



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE
(For immediate release)

No.15:2026
26 March 2026

CCJ CLARIFIES WHEN TENDER BIDS GIVE RISE TO PRELIMINARY CONTRACTUAL OBLIGATIONS

Port of Spain, Trinidad and Tobago. On Wednesday, 25 March 2026, the Caribbean Court of Justice (CCJ) delivered judgment in *Cara Investments Limited v Christopher Ram and Bank of Nova Scotia* ([2026] CCJ 4 (AJ) GY), an appeal from Guyana. The Court unanimously dismissed the appeal and affirmed the order of the Court of Appeal, with costs to the respondents.

The Bank of Nova Scotia appointed Christopher Ram as Receiver-Manager of Hotel Tower Limited ('HTL') under debentures securing HTL's indebtedness. In November 1999, Mr Ram issued a Request for Proposals ('RFP') inviting investors to submit bids for the purchase of HTL's assets. Cara Investments Limited ('Cara') submitted a bid, which they described as an expression of interest, which was conditional upon the completion of due diligence and the provision of further information. Cara obtained an extension of time to submit a final bid, but commenced proceedings in the High Court before the tender process was finalised.

Cara alleged that the submission of their bid gave rise to preliminary contractual obligations (called a process contract). They further alleged that Mr Ram had acted unfairly, breaching the process contract, by failing to consider its proposal and by failing to inform Cara of the status of the tender process. Cara brought an action in the High Court against Mr Ram and the Bank.

The High Court dismissed the claim holding that the RFP was an invitation to submit bids and that Cara's conditional bid did not amount to a definite or unconditional offer capable of acceptance in contract law. Cara unsuccessfully appealed to the Court of Appeal.

Cara then appealed to the CCJ. Delivering the lead judgment, Mme Justice Rajnauth-Lee (Mr Justice Anderson, CCJ President, and Justices Jamadar, Ononaiwu, and Eboe-Osuji concurring) held that the doctrine of a process contract should be recognised in Guyana and may arise in both public and private tendering where the intention of the parties, as derived from the tender documents and surrounding circumstances, supports such a conclusion. Cara's bid, which was described as an expression of interest and made subject to conditions including the completion of

due diligence, did not give rise to a process contract. Cara also commenced legal proceedings before submitting a final bid. The Court underscored that although receivers in Guyana are under a statutory duty to act honestly and in good faith, Cara had not pleaded or established any breach of that duty.

Mr Justice Jamadar in a separate opinion agreed that the appeal should be dismissed and emphasised the importance of good faith in contractual relations. He observed that honesty, fairness, and good faith are foundational norms of commercial dealings and are connected to deeper constitutional values such as the rule of law and the principle of legality which inform the development of the common law.

Mr Justice Eboe-Osuji also concurred that the appeal be dismissed and that the bidding process entails a duty of good faith. Although, according to him, a process contract arises automatically when a bidder submits a bid that complies with the request for proposal, Cara's bid, submitted with several subsisting conditions, was not a compliant bid.

The CCJ panel comprised President Anderson and Justices Rajnauth-Lee, Jamadar, Ononaiwu, and Eboe-Osuji. The Appellants was represented by Mr Sanjeev Datadin, Mr Samuel Glasgow, and Ms Mohanie Anganoo. The First Respondent was represented by Mr Neil Aubrey Boston, SC and Mr Reon Miller. The Second Respondent was represented by Mr Kamal Ramkarran and Mr Jensen Samaroo.

The full judgment is available on the Court's website 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 Winston Anderson. 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, five states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia. 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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