

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

ON APPEAL FROM THE COURT OF APPEAL OF BELIZE

**CCJ Appeal No BZCV2011/002
BZ Civil Appeal Nos 31 of 2010**

BETWEEN

DEAN BOYCE

APPELLANT

AND

**THE ATTORNEY GENERAL OF BELIZE
THE MINISTER OF PUBLIC UTILITIES**

**1ST RESPONDENT
2ND RESPONDENT**

**CCJ Appeal No BZCV2014/005
BZ Civil Appeal No 19 of 2012**

BETWEEN

**DEAN BOYCE
TRUSTEES OF THE BTL EMPLOYEES TRUST
DUNKELD INTERNATIONAL
INVESTMENT LIMITED**

APPELLANTS

AND

**THE ATTORNEY GENERAL OF BELIZE
THE MINISTER OF PUBLIC UTILITIES**

RESPONDENTS

**CCJ Appeal No BZCV2014/008
BZ Civil Appeal Nos 18 and 19 of 2012**

BETWEEN

**THE ATTORNEY GENERAL OF BELIZE
THE MINISTER OF PUBLIC UTILITIES**

**1ST APPELLANT
2ND APPELLANT**

AND

**DEAN BOYCE
THE TRUSTEES OF THE BTL
EMPLOYEES TRUST**

**1ST RESPONDENT
2ND RESPONDENT**

AND

SUNSHINE HOLDINGS LTD.

Applicant/Proposed Intervenor

**Before The Rt Honourable
and The Honourables**

**Sir Dennis Byron, President
Mr Justice Saunders
Mr Justice Wit
Mr Justice Hayton
Mr Justice Anderson**

REASONS FOR DECISION

of

**The Right Honourable Sir Dennis Byron, and
The Honourable Justices Saunders, Wit,
Hayton and Anderson**

Delivered by

**The Honourable Mr Justice Hayton
on the 16th day of October 2017**

Ruling

- [1] On 28 September 2017 the Applicant, Sunshine Holdings Ltd (Sunshine), applied for an order to “be permitted to intervene and be added as an Interested Party in this Consolidated Appeal.” Sunshine further sought a declaration that it was entitled to receive compensation from the Government of Belize (GOB) for the compulsory acquisition of Sunshine’s shares in Belize Telemedia Ltd (BTL) and an order that GOB pay the compensation to Sunshine. This would affect calculation of compensation payable by GOB under terms of a Settlement Agreement of 11 September 2015 (the Settlement) made between GOB, Dunkeld International Investment Ltd (Dunkeld) and the Trustees of the BTL Employees Trust (the Trust). GOB, as the owner of Sunshine after its controversial acquisition, did not object to this, but Dunkeld and the Trust strenuously objected in an affidavit sworn by Dean Boyce, a trustee of the Trust.
- [2] In the case of the Appellate Jurisdiction of this Court as opposed to the Original Jurisdiction there is no scope for interventions as such, only scope to be added as a party but for such an application to succeed it has to reach a high threshold of being necessary

to avoid serious injustice.¹ This application comes nowhere near such threshold and so is refused, the Applicant to pay the other parties' costs, to be taxed if not agreed.

[3] On 19 October 2017 this Court is to construe the terms of the Settlement (embodied in the Telecommunications Acquisition Settlement Act No 14 of 2015). The Settlement was made between GOB, Dunkeld and the Trust finally to resolve all issues between the parties concerning compensation for the compulsory acquisition of shares in Belize Telemedia Ltd and associated securities and companies. These companies included Sunshine that was wholly owned by the Trust, which thereby was interested in the BTL shares owned by Sunshine, such being taken account of in valuing the Trust's ownership of Sunshine.

[4] Sunshine was not a party to the Settlement (which was, indeed, agreed to by GOB that wholly owned Sunshine after its compulsory acquisition). Thus, its rights cannot be affected by the outcome of the construction hearing. Indeed, it is far too late for it to intervene to attempt to vary the meaning of the terms of the Settlement for calculation of compensation at the stage when the terms have been finalised and it is only when coming to enforce those terms that the court is called upon to construe them. Of course, it remains open to GOB, in its capacity as party to the Settlement, to raise whatever relevant submissions it sees fit at the hearing on 19 October 2017.

/s/ CMD Byron
The Rt. Hon Sir Denis Byron, President

/s/ A. Saunders
The Hon Mr Justice A Saunders

/s/ J. Wit
The Hon Mr Justice J Wit

/s/ D. Hayton
The Hon Mr Justice D Hayton

/s/ W. Anderson
The Hon Mr Justice W Anderson

¹ *Sheermohamed v SA Nabi and Sons Ltd* [2011] CCJ 7 (AJ), (2011) 78 WIR 364, [36]; *Pharsalus Inc v Commissioner of the Geology and Mines Commission* [2013] CCJ 10 (AJ), (2013) 83 WIR 401, [35].