

**IN THE SUPREME COURT OF BELIZE, A.D., 2018**

**CLAIM NO. 700 OF 2018**

**BETWEEN**

**(LENORE ROSALIE VERNON**

**1<sup>st</sup> CLAIMANT**

**(TREVOR CHRISTOPHER VERNON**

**2<sup>nd</sup> CLAIMANT**

**(Administrators of the Estate of  
(Telford Christopher Vernon Sr., deceased**

**(**

**(AND**

**(**

**(MINISTER OF NATURAL RESOURCES**

**1<sup>st</sup> DEFENDANT**

**(REGISTRAR**

**2<sup>nd</sup> DEFENDANT**

**(GEORGE CHRISTOPHER VERNON**

**3<sup>rd</sup> DEFENDANT**

**(ATTORNEY GENERAL**

**4<sup>th</sup> DEFENDANT**

**BEFORE the Honourable Madame Justice Sonya Young**

**Decision Date:**

February 15<sup>th</sup>, 2023

**Appearances:**

Mrs. Melissa Balderamos Mahler, Counsel for Claimants.

Ms. Agassi Finnegan, Counsel for 1<sup>st</sup>, 2<sup>nd</sup>, and 4<sup>th</sup> Defendants.

Ms. Velda Flowers, Counsel for 3<sup>rd</sup> Defendant.

## **ADDENDUM TO JUDGMENT DATED 26<sup>th</sup> January 2023**

By the original judgment in this matter the Claimant was required to make an election as to damages or an account of profit. The Claimant filed a notice which indicated that it wished to seek damages for loss of use or loss of opportunity from the first, second and fourth Defendants and an account of profit from the third Defendant.

### **The first, second and fourth Defendants:**

In the Claimant's submissions Counsel proffered that after the deceased's death his estate became legally vested with the interest in the properties. Through the unlawful interference to the deceased's title by the first and/or the second Defendants the Claimants lost the use of the property and the opportunity to receive dividends from the business being conducted thereon. They are, therefore, entitled to damages for loss of use and or loss of opportunity.

The first, second and fourth Defendants submitted that they ought not to be held liable to pay damages since the rectification was consequential to the request made by the third Defendant. The Third Defendant ought to be made to account for any profits made since the rectification was done.

**Court's consideration:**

Damages for loss of opportunity are awarded for breach of contract, personal injury, negligence, and deceptive conduct. None of these have been alleged or proven by the Claimant to have caused loss of profit or benefit.

Counsel for the Claimant in her submissions offered no precedent where this type of damages had been awarded in circumstances such as these now before the Court. She offered no means by which these damages ought to be assessed. This Court will make no award of damages for loss of opportunity.

In any event no case has been made out against the second Defendant whatsoever. Pursuant to Section 17 of the National Lands Act it is the Minister who issues the fiat to the Registrar for a grant of national land. The Registrar is mandated then to enter such grant in the appropriate book. The Registrar has no discretion.

Therefore, a declaration that the Registrar exceeded her powers or an order that the Registrar cancel the fiat grant could not rightly be made and have not been made. There will accordingly be no order for damages made against the second Defendant.

What remains is damages for loss of use which is compensatory in nature. It is intended to compensate for wrongful conduct which results in the temporary unavailability of property for use. This includes real property.

While the Court accepts that the Claimants ought to be compensated for the loss of use occasioned by the Minister's decision, there is a problem. The Claimants have offered no means by which the Court is to assess these damages. This matter had not been bifurcated so there is no opportunity to put any further evidence before the Court in this regard.

At best the Court can offer a nominal figure for damages. This is set at BZ\$20,000.00 per year from the date of filing of the Claim to the date of this decision. This sum shall attract interest at the rate of 6% per annum from the date of the filing of the Claim until payment in full.

**The third Defendant:**

The Claimant has proven that the third Defendant has been enriched by having been in possession of the property and using that property to conduct a profit-making business. The Claimant has been deprived of not only the property but any income which the business generated over the period.

**The Court's Consideration:**

The third Defendant neglected to address the issue of damages or an account of profit in any way. This Court however agrees with the Claimant that the deceased's estate was disadvantaged by the third Defendant's actions so the third Defendant must be disgorged of any profits made. To this end an order for the taking of profits will be made as prayed.

**Order:**

1. Nominal damages are awarded to the Claimants against the first and second Defendants in the sum of BZ\$20,000.00 per year from the date of filing of the Claim to the date of this decision.
2. This sum shall attract interest at the rate of 6% per annum from the date of the filing of the Claim until payment in full.
3. An account of profits made by the third Defendant is to be taken and all sums found to be due is to be paid forthwith to the Claimant.
4. The parties may apply for directions to assist the taking of the accounts.

Sonya Young