

**IN THE CARIBBEAN COURT OF JUSTICE  
Appellate Jurisdiction**

**ON APPEAL FROM THE COURT OF APPEAL OF BELIZE**

**CCJ Application No. BZCV2017/001  
BZ Civil Appeal No. 4 of 2015**

**BETWEEN**

**THE BELIZE BANK LIMITED**

**APPLICANT**

**AND**

**THE ATTORNEY GENERAL OF BELIZE**

**RESPONDENT**

**Before The Right Honourable  
and The Honourables**

**Sir Dennis Byron, President  
Mr Justice Saunders  
Mr Justice Wit  
Mr Justice Hayton  
Mme Justice Rajnauth-Lee**

**Appearances**

**Mr Eamon H Courtenay, SC and Ms Angeline Welsh for the Applicant**

**Dr Ben Juratowitch, QC, Mr Nigel Hawke and Ms Agassi Finnegan for the  
Respondent**

**JUDGMENT**

**of**

**The Right Honourable Sir Dennis Byron, President, and The Honourable  
Justices Saunders, Wit, Hayton and Rajnauth-Lee**

**Delivered by**

**The Honourable Mr Justice Hayton  
on the 1<sup>st</sup> day of June, 2018**

## **Introduction**

[1] On 14<sup>th</sup> March 2018, this Court heard three applications concerning the following order that it had made on 22<sup>nd</sup> November 2017<sup>1</sup> in favour of the Applicant, The Belize Bank Ltd. Pursuant to ss 13 and 28 of the Arbitration Act, Cap 125, this Court made the Order, “The Applicant is at liberty to enforce the London Court of International Arbitration Award dated 15<sup>th</sup> day of January, 2013, in the amount of BZ\$36,895,509.46 (as at the 7<sup>th</sup> day of September, 2012) plus interest at 17% compounded monthly from the 8<sup>th</sup> day of September, 2012 until the date of payment plus costs of £536,817.71 in the same manner as a judgment or order of the Supreme Court of Belize to the same effect.”

[2] This Order enabled Belize Bank Ltd (“the Bank”) to have the Court’s Registrar on 3<sup>rd</sup> January 2018 issue a Certificate as to the amount of such judgment liability as the first step in having the judgment enforced under s 25 of the Crown Proceedings Act, Cap 167, which states as follows:

“25.-(1) Where in any civil proceedings by or against the Crown or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person, at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order,

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs, if any, ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the head of the authorized Government department or the officer concerned, or the Attorney General, as the case may be.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his

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<sup>1</sup> *The Belize Bank Ltd v The Attorney General of Belize* [2017] CCJ 18 (AJ).

attorney-at-law the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued, may order any such directions to be inserted therein.

(4) Except as aforesaid, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Crown of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Government department, or any officer of the Crown as such, of any such money or costs.”

- [3] We heard the application filed by the Attorney General on 23<sup>rd</sup> January 2018, seeking to reduce the rate of interest post-judgment to the overlooked statutory 6% simple interest for such interest. We gave judgment<sup>2</sup> acceding to the application and the Registrar issued a revised s 25 Certificate to reflect this.
- [4] We also heard the application filed by the Bank on 4<sup>th</sup> January 2018 (a day after the Registrar’s issue of the original s 25 Certificate), seeking (i) a declaration that in failing to satisfy the above Award the Minister of Finance has failed to comply with the Court’s above Order and (ii) an order directing the Honourable Dean Barrow, Minister of Finance, to pay the amount due under the judgment within ten working days of the order. This involved consideration of the Attorney General’s application of 26<sup>th</sup> January 2018 disputing enforcement by this Court of its above Order.
- [5] It is to be noted, however, that the above Order did not order the Minister of Finance to satisfy the above Award or to pay the amount due under the judgment. It just gave the Bank liberty to enforce the Award as if it were a judgment of the Supreme Court of Belize.
- [6] Pursuant to such liberty to enforce the Award as a judgment, the Bank applied for and obtained the s 25 Certificate from the Registrar and served it on the Minister of Finance and the Financial Secretary as head and senior officer

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<sup>2</sup> *The Attorney General of Belize v The Belize Bank Ltd* [2018] CCJ 4 (AJ).

respectively of the Ministry of Finance, which is the appropriate Government department. It is, however, accepted that monies payable under s 25 are not charges on the Consolidated Revenue Fund and so need legislative approval in a General Appropriation Act or, if not so budgeted for, in a Supplementary Appropriation Act. Nevertheless, in the current circumstances where the Government of Belize (“GOB”) has a clear parliamentary majority, so that the Executive is in control of the Legislature, one might assume that it ought to be a mere formality to pass the legislation required to cover payment of the monies due to the Bank, especially if the confidence of international investors is to be maintained.

[7] The Bank, however, pointed out that the debt was a huge one and one that the Opposition had incurred when in power. The Bank alleged that the GOB, instead of “whipping in” its members to vote on an Appropriation Bill to cover the debt, would ensure that its Bill would not be passed by the device of allowing its party members in the House of Representatives to have a free “conscience” vote, enabling them to consider the implications for Belize of satisfying such a huge debt. While we could understand these fears, courts have to presume (in the absence of evidence to the contrary) that Governments will act in proper fashion to accord due respect to judgments of the courts and not deprive successful litigants of the fruits of their litigation against Governments. Thus, the Bank’s application was premature: one has to wait and see what actually transpires.

[8] Furthermore, it was not appropriate to make this application to this Court, so that if it transpires that the Bank’s worst fears materialise and GOB enacts no legislation for payment of the monies it owes, the Bank needs to approach the Supreme Court for a declaration that the Minister of Finance has failed to comply with his obligations under s 25 of the Crown Proceedings Act and an order that the Minister of Finance pay the amount due under the Registrar’s Certificate. Such claims, perhaps involving a lack of *bona fides*, may require cross-examination of witnesses as appropriate for a court of first instance, while some fundamental issues affecting Belizean society and the rule of law arise

that will need input from the Belizean courts before a fully informed consideration in this final appellate court.

- [9] It is to be noted that in this Court's order of 22<sup>nd</sup> November 2017, no liberty to apply was granted, though there is, of course, implied liberty to apply as to queries as to the effect or intent of an order, as in the case here of the overlooked rate of interest for judgment debts. Once, however, an order of this Court is clear or has been clarified, the actual enforcement of the order made in the appellate jurisdiction is an issue exclusively for the domestic first instance courts' jurisdiction, subject to any appeals therefrom.
- [10] The Bank's application is dismissed as sought by the Attorney-General's application of 26<sup>th</sup> January 2018. The Bank is to pay the Attorney General's costs, to be taxed if not agreed.

*/s/ CMD Byron*

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**The Rt Hon Sir Dennis Byron, President**

*/s/ A Saunders*

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**The Hon Mr Justice A Saunders**

*/s/ J Wit*

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**The Hon Mr Justice J Wit**

*/s/ D Hayton*

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**The Hon Mr Justice D Hayton**

*/s/ M. Rajnauth-Lee*

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**The Hon Mme Justice M Rajnauth-Lee**