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**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE  
OF GUYANA  
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION  
PROCEEDING FOR ADMINISTRATIVE ORDER  
2023-HC-DEM-CIV-FDA-1340**

BETWEEN:

- 1. **ROXANNE ALLEN**
- 2. **JUNIOR ELLIS**
- 3. **LASHONDA ELLIS**

Applicant

-and-



- 1. **THE ATTORNEY GENERAL**
- 2. **CENTAL HOUSING AND PLANNING  
AUTHORITY**
- 3. **GUYANA SUGAR CORPORATION**

Respondents.  
Jointly and severally

**WRITTEN SUBMISSIONS OF THE APPLICANTS**

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**THE FACTS IN A NUTSHELL**

1. In 1991 a tiller named Roxanne moved unto a section of vacant land that has become known as 16 Cane View. She fenced the land, built her home, and maintained exclusive physical possession continuously. Her romantic partner, Junior Ellis, joined her from about 1996. Lashonda Ellis is one of eight children they produced, seven of whom were raised at 16 Cane View. The abandoned, overgrown strip of land quickly became a community with more than 30 families. Land to the tiller and proper housing are promised by the Constitution. The Central Housing and Planning Authority (CH&PA) was created by the Legislature to help tillers like Roxanne realize the promise of proper housing. Its officials informed Cane View residents of government's desire to provide them with title to the plots of land they occupied. After about three decades of occupation and toil, and about two decades of assurance, CH&PA decided to throw Roxanne and other residents of the land at Cane View to facilitate the building of a four-lane highway. Early on the morning of January 5, 2023, CH&PA descended on Cane View with heavily armed police and with the aid of an excavator, demolished the homes of Roxanne, her family, and all other Cane View residents. The registered holder of paper title for Cane View is NOT CH&PA, the State, or any wholly owned state entity. Roxanne Allen, Junior Ellis and Loshonda Ellis (The Applicants), have approached the court with a prayer for several declarations and orders.

**THE LEGAL FRAMEWORK**

2. The rights asserted by the Applicants are anchored in the Constitution and various statutes. Article 18 of the Constitution promises land to the tiller and Article 26 declares that every citizen has the right to proper housing accommodation. The promises made in Articles 18 and 26 are given effect by the Title to Land (Prescription and Limitation) Act and the Housing Act. The Housing Act is one of the means through which Article 26 of the Constitution is giving effect. Through it, an aspiration of the architects of the nation is given justiciable expression. In fulfillment of the nation's covenant with its citizens, the CH&PA was created by the legislature to assist the working class in realizing the inalienable right to housing enshrined in the Constitution. As a creature of the Housing Act, CH&PA was imbued with a



compassionate soul and powers to lift communities up. It was deliberately deprived of the power to knock communities and building down, except when demolition is in the best interest of a community. Articles 141, 142 and 144, provide various rights and protections to the applicants that are triggered in this matter. Other applicable statutes are the Land Registration Act, and Deeds Registry Act.

**ISSUES**

3. The facts, taken in the context of the provisions of the Constitution and legislations enacted to give effect to them, present the following issues:

**Whether:**

- I. CH&PA was vested with the authority to demolish homes and destroy the personal property of Cane View residents on January 5, 2023. If the court resolves that issue in the affirmative, then:
  - i. Did CH&PA properly and lawfully exercise its demolition powers or acted in contravention and ultra vires authority conferred upon it when it demolished homes at Cane View on January 5, 2023.
- II. Whether the Applicants had acquired any interest in 16 Cane View, that is protected by the Constitution and due process of law which were contravened by CH&PA's conduct on January 5, 2023.

