IN THE CARIBBEAN COURT OF JUSTICE
APPELLATE JURISDICTION

ON APPEAL FROM THE COURT OF APPEAL OF
THE CO-OPERATIVE REPUBLIC OF GUYANA

CCJ Appeal No GYCV2026/002
GY Civil Appeal No 62 of 2009

BETWEEN

JANET HASSAN **APPELLANT**

AND

ROMANIE GOUVEIA **RESPONDENT**

Before: **Mme Justice Rajnauth-Lee**
Mr Justice Jamadar
Mme Justice Ononaiwu
Mr Justice Eboe-Osuji
Mr Justice Bulkan

Date of Judgment: **3 November 2026**

Appearances

Mr Seenath Jairam SC, Mrs Abiola Wong-Inniss, Ms Ashley King, Mr Joel Ross, Ms Akeeta Kingston and Ms Paula Gomes for the Appellant

Mr Arudranauth Gossai for the Respondent

Contract — Interpretation of a written document — Informal nature of document — Receipt — Meaning of 'Full Payment' — Meaning of 'No transport can be issued' — Meaning of 'For the use of' — Meaning of 'Reserved for road straightening' — Whether document evidenced a mere licence or a contract for the sale of land — Legal effect of the receipt — Objective intentions of the parties — Factual matrix — Contractual context — Textual context — Proper context — Reasonable person — Question of mixed law and fact.

Costs — Leave to appeal — Stay of execution — Discretionary nature of costs — Absence of reasons — Significant and unexplained disparity — Whether cost order plainly wrong

— Whether cost award excessive, unreasonable, disproportionate, and unjustifiably high — Access to justice — Procedural fairness — Costs order set aside — Costs of and occasioned by the application for leave to appeal shall abide the costs of the appeal — Standard costs.

SUMMARY

This was an appeal from Guyana that concerned the interpretation of a written document relating to a parcel of land. The key question was whether the document, a handwritten receipt, evidenced a contract for the sale of the land or a mere licence to occupy it. Janet Hassan, ('the Appellant') defended a claim for possession brought by Romanie Gouveia, the executrix of Eric Sue's estate and the transported owner of the land ('the Respondent'). The receipt, dated 24 May 1990 and signed by Eric Sue, recorded payment by Abdool Hassan ('the Appellant's husband') of GYD2,235 'for the use of' Plot B, Spring Garden, Essequibo Coast, which was reserved for road straightening, on the understanding that 'no transport can be issued', and contemplated the erection of house structures. It also recorded 'Full Payment'. The land described in the receipt will be referred to as the parcel of land.

The trial judge found that the receipt was authentic and evidenced a legally binding contract for the sale of the parcel of land between the Appellant's husband and Eric Sue and therefore dismissed the claim for possession. The Court of Appeal, in a written judgment dated 18 July 2025, reversed that decision, finding that the receipt was a mere licence, and ordered the appellant to deliver up possession of the parcel of land on or before 1 December 2025 and to pay costs in the sum of GYD175,000.

The Appellant subsequently applied to the Court of Appeal for leave to appeal to this Court and for a stay of the order that the Appellant deliver up possession of the parcel of land on or before 1 December 2025. By order dated 19 March 2026, the Court of Appeal granted leave to the Appellant to appeal to this Court, but refused to grant a stay of execution, and awarded the Respondent costs in the sum of GYD300,000. The appeal against the judgment of the Court of Appeal dated 18 July 2025 will be referred to as the substantive appeal.

By way of case management, this Court formalised the parties' agreement to stay the order for possession and directed that the hearing of the Appellant's special leave application

filed on 12 May 2026, concerning the award of costs of GYD300,000, be treated as the hearing of the appeal.

The judgment of the Court was authored by Rajnauth-Lee and Jamadar JJ, with Ononaiwu, Eboe-Osuji, and Bulkan JJ concurring. The principal issues were whether the Court of Appeal erred in its interpretation of the receipt and in awarding costs of GYD300,000 against the Appellant. The Court first considered whether the interpretation of the receipt was a question of law only, or a question of mixed law and fact. The Court expressed the view that Burgess J in this Court's judgment in *Insurance Corp of Belize Limited v Kahtal Resorts International Ltd [2024] CCJ 5 (AJ) BZ* ('*Insurance Corp*') had correctly enunciated the principles to be applied to the interpretation of a written document, and that such interpretation was a question of mixed law and fact.

The Court underscored that the trial judge's finding as to the authenticity of the receipt had not been disturbed by the Court of Appeal. The question for determination by this Court was therefore one of construction: what, properly interpreted, was the legal effect of the receipt? The Court adopted the approach of Burgess J in *Insurance Corp* and in the judgment of the Court in *Blairmont Rice Investments Inc v Kayman Sankar Ltd [2021] CCJ 7 (AJ) GY.* Accordingly, the Court had regard to the three background contexts which must inform a court's approach to the interpretation of a written document, namely, the factual matrix, the contractual context, and the textual context. The Court observed that it must consider the text of the document against the relevant factual and contractual background, rather than construe particular words or clauses in isolation. Further, the Court noted that the ultimate inquiry remained what the document, read objectively and as a whole in its proper context, would convey to the reasonable person.

