that Geoffrey Hazel did not sell the land to Mr. Young, and that the Deed of Conveyance between Geoffrey Hazel and Egbert Young dated 21st November, 2010 was fraudulent. The evidence of the 2nd Defendant is that he did a title search at the Lands Department which showed that the Deed was duly recorded. In addition, Mr. Bonilla had no way of knowing that Geoffrey Hazel was not alive on 21st November, 2010 when the land was conveyed to Egbert Young. The evidence of the Claimant is that the Grant of Administration in the Estate of Geoffrey Hazel was not obtained from the Supreme Court of Belize until 19th April, 2016, five years after Mr. Bonilla had purchased and had gone into occupation of the said land.

12. On the issue of whether the Claimant is entitled to have the conveyance of 21st February, 2011 made between the 1st and 2nd Defendants set aside on the basis of fraud, Mr. Chebat, S.C., cites the decision of this court in **George**

Heusner (Administrator of the Estate of Julia Felipe Hesuner) v. Nazira Uc Espat et. al. which accepted the reasoning of the Privy Council in **William Quinto v Santiago Castillo** [2009] UKPC 15 where the Board adopted the dicta of Lord Lindley in **Assets Company Ltd v Mere Roibi** [1905] 176 at 201:

“...fraud which must be proved in order to invalidate the title of a registered purchaser for value, whether he buys from a prior registered owner or from a person claiming under a title certified under the Native Land Acts, must be brought home to the person whose registered title is impeached or to his agents. The mere fact that he might have found out fraud if he had been more vigilant, and had made further inquiries which he omitted to make, does not of itself prove fraud on his part. But if it be shown that his suspicions were aroused, and that he abstained from making inquiries for fear of learning the truth, the case is very different, and fraud may properly be attributed to him.”

Mr. Chebat, S.C., submits that the burden of proving the alleged fraud rests on the Claimant and there is no evidence before the court to show that the 2nd Defendant failed to take the necessary precautions or failed to make the necessary inquiries to satisfy himself that the Deed of Conveyance dated 21st November 2010 was fraudulent. The evidence shows that the 2nd Defendant

conducted a title search to confirm the validity of the Deed, there was no public record of the death of Geoffrey Hazel at the time Mr. Bonilla purchased the land and at the time of purchase by Mr. Bonilla the house was abandoned and the lot was overgrown. Finally, as there is no evidence to support a claim for damages against Mr. Bonilla, none should be awarded against him.

Ruling

13. Having considered all the evidence and the written submissions filed on behalf of the parties in this Claim (for which I am grateful to both counsel), I find that the Conveyance between Mr. Young and Mr. Hazel was clearly fraudulent, since at the time of the purported conveyance between the parties, Mr. Hazel was deceased for at least one year. I therefore order damages in favour of the Claimant as against the First Defendant for this fraudulent conveyance.

With regard to the conveyance of the property from Mr. Young to Mr. Bonilla, I find that Mr. Bonilla was a bona fide purchaser for value without notice. I agree with the submissions made by Mr. Chebat, S.C., that the mere fact that Mr. Bonilla knew that Mr. Hazel previously owned this

property does not prove that he knew or was a party to the fraud perpetrated by Mr. Young. His evidence which I accept as true is that he conducted a title search which showed a duly recorded conveyance between Mr. Young and Mr. Hazel. There is no way that he could have ascertained that Mr. Hazel who died in the US and whose death was not recorded in Belize was already dead on the date that conveyance between Mr. Hazel and Mr. Young was allegedly executed. The claim against the Second Defendant Mr. Bonilla is therefore dismissed. Judgment in the form of damages is awarded in favor of the Claimant Scott Gjesdahl as against the First Defendant Egbert Young. Costs are to be paid by the First Defendant to the Claimant and to the Second Defendant to be agreed or assessed.

Dated this Wednesday, 19th day of June, 2019.

**Michelle Arana
Supreme Court Judge**