

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO: ANUHCV2010/0276

BETWEEN:

JEROME JENKINS

Appellant

and

ARCHITECTS' REGISTRATION BOARD

Respondents

Appearances:

Dr. D. Dorsett for the Appellant
Ms. A. Aska for the Respondent

2014: April 27
 May 2

JUDGMENT

[1] **Cottle, J.:** The appellant applied for registration as an Architect in Antigua and Barbuda. The respondent refused to register him. The appellant was displeased and appeals to this court against the decision of the respondent board.

The Legislation

[2] The relevant sections of the Architects (Registration) Act Chapter 5:34 provides as follows:-

"5.

(1) Every person is entitled to be registered as an architect under this section if on application made to the Board he satisfies the Board that-

- (a) He is qualified to be so registered; and
 - (b) He is a fit and proper person to practice architecture in Antigua and Barbuda; and
 - (c) He is domiciled and resident in Antigua and Barbuda and is the holder of a work permit if required.
- (2) For the purposes of subsection (1) (a) a person is qualified to be registered as an architect if-
- (a) he has been awarded a degree, diploma, or other qualification in architecture, granted by a university or school of architecture, that in the opinion of the Board is evidence of satisfactory training in architecture; or
 - (b) he is registered as an architect by a board, council, or institute in a country other than Antigua and Barbuda, provided that in the opinion of the Board such overseas body upholds satisfactory standards of architecture; and
 - (c) he has had not less than 3 years of such practical experience in architecture as the Board approves; and
 - (d) at least one of the three years of practical experience-
 - i. in the case of persons who otherwise qualified for registration before the commencement of this Act, was acquired in Antigua and Barbuda;
 - ii. in the case of persons who otherwise qualified for registration after the commencement of this Act, was acquired under the direct supervision of an architect duly registered in Antigua and Barbuda.
- (3) An application for registration shall be made to the Secretary of the Board in the form approved by the Board.
- (4) An applicant for registration shall furnish to the Secretary of the Board-
- (a) evidence of his qualifications and experiences.
 - (b) proof of his identity; and
 - (c) such further and other information as the Board requires in respect of the matters referred to in subsections (1) and (2)."

"7. In determining whether a person satisfies the requirements of section 5 or 6, the Board may conduct such investigation relating to the experience in architecture of such person as it considers necessary and may require such person to undergo a written or oral examination or both written

and oral examination in architecture including draughtsmanship, design, detailing, basic engineering, specification, and professional practice.”

- [3] The facts in this matter are not in dispute. The applicant is the holder of a Diploma and Bachelor's degree from the University of Technology in Jamaica. His undergraduate degree is a Bachelor of Arts in Architectural Studies (BAAS). It is common ground that the applicant possesses all the requirements entitling him to be registered as an architect if he is able to satisfy the Board that his degree is evidence of satisfactory training in Architecture. This is the single point of contention in this matter. The Board does not consider the Bachelor of Arts in Architectural Studies awarded by the University of Technology in Jamaica to be satisfactory evidence of training in architecture. The appellant clearly is of the contrary opinion.
- [4] Counsel for the appellant submits that the Board must act within the confines of the legislative framework. They must act reasonably and not in an idiosyncratic manner. Dr. Dorsett submits that the public record reveals that there are persons who do not have professional degrees who are registered as Architects. Some persons do not even have degrees, just diplomas. It would be unreasonable to hold the appellant to a higher standard than has been hitherto applied. The appellant was permitted by this court to adduce additional evidence. He testified that he knows of Mr. Mitch Stewart who is registered as an architect despite possessing only a diploma. He also referred to Mr. Ellery Farrell who is also registered. His academic qualification is a Bachelors degree in Architectural Technology. The applicant explained that this is a degree in technology and not in architectural design. The appellant was unable to say what were the contents of the academic curricula pursued by these named individuals. He did not say what courses of study were involved in his own undergraduate program. These are matters which the Board would have taken into account in deciding whether the qualifications prescribed by any particular applicant for registration provided them with satisfactory evidence of the level of training in architecture that the Board required for registration. Additionally, it is by no means clear that these persons referred to by the appellant did not qualify for registration under section 5(2)(b) or indeed under section 6 which I reproduce here:-

"6. Notwithstanding section 5, any person who does not possess the qualifications specified in that section but who, on application made to the Board within 6 months of the commencement of this Act, satisfies the Board that-

(a) He is a fit and proper person to be registered as an architect; and

(b) He has had before the commencement of this Act not less than 10 years of the practice of architecture in a responsible position under an architect with qualifications as described in section 5, is entitled to be registered as an architect."

[5] In short the comparisons were not helpful to this court in deciding whether the refusal of the Board to register the appellant was unreasonable.