Having examined each of these background contexts, the Court was satisfied that the factual matrix, the contractual context, and the textual context, considered together, led to the inexorable conclusion that the Court of Appeal fell into error in construing the receipt as creating no more than a licence to occupy the parcel of land. Properly construed in its full context, the receipt evidenced an agreement by which Eric Sue agreed to sell the parcel of land to the Appellant's husband. Relevant considerations included that the latter needed

a place to live with his wife, the Appellant, and their four children; Eric Sue was generally known to sell parcels of land in the area; the use of the words ‘Full Payment’; the contemplated erection of house structures; and the absence of any specified period or terminating event for occupation. The statement that the parcel of land was ‘reserved for road straightening’, and the fact that Eric Sue was not himself the transported owner provided explanations for the further statement that no transport could be issued. The Court found that the Court of Appeal had placed undue weight on particular words and expressions without giving sufficient consideration to the wider factual and contractual contexts in which the receipt was created.

On the issue of costs, the Court held that the discretion was judicial and must be exercised on settled principles, and that reasons ought generally to be given. The Court of Appeal provided no reasons for an award exceeding the costs in the substantive appeal, although the leave and stay application were routine and partly successful. The Appellant was also required to lodge GYD500,000 as security for costs. The award of costs in the sum of GYD300,000 appeared excessive, unreasonable, disproportionate, and unjustifiably high. The Court further emphasised that significantly disproportionate or obviously arbitrary costs orders could undermine the guarantees of access to justice and procedural fairness. First, *ex ante*, through the chilling effect: the prospect of ruinous or disproportionately adverse costs orders can deter *bona fide* litigants from ever approaching the court. Second, *ex post*, through the crushing effect: an order that is disproportionately adverse can render the constitutional rights to access to justice, a fair hearing, and due process, illusory in substance. Third, arbitrariness itself is constitutionally significant: an irrational or unreasonable or fundamentally unfair costs order is, functionally, a deprivation of property.

Accordingly, the Court allowed the substantive appeal and restored the trial judge’s order. It also granted special leave and allowed the appeal against the costs award, ordering that the costs of the leave application abide the costs of this appeal. The Respondent was ordered to repay GYD300,000 to the Appellant on or before 3 December 2026 and to pay standard costs before this Court and costs in the High Court and Court of Appeal.

Cases referred to:

A-G of Barbados v Joseph [2006] CCJ 3 (AJ) (BB), (2006) 69 WIR 104; *Blairmont Rice Investment Inc v Kayman Sankar Investments Ltd* [2021] CCJ 7 (AJ) GY, [2021] 5 LRC 433; *Cara Investments Ltd v Ram* [2026] CCJ 5 (AJ) GY; *Enriquez v A-G of Belize* [2026] CCJ 8 (AJ) BZ; *Housen v Nikolaisen* [2002] 2 SCR 235; *Insurance Corp of Belize Ltd v Kahtal Resorts International Ltd* [2024] CCJ 5 (AJ) BZ, BZ 2024 CCJ 3 (CARILAW); *Investors Compensation Scheme Ltd v West Bromwich Building Society* [1998] 1 WLR 896; *Knox v Deane* [2012] CCJ 4 (AJ) (BB), (2012) 80 WIR 71; *McGraddie v McGraddie* [2013] 1 WLR 2477; *R (Unison) v Lord Chancellor* [2020] AC 869; *R v Lord Chancellor, ex p Witham* [1998] QB 575; *Rainy Sky SA v Kookmin Bank* [2012] 1 All ER 1137; *Ross v Sinclair* [2008] CCJ 4 (AJ) (GY), (2008) 72 WIR 282; *Sankar v Guyana Rice Development Board* [2019] CCJ 11 (AJ) (GY); *Sattva Capital Corp v Creston Moly Corp* [2014] 2 SCR 633; *Walsh v Ward* [2015] CCJ 14 (AJ) (BB), (2015) 87 WIR 101; *Wood v Capita Insurance Services Ltd* [2017] AC 1173.

Legislation referred to:

Guyana – Constitution of the Co-operative Republic of Guyana Act, Cap 1:01, Court of Appeal Act, Cap 3:01, Supreme Court (Civil Procedure) Rules 2016; **United Kingdom** – Magna Carta 1215.

Other Sources referred to:

Beale H (ed), *Chitty on Contracts* (30th edn, Sweet & Maxwell 2008); McCamus J D, 'The Supreme Court of Canada and the Development of a Canadian Common Law of Contract' (2022) 45 Man LJ 7.

JUDGMENT

Reasons for Judgment:

Rajnauth-Lee and Jamadar JJ (Ononaiwu, Eboe-Osuji,
and Bulkan JJ concurring) [1] – [47]

Disposition [48]

RAJNAUTH-LEE and JAMADAR JJ:

Introduction

[1] Before the Caribbean Court of Justice ('the Court') is the appeal of Janet Hassan ('Ms Hassan' or 'the Appellant') against the judgment of the Court of Appeal of Guyana. By its written judgment of 18 July 2025, the Court of Appeal reversed the decision of the trial judge who had found in favour of Ms Hassan. Ms Hassan had defended a claim for possession of land commenced by Romanie Gouveia ('Ms Gouveia' or 'the Respondent'). The disputed parcel of land is located at Plot B, Spring Garden, Essequibo Coast ('the parcel of land').

[2] The central issue in this appeal concerns the interpretation of a document relating to the parcel of land. Is the document evidence of a mere licence or a contract for the sale of the parcel of land? A second issue relates to the award of costs in the leave order. For the reasons that follow, the Court has unanimously agreed that the appeal should be allowed. As to the costs award, the Court has agreed that the Court of Appeal was wrong to make such an order in the circumstances of this case.