**SUBMISSIONS**

**CH&PA HAD NO AUTHORITY OVER CANE VIEW**

4. For a person or entity to lawfully exercise authority over real property, he/she or it must be (a) the holder of legal title of the property; (b) be the holder of a lease, properly granted by the lawful owner of the property; or (c) conferred with agency to act on behalf and in the stead of the lawful owner. CH&PA makes no claim as a lessee of Cane View, so this means of exercising authority is not relevant in this case.
5. Whether CH&PA was or is the holder of legal title or an authorized agent of the holder of paper title, is a question of law and fact.
6. The **Land Registration Act Section 64(1)** states that "*No unregistered instrument shall be effectual to pass any interest in registered land*". Section 65(1) of said Act further states that "*...the title of every registered proprietor shall be absolute and indefeasible and accordingly shall not be impeached or affected in any way by the*



*existence in any other person of any interest (whether derived by grant from the State or otherwise..."* Similarly, the Deeds Registry Act provides that "... *every transport of immovable property other than a judicial sale transport shall vest in the transferee the full and absolute title to the immovable property...*" Deeds Registry Act § 22(1).

7. It is well established that the laws of Guyana do not provide for the conveyance of title to real property by way of an unrecorded oral or written statement. Moreover, an in-person statement or letter stating an intent to convey real property is not an instrument of conveyance by which rights and authority pass.
8. In this case, Respondents admit that the registered instrument is transport 402 of 1892. Thus, the record establishes that the registered proprietor with absolute and indefeasible title to Cane View is NOT CH&PA, GUYSUCO, the State or the government.
9. Here, the 2011 letter from the Deputy CEO of GUYSUCO and an alleged oral statement by the CEO of the National Industrial and Commercial Limited (NICIL) in 2020, relied on by respondents, are of no consequence. First, GUYSUCO, never was the registered owner of Cane View. Therefore, any promise to convey the property to CH&PA is null and void and without any legal effect. Because GUYSUCO was not the holder of legal title of Cane View, the court need not detain itself with further consideration of the effect of the 2011 letter from GUSUCO's Deputy CEO or any oral statement made by the CEO of NICIL.
10. If the court chooses to consider the purported 2011 letter from GUYSUCO and affidavit of NICIL's CEO RADHA KRISHNA SHARMA, it should wonder why from 2011 through 2017 GUYSUCO failed to register an instrument of conveyance to CH&PA? Why, from 2020 to 2023, again NICIL failed to register an instrument of conveyance to CH&PA? The applicants submit and the record shows that they did not because they could not, and they knew they had no legal authority to make such a conveyance. Consequently, CH&PA has no meritorious claim to legal title of 16 Cane View or agency to Act on behalf of the holder of legal title.



11. The applicants submit that because CH&PA was not the holder of legal title of Cane View or the lawful agent of the title holder, it had NO authority to determine what Cane View is to be used for or eviction and demolition powers.

**APPLICANTS ACQUIRED OWNERSHIP THROUGH ADVERSE  
POSSESSION**

12. The Title to Land (Prescription and Limitation) Act 3(a) and (c) provides for title to land to be acquired by “*sole and undisturbed possession, use or enjoyment for no less than 12 years*” if possession or enjoyment was not taken by fraud, consent, or agreement. The Caribbean Court of Justice (CCJ) has noted that this provision gives effect to Article 18 of the Constitution. *Rajpattie Thakur v Deodat Ori, GY 2018 CCJ 7*. Therefore, the right to prescriptive title is grounded in the supreme law of the land.
13. The elements that must be established for an adverse possession claim to succeed are (i) a sufficient degree of physical custody and control of the claimed land (“factual possession”), and; (ii) an intention to exercise such factual possession on her own behalf and for her own benefit, independently of anyone else except someone engaged with her in a joint enterprise on the land (intention to possess). *Toolsie Persaud Limited v. Andrew James Investments Limited et al, GY 2008 CCJ 5*.
14. The undisputed facts in the record, establish that the first named applicant had factual possession of 16 Cane View (*animus possidendi*) and the intent to hold the property as her own (*animus domini*) for the required statutory period for title to be acquired by adverse possession. *Rajpattie Thakur, supra*.
15. Here, it is undisputed that Roxanne went upon the land in 1991 and thereafter, continuously occupied and enjoyed it until January 5, 2023 – *animus possidendi*. Further, she did not take possession and enjoyment of the land by fraud, consent, or agreement. See paragraphs 4 – 28 of her evidence in support of the FDA.
16. *Animus domini* is demonstrated through the conduct of the Applicant. *Rajpattie Thakur, supra*. The intention to hold the property as one’s own is expressed by using land in the way an owner would. *Toolsie Persaud Limited, supra*. In that case, the CCJ stated that what is required is the intention to possess the land “*to the exclusion of all other persons, including the owner with the paper title*”. This is best demonstrated by fencing the land and building one’s home on it as Roxanne did.



