



## CARIBBEAN COURT OF JUSTICE

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### **MEDIA RELEASE (For immediate release)**

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#### **CCJ REJECTS APPEAL FOR COMMISSION ON SALE OF LAND**

**Port of Spain, Trinidad and Tobago.** In a judgment released today, the Caribbean Court of Justice (CCJ) rejected an appeal to recover commission on the sale of land in Dominica in the matter of *Hilary Shillingford v Angel Peter Andrew and Gloria Burnette nee Shillingford* [2020] CCJ 2 (AJ).

Mr Angel Andrew had filed a claim in 2008 against Ms Gloria Shillingford for failure to pay him some \$2 million owed to him. This was from the proceeds of the sale of his land in Grand Savannah in the parish of St. Joseph in Dominica. Since Mr Andrew lived abroad, he had granted a power of attorney to Ms Shillingford, his sister, authorising her to sell the land.

Ms Shillingford denied owing any monies to Mr Andrew and claimed that he had authorised her to enter into an 'exclusive agreement' with Mr Hilary Shillingford, their cousin. According to the terms of the alleged agreement, the sale price for the land was set at \$3 million. However, if the land was sold for more than \$3 million, the excess monies were to be paid to Mr Shillingford. The lands were eventually sold for \$4.5 million with \$2.5 million paid to Mr Andrew and a hefty commission of \$1.5 million paid to Mr Shillingford.

Mr Justice Brian Cottle in the High Court of Dominica did not believe Ms Shillingford or Mr Shillingford that there was an alleged 'exclusive agreement' and gave judgment for Mr Andrew. The matter was appealed to the Court of Appeal of the Eastern Caribbean Supreme Court where Justices of Appeal, Mr Justice Baptiste, Mr Justice Michel and Mme Justice Thom, agreed with the findings of Mr Justice Cottle. They dismissed appeals from Ms Shillingford and Mr Shillingford, deciding that Mr Justice Cottle was entitled on the evidence to find that the 'exclusive agreement' was a fabrication designed to withhold from Mr Andrew a substantial part of the proceeds of his property.

Both Ms Shillingford and Mr Shillingford appealed separately to the CCJ. Ms Shillingford's appeal was dismissed in February 2019.

In his appeal, Mr Shillingford sought to argue, as a fresh point, that the trial judge was wrong to find that the exclusive agreement was fictional because the case pleaded by Mr Andrew did not include any

allegation of fraud by him or Ms Shillingford. Regardless, the CCJ decided that Justice Cottle's finding, that the exclusive agreement was a fiction, was based on the evidence available to him and that an apex court would not normally allow a fresh point to be taken at the late stage when the matter reached it. The Court decided that it was too late in the proceedings for the new point to be introduced as there was no other reason to review the trial judge's findings of fact, with which the Court of Appeal had agreed. The CCJ dismissed the appeal and awarded costs to Mr Andrew.

The Court was comprised of Mr Justice Anderson, Mme Justice Rajnauth-Lee, Mr Justice Barrow, Mr Justice Burgess and Mr Justice Jamadar, and the judgment was delivered by Mme Justice Rajnauth-Lee. The full judgment of the Court and a judgment summary are available on the Court's website at [www.ccj.org](http://www.ccj.org).

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#### About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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