Background and Court Proceedings

[3] This appeal arises from a land transaction conducted on 24 May 1990, and proceedings commenced in the High Court of Guyana by Ms Gouveia, the executrix of the estate of Eric Sue and the transported owner of the parcel of land. The document recording that transaction was handwritten, dated 24 May 1990, and will be referred to in this judgment as 'the receipt'. It read as follows:

> Received from Abdool Hassan of Aurora Village, Essequibo Coast, the sum of twenty-two hundred and thirty-five dollars for the use of Plot B (reserved for road straightening) on the understanding that no transport can be issued, for erection of house structures.
> $2,235.00
> (Full Payment)

[4] In September 2000, Ms Gouveia commenced a claim against Ms Hassan seeking possession of the parcel of land. It is interesting to note that during the lifetime of Eric Sue, he never sought to obtain possession of the parcel of land. As to the reservation for road straightening noted on the receipt, it is undisputed that the road straightening was completed in 1994, and no part of the parcel of land was acquired or utilised for that purpose. We will explore the significance of the road straightening later in this judgment.

[5] On 2 October 2009, Bovell-Drakes J, the trial judge, found in favour of the Appellant, dismissed the claim for possession brought by Ms Gouveia, and awarded costs to Ms Hassan. In a written judgment dated 6 June 2019, the trial judge found that the receipt was authored and signed by Eric Sue and therefore he found it to be authentic. The trial judge also found that the receipt represented evidence of a legally binding contract in which Eric Sue had sold the parcel of land to Abdool Hassan.

[6] By its written judgment dated 18 July 2025 ('the substantive judgment'), the Court of Appeal (Cummings-Edwards C, Persaud, and Harnanan JJA) allowed the appeal and set aside the trial judge's decision, finding that the receipt signed between Eric Sue and Abdool Hassan was a mere licence and did not create a legal and proprietary interest in the parcel of land. The Court of Appeal was of the view that the trial judge erred in interpreting the receipt as a contract for the sale of the parcel of land. The Court of Appeal found that, despite the receipt being prepared by a lay person, the use of the words contained in the receipt that 'no title [transport] can be issued' inferred that the passing of title was not in the contemplation of the parties at that time, or at all, due to the road straightening project that was being undertaken. The fact that the parcel of land was reserved for road straightening was evidence of the temporary quality of the permission to use the parcel of land. That court further observed that the stipulation of issuing a transport for house structures reasonably implied that any occupation of the parcel of land was subject to significant limitations and conditions consistent with a license rather than a sale.

Accordingly, the Appellant was ordered to deliver up possession of the parcel of land on or before 1 December 2025 and to pay costs in the sum of GYD175,000.

[7] Subsequent to the substantive judgment of the Court of Appeal, the Appellant sought from the Court of Appeal leave to appeal to this Court and a stay of the order that the Appellant deliver up possession of the parcel of land on or before 1 December 2025. By order dated 19 March 2026 ('the leave order'), the Court of Appeal (Singh CJ, Sewnarine-Beharry and Kyte-Thomas JJA) granted leave to the Appellant to appeal the substantive judgment but refused to grant a stay of execution of the substantive judgment. The Court of Appeal ordered that the Appellant pay costs to the Respondent in the sum of GYD300,000 on or before 20 April 2026.

Proceedings before the Caribbean Court of Justice

[8] On 2 April 2026, the Appellant filed a notice appealing against (1) the substantive judgment of the Court of Appeal, (2) the refusal of the Court of Appeal to grant the stay of execution, and (3) the award of costs in the sum of GYD300,000 to the Respondent.

[9] By a Case Management Conference held on 6 May 2026, the Court formalised an agreement between the parties to stay the execution of the order of the Court of Appeal dated 18 July 2025 for the delivery up of possession of the parcel of land pending the hearing and determination of this appeal or until further order. The Court also noted that the costs award which the Appellant sought to appeal, required the filing of an application for special leave to appeal to the Court. Accordingly, on 12 May 2026, the Appellant filed an application for special leave which was unopposed by the Respondent. By order dated 19 May 2026, the Court ordered that the hearing of the special leave application be treated as the substantive hearing of the appeal and that this application be heard together with the appeal of the substantive judgment of the Court of Appeal. We note as well that the Court was

informed that Ms Hassan had paid over the costs awarded against her in accordance with the order of the Court of Appeal.

[10] Before the Court, several grounds of appeal were raised. In our view, the grounds of appeal and the application for special leave may be conveniently subsumed under two main issues: (i) whether the Court of Appeal erred in its interpretation of the document dated 24 May 1990 and set out at [3] above, and (ii) whether the Court of Appeal erred in awarding costs in the sum of GYD300,000 against Ms Hassan.

The Interpretation of the Receipt – Licence or Contract for Sale?

Question of Law Only or a Question of Mixed Law and Fact

[11] The first issue to be considered is whether the interpretation of the document in question, that is, the receipt is a question of law only, or a question of mixed law and fact. A similar question was considered by this Court in the case of *Insurance Corp of Belize Ltd v Kahtal Resorts International Ltd*.[1] In that case, one of the main issues concerned whether the Court of Appeal erred in its interpretation of the word 'moored' used in the insurance policy between the parties.

[12] In the *Insurance Corp* case,[2] Burgess J writing for the majority, noted that the appellant in that case had relied on *McGraddie v McGraddie*,[3] contending that the Court of Appeal ought not to have interfered with the findings of the trial judge and ought not to have substituted its own opinion where (i) there had been no error of law or (ii) no error on any findings of fact or (iii) the trial judge was not found to be plainly wrong in the exercise of her judicial discretion. He agreed that this statement was correct as to the test to be applied by an appellate court when faced with an appeal on the findings of fact or the exercise of discretion.

