



CARIBBEAN COURT OF JUSTICE

134 HENRY STREET

PORT OF SPAIN

REPUBLIC OF TRINIDAD AND TOBAGO

Phone: (868) 623-2225 Fax: (868) 624-5071

Website: www.caribbeancourtjustice.org

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CCJ DELIVERS JUDGMENT IN MATTER BCB HOLDINGS LTD, THE BELIZE BANK LTD. V. THE AG OF BELIZE

CCJ, Port of Spain. The Caribbean Court of Justice (CCJ) today declined to enforce an arbitral Award made by The London Court of International Arbitration (“the Tribunal”).

The Award had ordered the State of Belize to pay to two Belizean Companies damages and costs totaling approximately US \$44M with interest at 3.38% compounded annually. The Award arose out of an agreement between the Government and the Companies that was recorded in a Deed executed by representatives of the Companies on the one hand and the Prime Minister (as Minister of Finance) and the Attorney General of Belize on the other. The Companies were seeking to have the Award enforced in Belize under the 1980 Arbitration Act.

The CCJ rejected the Attorney General’s submissions that the Arbitration Act was unconstitutional but the Court upheld the argument that the Award was illegal, void and contrary to public policy. The Court stated that the Deed purported to alter and regulate taxation and under the Belize Constitution and statutes this could only validly be done by parliament.

The Court stated that to allow the Minister of Finance to assume essential law-making functions beyond his constitutional or legislative authority would put democracy at peril. Caribbean courts therefore have an obligation to strike down executive action that undermines the authority of the legislature.

In deciding the issue of costs, the Court found that given the Government’s refusal to participate in the arbitration proceedings, as well as the Companies’ success on the arguments raised on the constitutionality of the Arbitration Ordinance each party should bear its own costs.

The Court was presided over by the President Sir Dennis Byron along with Justices Saunders, Bernard, Wit and Anderson. Messrs Edward Fitzgerald QC, Eamon Courtenay QC and Ms Ashanti Arthurs-Martin appeared for the Companies. Messrs Michael Young QC, Ms Magalie Perdomo and Ms Iliana Swift appeared for the Attorney General.

The full judgment of the Court is available on the CCJ’s website

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