17. The undisputed evidence before the court establishes that the applicants were defiant occupants down to the wire.
18. From the inception, Roxanne built her home on the land through extraordinary sacrifice and utilization of all her earnings. She fenced the land to put the world on notice of her assertion of ownership and the exclusion of others. She invited her partner Junior, on the land to live with her. She made sacrifices so that she would have something to pass on to her children and as her children came of age, she gave them permission to build a second home on the land.
19. Further, the second named respondent forfeited her formal education to help build the homes on the land, driven by the prospect of realizing that which the Constitution promises – land to the tiller and home ownership. These are demonstrated acts of intent to hold the property as their own.
20. Just as the CCJ noted in *Rajpattie Thakur*, the applicants' adverse possession of the land was manifest, solid and genuine. It was clear from the start that they would not voluntarily surrender the land they prepared, cultivated, worked, made productive and built their home upon. That is a demonstration, beyond reasonable contest, of animus domini.
21. The Applicants therefore obtained title through sole and undisturbed possession, use or enjoyment for a period not less than 12 years. §3 Title to Land (Prescription and Limitation) Act.
22. Wherefore, the applicants submit that they had a right to occupation of 16 Cane View at the time of the demolition on January 5, 2023 and they still have that right.

**THE APPLICANTS' ADVERSE POSSESSION CLAIM EXTINGUISHED**

**PAPER OWNER'S RIGHTS**

23. §5 of the of Title to Land (Prescription and Limitation) Act expressly states that “No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him...” §13 of said Act states that “At the expiration of the period prescribed by this Act for any person to bring an action to recover land, the title of that person to the land shall be extinguished”. There is no ambiguity. A dispossessed paper owner must assert



- ownership by commencing legal proceedings within the statutory period. If he fails to do so his title to the property is extinguished. *Toolsie Persaud Limited, supra*.
24. Consequently, the ownership rights of the holder of legal title to Cane View was extinguished as to 16 Cane View by operation of law in 2003 counting from occupation by the first named applicant in 1991 or 2008 if the court starts the adverse possession clock in 1996 when Roxanne completed her home and started living at 16 Cane View.
25. The apex court has already determined that the law of adverse possession is an exception to the safeguard of section 142(1) of the Constitution against deprivation of property. *Rajpattie Thakur, supra*.
26. The 2011 amendment to the *Title to Land (Prescription and Limitation) Act* is not applicable in this case because the record establishes that Cane View is NOT State land, Government land, land wholly owned by State entities including companies and corporations or in which the controlling interest is vested in the state.
27. Even if GUYSUCO were the holder of paper title of Cane View, the 2011 amendment to the *Title to Land (Prescription and Limitation) Act* would not apply to Roxanne's adverse possession claim because that claim matured before the amendment took effect. As pointed out above, the title of GUYSUCO or any title holder from whom it may claim title, would have extinguished when Roxanne's adverse possession claim matured. *Toolsie Persaud Limited, supra*.
28. The 2011 amendment to the *Title to Land (Prescription and Limitation) Act* could NOT and did NOT have the effect of reviving extinguished property rights. It also does not extinguish Roxanne's already matured right to prescriptive title. A statute is presumed not to have retrospective effect. The 2011 amendment of the *Title to Land (Prescription and Limitation) Act* could not have retrospective effect because this intent was not expressly stated. *Burton v The Queen, BB 214 CCJ 4*. See also *Attorney General v McDoom, GY 1960 FSC 2*, and *Victor et al v West Bank Estates, GY 1960 HC 10*. Extinguishing property rights of the applicants through an act of Parliament would also violate Article 142 of the Constitution.
29. Because Roxanne's rights to prescriptive title is clearly established, there is no need to litigate other means by which she could have acquired title or an interest in the





land, such as being a licensee with equity. However, for completeness, it is useful to briefly outline the law on which such a right could be founded.

