



## CARIBBEAN COURT OF JUSTICE

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### MEDIA RELEASE

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### CCJ ORDERS BELIZEAN ATTORNEY TO RETURN DOCUMENTS

**Port of Spain, Trinidad.** On July 21, 2017, the Caribbean Court of Justice (CCJ) heard the case of *Progresso Heights Ltd v Wilfred Elrington and Pitts & Elrington*. At the end of the hearing the Court ordered that Mr. Wilfred Elrington SC, and his law firm, Pitts & Elrington, return all the conveyancing documents Progresso Heights Ltd sent from Florida to Mr. Elrington's wife at the law firm's address between September 2009 and June 2010, together with title certificates that had been issued in respect of eight of those documents. Written reasons for the decision were provided today.

Progresso Heights Ltd is a Belizean company in which Mr. Lawrence Schneider, his son Mr. Adam Schneider, and Mr. Elrington are the shareholders. The company acquired 2,000 acres of land at Progresso Village, Corozal District in Belize, which it considered ideal for a substantial development by way of sub-division and sale of properties. The Schneiders, Americans resident in Florida, were to provide the funds required to develop the infrastructure, marketing and sale of parcels of the land. Mr. Elrington, a partner in the law firm, Pitts and Elrington, agreed with the Schneiders to provide legal services to the company without charge.

In June 2010, Mr. Elrington filed a claim in the Supreme Court alleging that the other directors had been acting illegally and dishonestly and seeking an order for an inspector to be appointed to investigate the company's affairs. In October 2010, Progresso filed a claim against Mr. Elrington and his firm, seeking recovery of land transfer documents sent to them between September 2009 and June 2010. Progresso sent documents relating to 16 parcels of land to Mrs. Elrington. Additionally, cheques for the payment of transfer fees and costs were deposited into Mr. Elrington's account and the parcels of land to which the cheques related were detailed on the cheques. Mr. Schneider also exhibited 4 receipts for documents sent to Mrs. Elrington. These receipts only named the sender and receiver and did not provide details of the mailed documents.

A search at the Land Registry revealed that somehow the relevant documents had been taken to the Land Registry, and the necessary duties and fees paid, so that title certificates had been duly issued in the names of purchasers of 8 of the 16 parcels of land in respect of which Progresso had made payments into Mr Elrington's Florida account, but the certificates had not been delivered to Progresso.

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Where only Mr Schneider gave evidence for Progresso and Mr Elrington for the defendants, Judge Legall from the Supreme Court in Belize stated he had “no doubt” that the conveyancing documents were posted to the law firm for title to be registered; had “no doubt” that, for this purpose, conveyancing costs and fees were paid into Mr Elrington’s Florida bank account; and it was “highly likely that the documents were received by Mrs Elrington.” Nevertheless, the Judge held it had not been proved on a balance of probabilities that the defendants had received the documents.

The Court of Appeal, looking for direct evidence of persons taking documents to be posted or to obtain a registered title, found that the evidence was insufficient to prove that relevant documents had ever been posted or ever received or ever taken to be registered or that Mrs Elrington was acting as agent for Mr Elrington.

The CCJ allowed Progresso’s appeal. It emphasised that the burden of proof in a civil case is not proof beyond reasonable doubt but proof on a balance of probabilities: that it was more likely than not that a particular event happened. It held that the circumstantial evidence, coupled with some direct evidence, meant that it was more likely than not that the relevant documents were under the possession or control of the defendants. Such a view was supported in light of two circumstances. First, Mr Elrington only provided a bare denial of the facts put forward by Mr Schneider. Second, there was a bitter dispute between Mr Elrington and Mr Schneider causing the former to bring the June 2010 proceedings.

In the event that the relevant documents had been misplaced, the Court gave Mr. Elrington and his firm 30 days from the date of the hearing to deliver to Progresso the relevant documents. The parties may apply to the Court to resolve any further dispute that may arise in relation to the order of the Court after the expiration of this time. The full reasons for decision can be read on the CCJ’s website at [www.ccj.org](http://www.ccj.org).

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