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[1] [2024] CCJ 5 (AJ) BZ, BZ 2024 CCJ 3 (CARILAW).
[2] ibid at [14].
[3] [2013] 1 WLR 2477.

[13] Burgess J, however, did not think that the test was applicable in that appeal.[4] He reiterated that the appeal before that Court did not concern findings of fact but concerned the interpretation of the word 'moored' in the policy of insurance. He cited *Chitty on Contracts*:[5] 'The construction of written instruments is a question of mixed law and fact'. He also noted the case of *Housen v Nikolaisen*[6] where the Supreme Court of Canada had made it plain that: 'Matters of mixed fact and law lie along a spectrum'. Accordingly, he was of the view that it was only where the issue on appeal involved the trial judge's interpretation of evidence that the *McGraddie* principle would be applicable.

[14] In addition, Burgess J in *Insurance Corp* underscored that the appeal before that Court was not that the decision of the Court of Appeal related to an error of fact since no factual evidence was adduced before the trial judge and none formed part of the record other than the policy of insurance itself. He noted that the trial of the issue of liability and interpretation had been bifurcated from the remainder of the trial, and no evidence was led on the issue of liability and interpretation of the policy. He added that an appellate court could not interfere with factual evidence but could come to a different conclusion if there was an error of law. In that case, no evidence was led on the issue of the interpretation of the written document and therefore the interpretation of the contract could be reviewed by that Court of Appeal on questions of law.[7]

[15] Having regard to the authorities cited above, the Court is of the view that Burgess J in the *Insurance Corp* appeal, correctly enunciated the principles to be applied to the interpretation of a written document, that is to say, that the interpretation of such a document is a question of mixed law and fact.

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[4] *Insurance Corp of Belize Ltd v Kahtal Resorts International Ltd* [2024] CCJ 5 (AJ) BZ, BZ 2024 CCJ 3 (CARILAW) at [15].
[5] H Beale (ed), *Chitty on Contracts* (30th edn, Sweet & Maxwell 2008) vol 1 para 12-047.
[6] [2002] 2 SCR 235 at [36].
[7] *Insurance Corp of Belize Ltd v Kahtal Resorts International Ltd* [2024] CCJ 5 (AJ) BZ, BZ 2024 CCJ 3 (CARILAW) at [16].

The General Principles of the Interpretation of a Written Document

[16] In *Sattva Capital Corp v Creston Moly Corp*,[8] the Supreme Court of Canada recognised a move away from the traditional approach towards a practical, common-sense method of determining the parties' intentions and the scope of their understanding. The court acknowledged that the goal of contractual interpretation, to ascertain the objective intentions of the parties, was inherently fact specific. To determine the intentions of the parties, a decision-maker must read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances. The court further held that contractual interpretation involved issues of mixed fact and law as it was an exercise in which the principles of contractual interpretation were applied to the words of the contract, considered in the light of the factual matrix.

[17] In the case of *Cara Investments Ltd v Ram*[9] this Court considered the paper entitled 'The Supreme Court of Canada and the Development of a Canadian Common Law of Contract' where the writer, John D McCamus,[10] examined the developments of the Canadian common law of contracts in the jurisprudence of the Supreme Court of Canada during the last decades of the twentieth century and the first decades of the twenty-first. The writer considered 'The Development of Unique Canadian Contract Law Doctrine: A Brief Sketch'[11] and observed that following the appointment of Laskin J to the Supreme Court of Canada in 1970, the Supreme Court appeared to develop a stronger sense of its independence from English authority. He underscored that a number of doctrines of contract law which had no equivalent in contemporary English law were developed by the court.

[18] The writer turned to contractual interpretation and observed that the jurisprudence of the Supreme Court typically reflected English principles of contractual

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[8] [2014] 2 SCR 633.
[9] [2026] CCJ 5 (AJ) GY at [46].
[10] John D McCamus, 'The Supreme Court of Canada and the Development of a Canadian Common Law of Contract' (2022) 45 Man LJ 7.
[11] ibid 14.

interpretation,[12] but that *Sattva Capital Corp* marked a striking departure from English jurisprudence in one important respect. The writer noted that, in *Sattva*, the Supreme Court affirmed two established English principles of contractual interpretation: first, that the meaning of contractual language is often derived from a range of contextual factors, including the purpose of the agreement and the nature of the relationship created by the agreement; and second, that the parol evidence rule is not concerned with questions of contractual interpretation, with the consequence that the factual matrix rule should not be characterised as an exception to that rule. The significant departure in *Sattva*, the writer emphasised, lay instead in the court's characterisation of questions of contractual interpretation for purposes of determining the scope of appellate review. Consistent with our earlier discussion of whether contractual interpretation raised a question of law or mixed fact and law, the writer observed that the Supreme Court held in *Sattva* that matters of interpretation should no longer generally be treated solely as questions of law, but rather as questions of mixed law and fact. The practical consequence of that recharacterisation, the writer argued, was a substantial restriction of the scope for appellate review in matters of contractual interpretation.

[19] In the *Insurance Corp* case, Burgess J usefully enunciated the principles which apply to the interpretation of a written document. At [17], Burgess J adopted the approach taken by the UK Supreme Court in *Rainy Sky SA v Kookmin Bank*[13] that the aim of interpreting a provision in a commercial contract, 'is to determine what the parties meant by the language used, [and this] involves ascertaining what a reasonable person would have understood the parties to have meant.' He added that the reasonable person is one who has all the background knowledge which would reasonably have been available to the parties in the situation in which they were at the time of the contract. In addition, he underscored that 'words used in a commercial document are to be construed in their context'.[14]

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[12] ibid 26.
[13] [2012] 1 All ER 1137 at [14].
[14] *Investors Compensation Scheme Ltd v West Bromwich Building Society* [1998] 1 WLR 896.