30. In Duncan v Goppy, GY 2015 HC 36, this court said, “it is plain from the authorities that, if the owner of land requests another or indeed allows another, to expend money on the land under an expectation created or encouraged by the landlord that he will remain there, that raises an equity in the licensee such as to entitled him to stay.” In Basil Williams v Brenda Samuels et al, GD 2021 HC 14, the High Court of Grenada held that all that is necessary is that the licensee, at the request or with the encouragement of the paper owner, spent the money in the expectation of being allowed to stay there. That court further determined that the equity can be satisfied by holding that the licensee be allowed to remain on the land with a fee simple title.
31. Based on the foregoing, the applicants submit that because CH&PA had no authority over Cane View and the applicants had a right to be present on the land, respondents’ conduct on January 5, 2023, and every day subsequent, constitute trespass, arbitrary entry of their home and deprivation of property.

#### GUYSUCO’S CULPABILITY

32. GUYSUCO is culpable for CH&PA’s conduct in demolishing the applicants’ home and destroying their personal property. It asserted ownership when there was no rational basis to do so honestly.
33. The applicants submit that the letter purportedly sent by GUYSUCO’S Deputy CEO to CH&PA, dated January 19, 2011, is fraudulent to the extent it asserts an agreement to convey Cane View to CH&PA. What would the court call the agreement of one man to convey Parliament Building, which he does not own, to another? In Roberty Toussaint, 6 W.I.R. 431 at p. 433 (h) Wooding C.J. states that “*fraud means some dishonest act or omission, some trick or artifice, calculated and designed to cheat some person of an unregistered right or interest*”.
34. When CH&PA approached GUYSUCO to procure conveyance of land it knew GUYSUCO did NOT own, and the Deputy CEO wrote on behalf of GUYSUCO, agreeing to the request, the two became parties to a fraudulent scheme. When CH&PA acted in furtherance of and pursuant to the January 19, 2011 correspondence, it acted as an agent of a fraudulent scheme sponsored by GUYSUCO.



35. When, from 2009 to the present, CH&PA publicly asserted that it was acting on behalf of GUYSUCO with respect to Cane View, GUYSUCO was under a duty to refute the false claim. But for GUYSUCO's failure to refute the false claim made by CH&PA for 14 years leading up to the demolition, CH&PA could not have demolished the applicants' home on January 5, 2023, pursuant to authority it claimed to have acquired from GUYSUCO.
36. CH&PA claims that several notices were published in the newspapers indicating its intent to demolish the Cane View homes. GUYSUCO therefore had ample notice that CH&PA was going to demolish the homes in its name. Under the circumstance, it was under a legal duty to say, 'not in our name' and it did not.
37. Accordingly, GUYSUCO is jointly liable with the other respondents.
38. GUYSUCO is also a necessary and proper party to this action because it asserts an interest in land the applicant claims prescriptive title to. That prescriptive rights claim requires naming GUYSUCO because of its claim as holder of legal title at a material time, however absurd, it is an interested party.

**CH&PA ACTED ULTRA VIRES ITS GOVERNING LEGISLATION.**

39. CH&PA is a creature of statute which circumscribes its mandate and powers. The statute that governs is the Housing Act. Thus, a good starting point is the following declaration by the CCJ:

*It is trite law that where a decision maker is granted the power under legislation to make a decision, it must make that decision itself and cannot allow itself to be dictated to on what to decide nor should it abdicate its responsibility to another person or body. Gilharry Sr. v Transport Board, et al., BZ 2017 CCJ 3*

40. Consequently, CH&PA cannot discharge powers conferred upon it by the legislature on account of a directive of any individual or executive body. This proscription was admittedly contravened by CH&PA in this case. Giving testimony in its own voice, CH&PA through the Affidavit of Rawlc Aaron, submitted on its behalf, states at paragraph 20 as follows:

*The CHPA was consequently instructed to remove the occupants at Block 'X' Plantation Herstelling and to obtain a valuation for each structure with a view to compensating the informal settlers.*



