



## CARIBBEAN COURT OF JUSTICE

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### MEDIA RELEASE

(For immediate release)

No. 25:2017  
1 September 2017

### CCJ CLARIFIES THE DEFINITION OF COHABITANT SPOUSE

**Port of Spain, Trinidad.** In the case of *Smith v Selby* the Caribbean Court of Justice (CCJ) today held that Ms. Katrina Smith should be considered the spouse of her late partner, Mr. Albert Michael Selby. The Court found that the definition of spouse, under Barbados' Succession Act, is a single woman who has cohabited for the statutory period of five years immediately preceding the death of her cohabitant partner has the right to inherit from him on his death.

The matter which was filed at the CCJ in March, centred on the interpretation of Barbados' Succession Act which states: "for the purposes of this Act, reference to a 'spouse' includes: a single woman who was living together with a single man as his wife for a period of not less than 5 years immediately preceding the date of his death". The CCJ examined the legislative regime that existed prior to the Act and noted that prior to its enactment, the law excluded the survivor of a cohabitational relationship from benefiting on the death of the partner who had not left a will. Ms. Smith and the late Mr. Selby had been living together since 2002 until his death in 2008. The late Mr. Sealy had no children, was predeceased by his parents, and survived by his siblings including the respondent Mr. Albert Anthony Sealy.

The court concluded that the natural and ordinary meaning of the words in the Act, and a review of the Act together with its social and historical context, is that a single woman who has cohabited for the statutory period of five years immediately preceding the death of her cohabitant partner has the right to inherit from him on his death, provided he is a single man.

In making this decision, the CCJ set aside the earlier decision of the Barbados Court of Appeal and all orders for costs from the courts below. The Court declared that Katrina was the spouse of the deceased and ordered Mr. Anthony Selby to pay costs in the sum of BD\$20,000.

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The CCJ expressed concern that it appeared to be the practice in Barbados for matters to be stayed pending the outcome of interlocutory appeals without a formal court order. The Court dissuaded the use of this practice except in circumstances where it was necessary after a full consideration of the relevant factors.

The Court commented that the nine years that elapsed since the death of the deceased was inconsistent with the overriding objective to resolve disputes justly and expeditiously. In this case, the CCJ noted that more than 9 years had elapsed since the death of the deceased. The CCJ noted that such delay inevitably caused distress as no one had been appointed to administer Mr. Selby's estate. As a result, the CCJ sought to give a ruling as expeditiously as possible, the matter having been filed at the Court in March 2017.

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