[20] Burgess J further reiterated this Court's position set out in *Blairmont Rice Investment Inc v Kayman Sankar Investments Ltd*,[15] noting that after a comprehensive examination of the leading common law authorities on commercial contract interpretation culminating in *Wood v Capita Insurance Services Ltd*,[16] this Court concluded that the modern approach to contractual interpretation was away from the traditional literalist approach and more to the objective and contextualist approach.[17] Burgess J stated that in *Blairmont* this Court adopted the modern approach and settled the principles which will guide it.[18] The following paragraphs of *Blairmont* per Burgess J bear repetition:

> [71] In our judgment, the principles which should guide our courts, based as they are on the common law system, in the interpretation of a commercial contract, are those enunciated in *Wood*. Our courts must always have in mind that their function in interpreting a contractual term is to ascertain the objective meaning of the language which the parties have chosen to express their agreement. Such ascertainment is achieved "by depersonalising the contracting parties and asking, not what their intentions actually were, but what a reasonable outside observer would have taken them to be".
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> [72] The foregoing does not mean that our courts should treat contract interpretation, in the words of Lord Hodge in *Wood*, as a "literalist exercise focused solely on a parsing of the wording of a particular clause". Rather, it should be viewed as requiring consideration of the contract as a whole and, depending on the nature, formality, and quality of its drafting, more or less weight should be given to elements of the wider context in reaching its view as to that objective meaning. The interpretation of a contract should be approached as an iterative exercise and, where there are rival meanings, the court should give weight to the implications of rival constructions by reaching a view as to which was more consistent with business common sense.

[21] At [21] of the *Insurance Corp* case, Burgess J identified the three background contexts which must inform a court's approach to the interpretation of a written document: the factual matrix, the contractual context, and the textual context. We

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[15] [2021] CCJ 7 (AJ) GY, [2021] 5 LRC 433.
[16] [2017] AC 1173.
[17] *Insurance Corp of Belize Ltd v Kahtal Resorts International Ltd* [2024] CCJ 5 (AJ) BZ, BZ 2024 CCJ 3 (CARILAW) at [18].
[18] See also *Blairmont Rice Investment Inc v Kayman Sankar Investments Ltd* at [117]–[123] (Jamadar J).

are in full agreement with this approach. The factual matrix directs attention to the circumstances known, or reasonably available, to the parties at the time the document was made. The contractual context requires the particular provision in question to be understood within the structure, purpose and scheme of the agreement as a whole. The textual context focuses upon the language actually chosen by the parties, including the ordinary and grammatical meaning of the words used and their relationship to other provisions in the document. The court must therefore consider the text against the relevant factual and contractual background, rather than construe particular words or clauses in isolation. The ultimate inquiry remains what the document, read objectively and as a whole in its proper context, would convey to the reasonable person.

Application of the Principles of Interpretation of a Written Document to this Appeal

[22] The trial judge considered the viva voce evidence of the parties and found, on a balance of probabilities, that the receipt was genuine. As Mr Jairam SC submitted on behalf of the Appellant, the trial judge accepted the Appellant's evidence on this issue, and, having found the receipt to be authentic, construed it as evidencing a contract for sale of the parcel of land from Eric Sue to Abdool Hassan. Significantly, the trial judge's finding as to the authenticity of the receipt has not been disturbed by the Court of Appeal. Accordingly, the genuineness of the receipt is no longer in issue. To be clear, therefore, the sole question for determination by this Court is one of construction: what, properly interpreted, is the legal effect of the receipt?

[23] As noted earlier, the Court of Appeal found that there was no reasonable basis for the trial judge to conclude that the receipt was more than a mere licence. Indeed, the Court of Appeal was of the view that the mere fact that the land was reserved for road straightening, as was expressly stated in the document, was evidence of the temporary quality of the permission to use the land for which a payment was made

in full. The Court of Appeal came to the conclusion that the language, context and limitations of the receipt indicated a licence for temporary use rather than a conveyance of a proprietary interest. The Court of Appeal, however, did not overturn any findings of fact of the trial judge, including the finding that the receipt was authentic.

[24] The Appellant submitted that certain features of the receipt supported a sale as opposed to a mere licence. These included (i) in Guyanese layman's context, the word 'use' was capable of describing occupation and enjoyment consistent with ownership; (ii) the agreement contemplated the erection of house structures which was strongly indicative of permanence, and inconsistent with the notion of a temporary occupation; (iii) the phrase 'no transport can be issued' referred to the existing road reservation and the practical inability to issue a transport at that time, rather than an intention to deny any proprietary interest.

[25] The Appellant further submitted that the words 'for the use of' ought not to be construed strictly or narrowly as though they had been employed by a legally trained draftsman. The Appellant emphasised that the receipt had been written by a lay person. In the Court's view, the informal nature of the document is a relevant consideration in its interpretation. The approach articulated by Lord Hodge in *Wood v Capita Insurance Services Ltd*,[19] and adopted by Burgess J in *Blairmont*,[20] is therefore particularly apposite. In construing an informal document of this nature, the language employed must be considered in the light of the relevant factual matrix, with appropriate weight being accorded to the circumstances in which the document was created, rather than undue emphasis being placed on the precision of the language employed.

[26] The Respondent, on the other hand, argued in their written submissions, that the receipt issued by Eric Sue amounted to no more than a licence permitting Abdool

[19] [2017] AC 1173.
[20] [2021] CCJ 7 (AJ) GY, [2021] 5 LRC 433 at [70].