41. The Housing Act specifically states that CH&PA is charged with the duty of carrying out its provisions. Housing Act §3(1). The evidence could NOT be clearer that CH&PA abdicated the mandate conferred upon it by the Legislature and thereby facilitated the usurpation of its authority. The Housing Act makes no provision for CH&PA to be directed to use demolition powers it is given. By abdicating its responsibilities, CH&PA acted in contravention of the letter and spirit of the Housing Act. Specifically, it did not exercise its demolition powers lawfully and in accordance with the statute.
42. The powers of CH&PA are set out in §11 of the Housing Act. §11(a) of the Act, which outlines the applicable power to acquire land, is pellucid. It states that CH&PA may:

*Acquire land or buildings or an interest therein, for all or any of the purposes of an approved scheme, which purpose may include the erection, construction, maintenance and improvement ... of houses and gardens, factories, workshops, places of worship, places of recreation, and other works and buildings for or for the convenience of persons of the working class and other persons, and generally all such matters as are necessary or desirable for, or are incidental to, the development of the property acquired as a building estate. Housing Act §11(a).*

43. CH&PA could not have acquired Cane View for a purpose other than a housing scheme and it did not acquire Cane View. It had no powers to act with respect to land before title is vested in it. That should logically be the end of the matter. The court need not look further. The respondents may use extraordinary imagination and intellectual gymnastics to argue that somehow CH&PA had authority or some agency over Cane View. Even if that fantasy is stretched to the absurd extreme, CH&PA still exceeded its statutory powers.
44. CH&PA's own evidence at paragraph 7 of the Affidavit of Gladwin Charles, lays out in detail, the reason for the claimed promised conveyance from GUYSUCO. The purpose was beyond doubt, the regularization of Cane View.
45. Because the Housing Act §11(c), only authorizes CH&PA to use land acquired for the purposes of an approved scheme, for that specific purpose, it could not lawfully convert the land acquired for regularization of Cane View to the building of a four-



lane highway. Therefore, if it came to the sudden realization that it could NOT use the land for the purpose it 'claims' it acquired control, the only option available was relinquishing control. When the Guyana Geology and Mines Commission GGMC granted a loan to CH&PA for the development of the Housing sector, this court deemed the action of the GGMC ultra vires because it was NOT incidental to the functions conferred upon GGMC. *Re Trotman Desmond, GY 2015 HC 8*. Similarly, the displacement of an entire community to convert land under residential occupation for about 30 years, into a four-lane highway, is NOT incidental to any function conferred on CH&PA. Instead, it is contrary to the functions of CH&PA in letter and spirit.

46. CH&PA also acted contrary to and beyond the limits of its demolition powers. The body was only conceived to take action to lift communities up and assist the working class. Consequently, all its powers to acquire land are geared towards housing, housing schemes and community development. The only demolition powers it has is limited by the Housing Act §§22 and 14 to slum clearance areas and ruinous or dilapidated buildings.
47. Section 22 of the Housing Act outlines substantive and procedural requirements for CH&PA to obtain a demolition order and for that order to be operative. In this case CH&PA did NOT comply with the substantive and procedural requirements. It did not restrict itself to a slum clearance area and it did not follow the procedure to obtain a demolition order and thereafter make it operative. Consequently, it did not act in accordance with demolition powers conferred by the Housing Act §22.
48. CH&PA also did not act in accordance with powers given by Housing Act §14. That provision requires the condemnation of a building as ruinous, dilapidated and unfit for human habitation or a nuisance or injurious or likely to be injurious to health. In such circumstance, CH&PA is required to give notice which, if not complied with, triggers the requirement of a complaint to a magistrate, and obtaining an order to demolish the building. The record establishes that CH&PA did not act in accordance with Housing Act §14.
49. There is no other power conferred upon CH&PA to demolish homes.



