

**IN THE SENIOR COURTS OF BELIZE**

**IN THE HIGH COURT OF BELIZE**

**CLAIM No. 252 of 2022**

**BETWEEN:**

**[1] CARLTON WATSON**

Claimant

and

**[1] BRADLEY REINHART**

**[2] REGISTRAR OF COMPANIES AND CORPORATE AFFAIRS**

**[3] CORAL BAY HOLDINGS LIMITED**

Defendants

**Appearances:**

Jaraad Ysaguirre for the Claimant

Kimberely Wallace for the 2<sup>nd</sup> Defendant

Nigel Ebanks for the 1<sup>st</sup> Defendant

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2023: June 19  
October 5  
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**DECISION ON APPLICATION FOR SUMMARY JUDGMENT OR FOR STRIKING OUT**

[1] **FARNESE, J:** The Registrar of Companies and Corporate Affairs (the Registrar) asks that this court strike out the claim against him or award summary judgment in his favour. He alleges that Mr. Carlton Watson failed to serve him with notice of his intention to file the claim as required by section 3 of the Public Authorities Protection Act<sup>1</sup> (PAPA). He argues that this non-compliance with

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<sup>1</sup> Cap. 31, The Substantive Laws of Belize, Rev. Ed. 2020.

PAPA is fatal to Mr. Watson's claim. Mr. Watson disagrees and says the notice requirement in PAPA does not apply because the Registrar is not being sued as a result of a breach of a duty owed to the public at large. Mr. Watson argues that the Registrar owed him a private duty of care.

- [2] This claim was filed in 2022. In the same year the **Belize Companies Act, 2022**<sup>2</sup> replaced the **Companies Act**.<sup>3</sup> Counsel for Mr. Reinhart did not take a position on the substantive issue raised by the application. He expressed, however, that his client should be permitted an opportunity to speak to what legislation governs this dispute if the court decides that resolving the dispute over the applicable legislation is required to decide this application.

### Issue

- [3] This court will only consider the application for striking out because rules 15.3(2)(b) and (d) of the **Supreme Court (Civil Procedure) Rules, 2005 (CPR)** do not permit me to give summary judgment in proceedings by way of fixed date claim or against the Crown. I also find it unnecessary to decide which act applies in this application. The application for striking out, therefore, raises the following issue:

- Was Mr. Watson required to give notice to the Registrar before commencing his claim?

### Analysis

*Was Mr. Watson required to give notice to the Registrar before commencing his claim?*

- [4] CPR Rule 26.3(1)(c) gives this court discretion to strike out a statement of case that "discloses no reasonable grounds." No reasonable grounds are disclosed where a case is "obviously unsustainable, cannot succeed or...is an abuse of process."<sup>4</sup> In this case, the Registrar argues that the claim cannot succeed because, as a public authority, proper notice of the claim was required.

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<sup>2</sup> Act No. 11 of 2022.

<sup>3</sup> Cap. 250, The Substantive Laws of Belize, Rev. Ed. 2020.

<sup>4</sup> Bogaert v. AG (Belize) Claim No. 317 of 2019 at para 4.

- [5] Section 3 of the PAPA outlines the legal requirements for commencing an action against a public authority:

3.-(1) No writ shall be sued out against, nor a copy of any process be served upon any public authority for anything done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode by the party who intends to sue out such writ or process, or by his attorney or agent, in which notice shall be clearly and explicitly contain the cause of the action, the name and place of abode of the person who is to bring the action, and the name and place of abode of the attorney or agent.

(2) No evidence of any cause of action shall be produced except of such as is contained in such notice, and no verdict shall be given for the plaintiff unless he proves on the trial that such notice was given, and in default of such proof the defendant shall receive in such action

The Court of Appeal held in **Football Federation of Belize v. National Sports Council et al**<sup>5</sup> that the notice requirement in section 3 is mandatory and the court has no discretion to proceed if notice has not been provided.

- [6] Mr. Watson does not dispute that the Registrar is a public authority to whom the PAPA generally applies, however, he argues that protection does not apply to any private duties owed to him by the Registrar. He alleges that he was owed a duty of care by the Registrar and claims that the Registrar was negligent in exercising his functions when he did not ensure that documents filed relating to Coral Bay Holdings Limited (Coral Bay) complied with Coral Bay's Articles of Association.

- [7] Mr. Watson relies on the Privy Council case in **Alves v. Attorney General (BVI)**<sup>6</sup> to argue that the PAPA's protection does not extend to circumstances where the duties are owed to an individual and not the public at large. He says the duty arises from the Registrar's negligent registration of allotments that devalued his property and argues this duty is a private duty owed to an individual shareholder.

- [8] I, however, do not find Mr. Watson's summary of the finding in **Alves** accurately reflects the Privy Council's decision which held that the PAPA's protection does not extend to common law or statutory duties which would equally be owed to a claimant by a non-public person.<sup>7</sup> The Privy

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<sup>5</sup> Civ. App. No. 435 of 2011.

<sup>6</sup> [2017] UKPC 42

<sup>7</sup> Ibid. at para 37.

Council used examples of duties arising from the breach of contract and an employer/employee or transporter/passenger relationship to illustrate when the PAPA will not be engaged.<sup>8</sup> These examples reflect that it would be unjust to deny the claimant a remedy for no reason other than because the defendant happened to be a public authority.

[9] I find the current circumstances are not analogous to the examples provided by the Privy Council. There is no equivalent private law duty. While there are circumstances where a person may act negligently and effect the property rights of another, this present relationship only arises because of the Registrar's statutory duty to maintain a Register of Companies. That the Registrar's alleged negligence has only affected Mr. Watson is not the test for whether the PAPA applies.

[10] Having previously found that the court has no discretion to waive the notice requirement, the failure to give notice as required by section 3 of the PAPA is fatal to Mr. Watson's claim against the Registrar. This claim cannot succeed and is struck out. It is important to note, however, that striking out the claim does not preclude this court from directing the Registrar to rectify the register if the remaining claims against Mr. Bradley Reinhart and Coral Bay result in a finding that the register is not correct.

## **Disposition**

[11] The court hereby declares and orders:

1. The Claimant's case against the Registrar of Companies and Corporate Affairs is struck out in its entirety.
2. The Registrar of Companies and Corporate Affairs is entitled to his cost for this application as agreed or assessed.

**Patricia Farnese  
High Court Judge**

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<sup>8</sup> Ibid. at 38.