Hassan to occupy and use the parcel of land and conferred no legal interest in the land itself. The Respondent relied on several features of the receipt, including that (i) the words 'for the use of' were clear and unambiguous and required no further interpretation; (ii) the receipt explicitly stated that no transport would pass to Abdool Hassan, thereby reinforcing the conclusion that the arrangement contemplated 'use' of the parcel of land rather than the transfer of any proprietary interest; and (iii) the phrase 'reserved for road straightening' was evidence of the temporary quality of the permission to use the parcel of land, and was therefore consistent with a licence.

[27] We therefore turn to consider the three aspects of the background context which, as discussed earlier, must inform the Court's approach to the interpretation of the receipt.

[28] In the present appeal, the factual matrix may be ascertained from certain undisputed facts which were before the trial judge, and which formed part of the circumstances known to the parties when the receipt was made. Those facts include the following. First, Abdool Hassan needed a place to live with his wife, Ms Hassan, and their four children, and intended to build a house for that purpose. Second, Eric Sue was generally known to sell parcels of land in that area. Third, the following facts concerning the road straightening exercise are undisputed: (i) in or about 1990, the Government of Guyana undertook a project to straighten the Essequibo Road; and (ii) part of the parcel of land was originally reserved by the Government for that purpose.

[29] As to the contractual context, the Court bears in mind that the agreement between Abdool Hassan and Eric Sue was reduced into writing in the form of a receipt dated 24 May 1990 and signed by Eric Sue. Neither party was available to give evidence as to the circumstances in which the receipt was made, both having died before the claim for possession was commenced in the High Court. The receipt admitted in evidence before the trial judge had been laminated and preserved by Ms Hassan

because she regarded it as a document evidencing ownership of the parcel of land. Although other receipts relating to various parcels of land were admitted into evidence, they were admitted solely for the limited purpose of establishing the authenticity of Eric Sue's signature on the receipt in issue. They were therefore not before the trial judge as evidence of the terms upon which Eric Sue ordinarily sold land, or as a basis for comparing the form or language of the receipt in issue with receipts issued by him in other land transactions. Accordingly, apart from the laminated receipt itself, there was no documentary evidence before the trial judge capable of shedding further light on the terms of the agreement between Abdool Hassan and Eric Sue.

[30] Further, in construing the receipt, the Court will have regard to the following textual contexts. First, Abdool Hassan paid a lump sum of GYD2,235 under the terms of the agreement. Second, the receipt expressly recorded that Abdool Hassan had made 'Full Payment'. Third, the agreement contemplated that Abdool Hassan would erect house structures on the parcel of land. Fourth, the agreement was made against the background of the road straightening exercise discussed above. Fifth, although the Respondent contends that the receipt conferred no more than a licence to occupy the parcel of land, the document specified no period for such occupation and no date or event upon which any such licence would terminate. Sixth, and weighing in the other direction, the receipt employed the word 'use' rather than 'sale'. These features must be considered together, and in the context in which the receipt was created, in determining the legal effect properly to be attributed to its express language.

[31] The Court has also considered the significance of the statement in the receipt that 'no transport can be issued'. The Respondent submitted, with some force, that this statement indicates that the parties did not intend the transaction to constitute a contract for the sale of the parcel of land. The Court of Appeal rejected the Appellant's contrary contention that no transport could be issued because the parcel of land had been 'reserved for road straightening', stating that, having regard to the

evidence before the trial judge, it was unable to accept that interpretation. It is not apparent to this Court, however, what evidence was considered to undermine the Appellant's contention.

[32] On the contrary, when the receipt is read as a whole and against the relevant factual background, the statement that the parcel of land was 'reserved for road straightening' provides a cogent explanation for the further statement that no transport could be issued. There is, moreover, an additional consideration. Ms Gouveia's evidence establishes that Eric Sue was not himself the transported owner up to the date of his death. She testified that she became the transported owner of the parcel of land only in the year 2000, following the grant to her, on 6 November 1996, of probate in solemn form of Eric Sue's last will and testament. That evidence provides a further factual explanation for Eric Sue's inability to issue transport to Abdool Hassan and correspondingly diminishes the weight that can properly be placed upon the words 'no transport can be issued' as indicating that no sale was intended.

[33] The Court is therefore satisfied that the factual matrix, the contractual context, and the textual context, considered together, lead to the inexorable conclusion that the Court of Appeal fell into error in construing the receipt as creating no more than a licence to occupy the parcel of land. Properly construed in its full context, the receipt evidenced an agreement by which Eric Sue agreed to sell the parcel of land to Abdool Hassan, as the trial judge had found. In reaching the contrary conclusion, the Court of Appeal placed undue weight on particular words and expressions in the receipt, without giving sufficient consideration to the wider factual and contractual contexts in which the receipt was created.

The Award of Costs of GYD300,000 made by the Court of Appeal in the Leave Order

[34] As explained, on 19 March 2026, the Court of Appeal granted leave to the Appellant to appeal to this Court and ordered that the Appellant pay the Respondent

costs in the sum of GYD300,000 on or before 20 April 2026. No reasons were received from the Court of Appeal as to why that specific order as to costs was made. However, that order for costs was made in relation to the Appellant's rolled-up leave and stay application by Notice of Motion dated 28 August 2025.