50. When the Legislature crafted the mandate of the CH&PA and carved out its powers, it vested it with agency to advance the drive of the Roxanne's of Guyana, moderate and tame attempts at executive indiscretions that undermine Articles 18 and 26 of the Constitution. It was given agency on behalf of not against the working class.
51. Therefore, CH&PA could neither have lawfully acquired Cane View for the construction of a four-lane highway nor lawfully demolish homes in Cane View. Consequently, any act in furtherance of an attempt by CH&PA to acquire Cane View lands for the purpose of constructing the four-lane highway was done in excess of its authority. This includes any agreement entered with any of the 35 plus families of Cane View.
52. When CH&PA confessed that it entered into agreements with about 25 out of the more than 35 Cane View families to vacate the land for the purpose of constructing the four-lane highway, it admitted to 25 counts of unlawful conduct. The Housing Act does not empower CH&PA to persuade working class homeowners to sign over their rights to the government to facilitate non-residential projects.

**VIOLATION OF PROPERTY RIGHTS**

53. The record establishes that the Applicants acquired a property interest in 16 Cane View. That right was acquired through adverse possession pursuant to §3 Title to Land (Prescription and Limitation) Act. As pointed out above, a property right would also accrue to the applicant at common law as licensee with equity if adverse possession were not available. That right is protected by Article 142 of the Constitution.
54. The unjustified frustration of a substantive benefit by a public authority is a deprivation of property without lawful excuse or justification as guaranteed and protected by Article 142 of the Constitution. In Bisnauth v Shewprashad and Bisnauth, GY 2009 CCJ 6, the CCJ noted that “section 142(1) of the Constitution clearly considers the protection from arbitrary deprivation of property as a fundamental right worthy of the highest form of judicial relief.” The deprivation at issue in this was arbitrary and without due process of law.
55. Wherefore, the applicants submit that the court should find that the actions of the respondents breached the applicant's right not to be deprived of property without



lawful excuse or justification as guaranteed and protected by Article 142 of the Constitution.

**INFRINGEMENT OF NATURAL JUSTICE AND PROTECTION OF LAW**

56. The right to protection of the law is guaranteed by Article 144 of the Constitution. In *Maya Leaders Alliance et al v Attorney General, BZ 2015 CCJ3*, the CCJ left no doubt as to the meaning and breadth of this right. It says:

*The right to protection of the law is a multi-dimensional, broad and pervasive constitutional precept grounded in fundamental notions of justice and the rule of law. The right to protection of the law prohibits acts by the Government which arbitrarily or unfairly deprive individuals of their basic constitutional rights to life, liberty or property. It encompasses the right of every citizen of access to the courts and other judicial bodies established by law to prosecute and demand effective relief to remedy any breaches of their constitutional rights. However, the concept goes beyond such questions of access and includes the right of the citizen to be afforded, "adequate safeguards against irrationality, unreasonableness, fundamental unfairness or arbitrary exercise of power."*

57. The respondents therefore had an affirmative duty to provide due process to the applicants considering their well-founded property claim. Instead, the respondents denied the applicants due process and violated the procedural requirements to be followed before proceeding with a demolition.
58. Because the respondents denied the applicants access and the procedural fairness demanded by natural justice, and frustrated their rights through their acts and omissions, the applicants' right to the protection of the law was breached. *Maya Leaders Alliance et al, supra.*

**INHUMAN AND DEGRADING TREATMENT**

59. Article 141(1) of the Constitution protects the Applicants from inhuman and degrading treatment. This court has defined degrading treatment as treatment that is grossly humiliating. *Rodney v Attorney General et al, GY 2014 HC 20*. The CCJ notes that this right must be rigorously observed if one is in a vulnerable or disadvantaged position. *Linton Pompey v Director of Public Prosecutions, 2020 CCJ AJ*.
60. Even if CH&PA had authority to take possession of the land at Cane View, because the applicants were in a vulnerable and disadvantaged position, the respondents were under a duty to provide rigorous protection of their dignity.



