

IN THE SENIOR COURTS OF BELIZE

IN THE HIGH COURT OF BELIZE

CLAIM No.25 OF 2024

BETWEEN:

[1] IN THE MATTER OF THE FREEHOLD LAND BEING
LOT CARIBBEAN SHORES/ BELIZE REGISTRATION
SECTION – BLOCK 16 – PARCEL 1116

AND

[1] IN THE MATTER OF THE FREEHOLD LAND BEING LOT
ORANGE WALK REGISTRATION SECTION – BLOCK 4 –
PARCEL 1913

AND

[2] IN THE MATTER OF SECTION 22 OF THE LAW OF
PROPERTY ACT CHAPTER 190 OF THE LAWS OF
BELIZE, REVISED EDITION 2000

Appearance:

Mr. Arthur Saldivar for the Applicant

2024: May 14

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DECISION

Sale of minor's property – Consent of court – Section 22, Law of Property Act (Cap 190), revised edition 2000 – Part 23 of the Civil Procedure Rules

[1] **Mansoor J:** This is an application for permission to sell two parcels of land belonging to a minor, Meng Haun Cheng. The applicant, Nan Liu Cheng, is the minor's mother. The application is made in view of the restriction in section 22 of the Law of Property Act (Cap190), revised edition 2000, and is supported by an affidavit given by Nan Cheng. The application refers to rule 66.4 of the Civil Procedure Rules

(CPR), which does not seem to apply to this proceeding. The application does not refer to any other provision of law.

- [2] The properties to be sold are identified as parcel 1116 – block 16 – Caribbean Shores/ Belize Registration Section situate along Applestar Avenue, Coral Grove, Belize City and parcel 1913 – block 4 – Orange Walk Registration Section.
- [3] In her supporting affidavit, the applicant, Nan Cheng says that her son is 11 years of age and that he is the beneficial owner of the properties sought to be sold. She states that she paid less than a hundred thousand dollars for both properties.
- [4] The applicant states that part of the income derived from the sale of the properties will be utilized to purchase properties of even greater value. The balance sum of the proceeds would be deposited in the minor's bank account.
- [5] The applicant states that there are offers to purchase the two properties at BZ\$ 525,000.00 and BZ\$ 48,000.00 respectively. She deposes that the properties are free of debt to any bank. The applicant's affidavit exhibits a draft purchase agreement bearing the names of the minor and the proposed buyer, the land certificates and valuation reports of the properties and the minor's birth certificate.
- [6] The land certificates show the minor as the registered proprietor of the lands. Nan Cheng, the applicant, and Chueh Cheng are shown as the parents in the minor's birth certificate, which gives the date of birth as 13 September 2012. On the day the application was supported, the minor's parents were in attendance virtually.
- [7] Section 22 of the Law of Property Act states that all estates, rights and interests in land belonging to and vested in an infant shall be incapable of being sold, disposed of, charged or transferred by him or the guardian of his estate, except with the previous sanction of the court.
- [8] The applicant's counsel did not refer the court to any provision that defines an infant or minor. The Families & Children Act (Cap 173) defines a "child" as a person below the age of eighteen years. The Interpretation Act (Cap 1) defines an adult to mean any person who has attained the age of eighteen years. Meng Haun Cheng is clearly an infant or a minor, with his date of birth given as 13 September 2012. He will turn 12 in September this year. The terms 'infant' and 'minor' appear to be used interchangeably in the Belize laws. The civil procedure rules use the term 'minor'. The term contained in the application is 'minor', which will be followed in this decision.
- [9] Civil procedure rules concerning minors are dealt with by part 23 of the CPR. Rule 23.4 states who may be a minor's next friend. The court may appoint a next friend with or without an application. The rule states that a person who satisfies the conditions set out in rule 23.6 may act as a minor's next friend without a court order subject to the court's power to make orders. The applicant does not state that she has been appointed a next friend.

- [10] Rule 23.6 states that a person may act as a next friend if that person can fairly and competently conduct proceedings on behalf of the minor and has no interest adverse to that of the minor. The court is satisfied that the applicant meets the requirements of rule 23.6 of the CPR.
- [11] The applicant's counsel referred to a decision of the Indian Supreme Court – **Saroj v Sundar Singh**¹ – which is not of assistance. In that case, the Supreme Court of India set aside the sale of properties belonging to minors and upheld a particular statutory provision that disposal could not have been made without the permission of court. The issue in this application is whether the court's consent to sell the properties should be granted under the provisions of law in this country and in light of the matters disclosed by the applicant.
- [12] The Families & Children Act states that parental authority includes the rights, powers and duties which a guardian of the child's estate would have had in relation to the child and his property. Parental responsibility is defined to mean all duties, responsibilities and authority which by law a parent of a child has under this Act in relation to the child. The definitions of the statute appear to be sufficiently broad to cover decisions by a parent concerning a minor's property for the welfare of that minor.
- [13] The applicant's application is for the sale of properties as the minor's guardian. The disposal of the properties is said to be for the purpose of investing in other properties at an enhanced value for the minor's benefit. The sale of a minor's property by a guardian for the purpose of converting it to cash or other assets can be accepted by court as a reasonable decision to benefit the minor, although in this case the court has not seen evidence of the properties to be purchased.
- [14] The court has an inherent duty to protect the property of a minor. Therefore, it is necessary that court is satisfied that the proposed transactions are in the interest of the minor. The court accepts the reason given by the minor's guardian for selling the properties. It is intended for the benefit of the minor, and the sale is to be handled by his mother, with approval from the father who made an appearance virtually when the application was supported.
- [15] Nevertheless, the court must ensure that the sales proceeds are used exclusively in the minor's interest. The orders made by the court are to ensure that the sales proceeds are utilised for the purpose of buying other properties for the minor, and to avoid a co-mingling of the sales proceeds with funds belonging to any other person.

ORDER

- A. The application to sell the following properties vested in the minor is allowed subject to the directions stated below:

¹ AIRONLINE 2013 SC 177, 2013 (15) SCC 727

- I. Parcel 1116 – block 16 – Caribbean Shores/ Belize Registration Section situate along Applestar Avenue, Coral Grove, Belize City. The property is to be sold for a sum not less than BZ\$ 525,000.00.
 - II. Parcel 1913 – block 4 – Orange Walk Registration Section. The property is to be sold for a sum not less than BZ\$ 48,000.00.
- B. The sales proceeds of the minor's properties are to be utilised to purchase a new property or properties in the name of the minor, Meng Haun Cheng.
 - C. In the event a property is not immediately purchased in favour of the minor, the sales proceeds are to be deposited in a bank account in favour of the minor.
 - D. Any balance in the sales proceeds after the purchase of the properties is to be deposited in a bank account in favour of the minor.
 - E. The applicant is to furnish to court copies of:
 - I. The instrument(s) of sale pertaining to the properties sought to be disposed;
 - II. The instrument by which properties have been purchased in the name of the minor out of the sales proceeds and relevant valuation reports.
 - III. Bank account details evidencing deposit of funds in favour of the minor.
 - F. The minor's bank account details are to be furnished to the registrar within 14 days of this decision.
 - G. The applicant is to report to court on 24 July 2024, and may apply generally prior to that date.

M. Javed Mansoor

Judge