[35] That application was unsuccessful in relation to the stay sought, but successful in relation to seeking leave to appeal to this Court. On that application, the Court of Appeal also ordered the Appellant to lodge the sum of GYD500,000 with the Registrar of the Supreme Court as security for costs in the appeal to this Court. Thus, for the Appellant to pursue her appeal to this Court, she had to pay the costs awarded to the Respondent (GYD300,000) within one month of the order and as well lodge the sum ordered as security for costs (GYD500,000). In fact, the Appellant's Notice of Motion for leave to appeal had sought as an appropriate order for costs, that the costs of and occasioned by the application be or abide the costs of the appeal before this Court, assuming that leave was granted (as it was).

[36] It is to be noted that before the High Court costs were awarded to Ms Hassan (the successful defendant) in the sum of GYD50,000. In the substantive appeal, on 17 July 2025, the Court of Appeal allowed the appeal and ordered costs payable by Ms Hassan to Ms Gouveia in the sum of GYD175,000. The costs order of the Court of Appeal (GYD300,000) under review before this Court is dated 19 March 2026. It was made less than one year after the costs order made in the substantive appeal.

[37] Section 7(1)(3) of the Court of Appeal Act,[21] which comes under Part II CIVIL APPEALS, provides that: 'The Court of Appeal may make such order as to the whole or any part of the costs of an appeal as may be just …'. And s 40(d) provides for the making of rules of court relating to costs in respect of matters and proceedings in the Court of Appeal.

[38] Part 64 of the Supreme Court (Civil Procedure) Rules 2016 ('CPR 2016') deals with costs. It essentially codifies the general legal approaches in civil litigation,

[21] Cap 3:01.

among others, that: (i) costs are discretionary unless otherwise prescribed, (ii) an unsuccessful party usually pays the costs of a successful party, and (iii) contextual/circumstantial reasonableness, fairness, and proportionality are the baseline standards for evaluation. The Overriding Objective under the CPR 2016, is to deal with cases justly.[22] Again, this is not a principle that requires a rule to be operative. It is a general principle of procedural justice. Accordingly, under the CPR 2016, proportionality is built into the general procedural law[23] and as well fairness and reasonableness in relation to costs orders.[24]

[39] This Court has explained that given the discretionary nature of costs, an appellate court will not readily interfere with costs orders unless they are plainly wrong.[25] However, it has also explained that it is appropriate to intervene and vacate or vary costs orders where (i) the decision was based on a wrong principle, (ii) the court took into account irrelevant considerations, (iii) the court failed to consider matters that should have been considered, or (iv) the decision of the court is simply unsustainable.[26]

[40] The discretion to order costs, though broad, is judicial, and not unfettered. It must be exercised on settled principles. Further, because costs orders are discretionary, require the balancing of several considerations, and impose financial (property) detriment to the party ordered to pay them, generally, reasons ought to be given explaining the justifications for whatever costs orders are made. The Court of Appeal did not provide reasons for its award of costs.

[41] However, from the record there is a significant and unexplained disparity between the quantum of the costs order on the substantive appeal and the leave to appeal application – the leave to appeal costs order is approximately 42 per cent higher

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[22] Supreme Court (Civil Procedure) Rules 2016 pt 1.01 (1). And see *Knox v Deane* [2012] CCJ 4 (AJ) (BB), (2012) 80 WIR 71 at [40]: 'The fourth determining factor is that the award of security for costs must, in the final analysis, be "just" in all the circumstances.'
[23] Supreme Court (Civil Procedure) Rules 2016 pt 1.01(2)(c).
[24] Supreme Court (Civil Procedure) Rules 2016 pt 64.02(4)(b).
[25] *Sankar v Guyana Rice Development Board* [2019] CCJ 11 (AJ) (GY).
[26] *Walsh v Ward* [2015] CCJ 14 (AJ) (BB), (2015) 87 WIR 101. And see also Supreme Court (Civil Procedure) Rules 2016 pt 64.02(2), (3), (4)(a).

than the costs awarded in the substantive appeal. This significance is amplified because (i) less than one year elapsed between the two orders, and (ii) the comparative nature of the events triggering each (on one hand a substantive appeal, and on the other a partly successful interlocutory application for leave to appeal), suggests *prima facie* that the leave to appeal application should normally attract a lower costs order than the substantive appeal in the same matter. The lack of reasons leaves open an unresolved presumption of *prima facie* arbitrariness.

[42] It would also appear that the rolled-up leave and stay applications were determined on a single occasion, and that both the written and oral submissions were short. Nothing on the record suggests that any matters of great complexity or novelty were raised, the application seemingly a routine one. Indeed, it would also appear that the Appellant duly complied with all directions, procedural rules and statutory requirements. In addition, as indicated though only correlated, the Court of Appeal also imposed a security for costs order in the sum of GYD500,000. Thus, the costs order on the leave application appears *prima facie* unreasonable, unfair, and disproportionate.

[43] On the *Walsh v Ward* criteria, and given the stated unexplained disparity, the relevant considerations identified, and the absence of reasons, it is likely that the costs order under review is plainly wrong. It was likely based on the application of a wrong principle, or by taking into account irrelevant considerations, or by failing to take into account relevant considerations – matters which are untested again because of the lack of reasons. Thus, the award of costs on the leave application appears to be excessive, unreasonable, disproportionate, and unjustifiably high.