61. The respondents violated the applicants' right to protection from inhuman and degrading treatment when they used an excavator to demolish the applicants', personal property and community, and to crush and bury their belongings.
62. Roxanne states at paragraph 92 of her affidavit in support of the fixed date application, that the respondents humiliated her and her family in front a large crowd and internet audience.
63. Lashonda outlines her humiliation at paragraphs 88 through 105 of her affidavit in support of the fixed date application. She states:
- I. "...I found myself bending my head and closing my eyes tight for long periods. I just felt so hopeless and powerless that I was unable to think of the future." Para. 96.
  - II. "The demolition left me feeling destitute and worthless. I was treated worse that animals are treated in a civilized society". Para. 104.
  - III. "I was so humiliated and embarrassed that I felt frozen and unable to step outside." Para. 90.
64. In considering the evidence of inhuman and degrading treatment of the Applicants, the court should reflect on the words of the Court of Appeal.

*As judges who are also human beings, in a civilized society, we must be constantly cognizant of the pains and sufferings of our fellow human beings; of what they can be constituted, and how they can be caused. What is cruel and inhuman and degrading is what we ourselves are capable of feeling and of experiencing. We really do not need the advice and learning of the Privy Council, or jurists in other jurisdictions to make us know what is cruel and inhuman and degrading for the citizens of Guyana. Sitting in this court we can be no less concerned about the sanctity of human life, the worth of the human person, and the value of human dignity than any other judges in other parts of the civilized world; and if we do not, for ourselves, know what is cruel and inhuman and degrading, no book however big, no law however lengthy, no counsel however learned can tell us what it is. Yaseen et al v Attorney General GY 1996 CA 1.*

#### **EXEMPLARY DAMAGES**

65. The court should award exemplary damages to vindicate the strength of the law. Ameerli v Alcalá, TT 1966 CA 69. Here, the respondents deliberately violated constitutionally entrenched and guaranteed rights of the applicants as well as rights conferred by statutes. Additionally, CH&PA violated the statute that gives it power



and places limits on its powers. Exemplary damages should be granted to dissuade future breaches of the law. The CCJ has determined that an object of the award of damages is to punish for inflicting harm. Trinidad Cement Limited, TCL Guyana Incorporated v The State of the Co-Operative Republic of Guyana, GY 2009 CCJ 10.

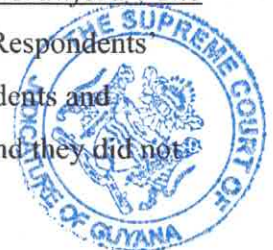
This object it states:

*can be achieved by awarding, in addition to the normal compensatory damages, damages which are variously called exemplary damages, punitive damages, vindictive damages or even retributory damages, and comes into play whenever the Defendant's conduct is sufficiently outrageous to merit punishment, as where it discloses malice, fraud, cruelty, insolence or the like.*  
Trinidad Cement Limited, supra.

66. Respondents' conduct in this case is fraudulent. CH&PA falsely claims that GUYSUCO is the holder of title of Cane when it was not. GUYSUCO enabled the fraud by endorsing the falsehood of CH&PA when it knew it was not the holder of paper title. It claimed to have authority over Cane View when it did not. This constitutes the most flagrant violation of the law that affects an entire community.
67. The conduct complained of is cruel and riddled with insolence. It is conduct that can only be described as oppressive and calamitous. The CCJ has held that exemplary damages should be granted when conduct is oppressive, arbitrary, or calamitous. Florencio Marin Jose Coye Appellants v Attorney General of Belize, [2011] CCJ 9 A.J.
68. Exemplary damages award is made when public authorities act in a high-handed way in making decisions or taking actions that impact private rights. Dail Crawford v The Public Service Commission of St. Kitts and Nevis, KN 2020 HC 35. Respondents conduct in this case is high-handed. The applicants wrote the respondents and provided them an opportunity to correct the wrongs complained of and they did not even acknowledge the correspondence.

#### CONCLUSION

69. Respondents acted in excess of authority and without authority they demolished homes at Cane View on January 5, 2023. In the process they violated the Constitutional rights of the applicants as set forth in the fixed date application. In the circumstance, the court should grant the orders and awards prayed for in the Fixed






Date Application 2023-HC-DEM-CIV-FDA-1340, all of which are respectfully submitted.

Dated: March 19, 2024

Respectfully submitted:

  
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