[6] The legislature has given the Board a discretion to exercise. This court will only interfere in the exercise of that discretion for demonstrated reasons of illegality, irrationality or other procedural impropriety.

[7] In considering the application of the appellant for registration, the Board investigated the level of training evidenced by his Bachelor's degree. They looked at the website of the school in question. This revealed that the Bachelor of Arts in Architectural Studies degree is a general one which equipped the appellant to assist an architect in analyzing and solving architectural problems and to have a good grasp of office practice. The Board went further and contacted the school which confirmed that the Bachelor of Arts in Architectural Studies was not a professional degree. The school offered a Masters in Architecture degree which equipped holders of such a degree to enter an architectural office as an intern. After successful completion of the internship period the graduate would then be eligible for registration as an Architect. It was on this basis that the Board wrote to the appellant explaining that his Bachelor of Arts in Architectural Studies degree did not satisfy them that he had sufficient training in Architecture to merit registration.

[8] Dr. Dorsett submitted that in proceeding in this fashion the Board has gone outside of the remit provided by section 7 of the Act. Dr. Dorsett argued that this section permitted the Board to carry out further investigation only if the Board had concerns about the experience of an applicant. If there were concerns about the training an applicant had undergone, the Board is restricted to

requiring the applicant for registration to undergo a written or oral examination (or both written and oral) in architecture. As I understand the submission, it is impermissible for the Board to investigate if they had any questions as to the training in architecture evidenced by the award of a degree, diploma or other qualification to an applicant for registration.

- [9] With respect to counsel for the appellant, there is no basis in restricting the right of the Board to carry out investigations in order to satisfy itself of the level of training in architecture that is evidenced by any academic qualification put forward by an applicant. It cannot be that a board is restricted to requiring an application to undergo examination rather than ask the alma mater of the applicant about the contents of the course of study that led to the academic award.
- [10] In the present case, I find no grounds for saying that the Board was unreasonable in trying to ascertain what training in architecture is evidenced by the award of a Bachelor of Arts in Architectural Studies from the University of Technology in Jamaica.
- [11] The appellant is also the holder of a Caricom Skills Certificate. This enables him to pursue his craft throughout the states and territories that make up Caricom. Antigua and Barbuda is a member state of Caricom. Dr. Dorsett says that this is evidence that the Respondent Board is acting unreasonably in refusing registration. Again, this shows the danger of comparing apples to oranges. The training of the applicant equips him to assist an architect. He can do so in any Caricom territory or state. The possession of such a certificate does not by itself say that the holder is entitled to be registered as an architect.
- [12] The question of the eligibility of applicants to be registered as architects in Antigua and Barbuda has been considered by these courts before. In ANUHCV 2006/0256 **Edmond Blaize et al v Architects Registration Board**, the applications of three individuals were looked at. The evidence of the academic qualifications of the applicants in that matter bears repeating. Mr. Blaize held Bachelor of Architecture and Bachelor of Science degrees from the New York Institute of Technology. Ms. Edwards held a Bachelor of Architecture degree from the University of Miami. It is worth noting that both these applicants held undergraduate degrees in Architecture. Mr. James, like the present applicant held a Bachelor of Arts degree in Architectural Studies from the

University of Technology in Jamaica. He clearly did not consider this to be sufficient in terms of training in architecture and went on to attain a Master of Architecture degree from the Illinois Institute of Technology before seeking registration as an Architect in Antigua and Barbuda.

[13] Against this factual background it is clear to this court that the position adopted by the Board in refusing to register the appellant as an architect was not unreasonable. The Board carefully considered the application of the appellant. They were not satisfied as to his training as evidenced by his academic credentials. This is stated in their letter to the applicant in which they detailed the reasons for their lack of satisfaction.

[14] I reproduce the operative paragraphs:-

“Notwithstanding that you hold a Bachelor of Arts in Architectural Studies (BAAS) from the University of Technology, Jamaica the Board is of the opinion that you are not qualified to so register pursuant to section 5 (1) (a) & 5 (2) (a) of the said Act as your degree is not sufficient evidence of satisfactory training in Architecture.

The Board also asserts that your current degree is not a professional degree and is therefore not acceptable as a satisfactory degree to warrant registration under the Act. We have been advised by the said University of Technology, Jamaica that your degree does not qualify you for the practice as an Architect but rather is a degree in Architectural study which will only enable you to assist an Architect in analyzing and solving architectural problems, and to have a good grasp of office practice.”

[15] For the foregoing reasons the appeal is dismissed. I make no order as to costs as I view this matter to be akin to an application for judicial review in which no order as to costs is usually made.

Brian Cottle
High Court Judge