[44] Finally, this Court has recently noted in *Enriquez v Attorney General of Belize*[27] and in relation to costs orders (albeit wasted costs), that the common law rights to access to justice and procedural fairness[28] are also constitutional rights in Caribbean

[27] [2026] CCJ 8 (AJ) BZ at [41], [60]–[61].
[28] *R (Unison) v Lord Chancellor* [2020] AC 869. Financial burdens creating a real risk of preventing access to the courts are unlawful absent the clearest statutory authorisation, because access to justice is inherent in the common law understandings of the rule of law and its value is societal, not merely individual; and subordinate legislation cannot undermine fundamental constitutional rights without

constitutionalism – embedded in the guaranteed rights.[29] A significantly disproportionate or obviously arbitrary costs order can undermine those guarantees. First, *ex ante*, through the chilling effect: the prospect of ruinous or disproportionately adverse costs orders can deter *bona fide* litigants from ever approaching the court. Second, *ex post*, through the crushing effect: an order that is disproportionately adverse can render the constitutional rights to access to justice, a fair hearing, and to due process – to just redress, illusory in substance. Third, arbitrariness itself is constitutionally significant: an irrational or unreasonable or fundamentally unfair costs order is, functionally, a deprivation of property.[30] Arbitrariness also sits uneasily with the fair hearing[31] and the protection of the law and rule of law foundations that this Court has long emphasised.[32]

[45] Indeed, albeit in relation to security for costs, this Court has expressly linked disproportionate costs related orders to access to justice. In *Knox v Deane*,[33] the Barbados Court of Appeal had ordered Mrs Knox to provide substantial security for costs (orders in excess of BBD100,000) as a condition of her appeal being heard. This Court found the maximum recoverable costs were far lower and set the orders aside as 'wholly erroneous.' Nelson J held at [40] that, 'the award of security for costs must, in the final analysis, be "just" in all the circumstances ... the courts are anxious to preserve access to justice for persons resident abroad or impecunious who are brought before the courts.' He warned, at [41], that such (security for costs) orders 'may be used as a weapon to stifle claims and to crush resistance' and are

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explicit parliamentary authority. Lord Reed held at [66] (emphasis added) that '*the constitutional right of access to the courts is inherent in the rule of law*', tracing it to Magna Carta 1215, cl 40 (c 29 of the 1297 version): '*We will sell to no man, we will not deny or defer to any man either Justice or Right.*' See also *R v Lord Chancellor, ex p Witham* [1998] QB 575 – access to the courts is a fundamental constitutional right that cannot be taken away by general words in a statute; striking down court fees set at levels that could have the effect of denying low-income litigants access to the courts.

[29] See Constitution of the Co-operative Republic of Guyana Act, Cap 1:01 art 144 – the right to the protection of the law and to a fair hearing.

[30] See Constitution of the Co-operative Republic of Guyana Act, Cap 1:01 art 142 – protection from the unlawful deprivation of property.

[31] See Constitution of the Co-operative Republic of Guyana Act, Cap 1:01 art 144(8).

[32] *A-G of Barbados v Joseph* [2006] CCJ 3 (AJ) (BB), (2006) 69 WIR 104; see Wit J at [20]: 'The multi-layered concept of the rule of law establishes, first and foremost, that no person, not even the Queen or her Governor-General, is above the law. It further imbues the Constitution with other fundamental requirements such as rationality, reasonableness, fundamental fairness and the duty and ability to refrain from and effectively protect against abuse and arbitrary exercise of power. It is clear that this concept of the rule of law is closely linked to, and broadly embraces, concepts like the principles of natural justice, procedural and substantive "due process of law" and its corollary, the protection of the law. It is obvious that the law cannot rule if it cannot protect. The right to protection of the law requires therefore not only law of sufficient quality, affording adequate safeguards against irrationality, unreasonableness, fundamental unfairness or arbitrary exercise of power. It also requires the availability of effective remedies.'

[33] [2012] CCJ 4 (AJ) (BB), (2012) 80 WIR 71.

'an important derogation from the principle of access to justice.' Further, in *Ross v Sinclair*[34] at [18], this Court dispensed with security for costs ordered by the court of appeal against an indigent appellant, reasoning that 'an impecunious party … would otherwise be shut out as a result of her inability to provide security for costs as required by the Court of Appeal.'

[46] In these circumstances, the costs order made on 19 March 2026 by the Court of Appeal on the Appellant's application for leave to appeal is set aside. In its place is substituted the following: The costs of and occasioned by the application for leave to appeal shall abide the costs of the appeal before this Court.

Closing Observations

[47] At [20] of its substantive judgment, the Court of Appeal observed that certain additional arguments, namely (i) the lack of a challenge to the transport issued to Ms Gouveia and (ii) the absence of a counterclaim by Ms Hassan for specific performance, were merely academic and peripheral to the central issue for determination. Neither issue has been raised before this Court in the present appeal, nor has the Respondent filed a cross-appeal in relation to them. Accordingly, neither issue arises for determination by the Court.

Disposition

[48] Accordingly, the Court hereby makes the following order:

i. The appeal is allowed, and the judgment of the Court of Appeal delivered on 18 July 2025 is hereby set aside. The order of Bovell-Drakes J dated 2 October 2009 is hereby restored.

[34] [2008] CCJ 4 (AJ) (GY), (2008) 72 WIR 282.

ii. The special leave application filed on 12 May 2026 is hereby granted. The appeal against the order for costs made by the Court of Appeal on 19 March 2026 is allowed, and the order for costs is hereby set aside. The Respondent shall repay to the Appellant the sum of GYD300,000 on or before 3 December 2026.

iii. The Respondent shall pay to the Appellant standard costs before this Court, and costs in the High Court and Court of Appeal.

/s/ M Rajnauth-Lee

Mme Justice Rajnauth-Lee

/s/ P Jamadar

Mr Justice Jamadar

/s/ C Ononaiwu

Mme Justice Ononaiwu

/s/ C Eboe-Osuji

Mr Justice Eboe-Osuji

/s/ A Bulkan

Mr Justice Bulkan