

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

SAINT LUCIA

Case Number: SLUHCV2024/0345

IN THE MATTER of a claim for contravention of
Section 6 of the Constitution of Saint Lucia, Cap.
1.01 of the Revised Laws

-and-

IN THE MATTER of an application under section
16 of the Constitution and CPR Part 56 for an
Administrative Order.

BETWEEN:

JOAN MARQUIS

Claimant

-and-

THE ATTORNEY GENERAL OF SAINT LUCIA

Defendant

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Mr. Thaddeus M. Antoine and Mr. Kenroy D. Justin for the Claimant
Mrs. Antonia Charlemagne and Mrs. Nichola George – Benjamin for the
Defendant.

2025: February 18 – Trial
March 17, 18 – Primary Submissions
April 14, 15 – Reply Submissions
May 27 – Decision
June 04 – Re – Issued Decision

JUDGMENT

[1] **PARIAGSINGH, J:** - Before the Court is the Claimant's claim for redress for the breach of her constitutional rights. In particular, the claim concerns an alleged violation of section 6 of the Constitution of Saint Lucia¹.

¹ Chapter 1:01 of the Revised Laws of Saint Lucia (the Constitution)

- [2] The Claimant also seeks such declarations and orders as the Court considers just and appropriate for the purpose of enforcing payment of compensation by the Government of Saint Lucia, arising from the compulsory acquisition of a parcel of land formerly owned by her.

The Claimant's evidence in support:

- [3] The material facts are largely not in dispute. The Claimant was the registered proprietor of a parcel of land described as Parcel 0850B 3, measuring 6,204 square feet and improved by a two-storey building comprising 2,160 square feet of floor space. This property was compulsorily acquired for a public purpose, specifically, the extension of the Castries–Gros Islet Highway, in 2006.
- [4] A Board of Assessment was convened pursuant to the **Land Acquisition Act**² (LAA), and issued its decision on 31st January 2015, over a decade ago. That decision was appealed to the Court of Appeal in the case of **Joan Marquis and Brands Inc v The Honourable Attorney General of Saint Lucia**³. The appeal was dismissed on 21st September 2018. Paragraph 12 of the Court of Appeal's judgment provides as follows:
- 1) Value of the land and building assessed at \$610,470.00, with interest at 6% per annum from 10th April 2006 to the date of payment;
 - 2) Compensation for disturbance, comprising loan interest accrued on the sum of \$425,000.00 from 11th October 2002 to the date of payment;
 - 3) Legal costs to be assessed by the Registrar of the High Court, if not otherwise agreed⁴.

² Cap. 5:04 of the Revised Laws of Saint Lucia (LAA)

³ SLUHCVP2015/0006

⁴ In making comments on the Draft Judgment Counsel for the Claimant asked that this sum be determined. The Court declined to resolve this outstanding issue as it is of the view that the Claimant has to file a Bill of Costs for taxation before the Registrar as ordered by the Court of Appeal.

- [5] In addition to the compensation awarded by the Board, the Claimant now seeks to recover further sums in respect of rent incurred because of her displacement, along with general damages and vindictory damages.
- [6] The essence of the Claimant's case is that the Government's failure to promptly pay the full compensation awarded has caused her significant loss and hardship, for which she ought to be compensated.
- [7] She contends that following the acquisition, the Government relocated her to rented premises for one year on the understanding that this was a temporary arrangement pending payment of compensation. Thereafter, from 2007, she became liable for the rent herself. As at the date of filing her claim, the accumulated rent allegedly totaled \$897,600.00, which she now seeks to recover.
- [8] The Claimant argues that the State's willful and prolonged delay in paying the compensation amounts to a breach of her right under section 6 of the Constitution, which entitles her to prompt payment in the absence of reasonable excuse or justification. She alleges that the extended delay reflects conduct that is oppressive, arbitrary, and unconstitutional on the part of State officials.
- [9] In support of her claim for vindictory damages, the Claimant highlights the fact that, despite failing to pay the compensation due, the State initiated proceedings against her for illegal occupation from the premises. She also relies on a letter dated 16th October 2023, sent by the Permanent Secretary in the Ministry of Infrastructure, Ports, Transport, Physical Development and Urban Renewal, in which it was wrongly asserted that the Government's liability was limited to \$133,159.71. She contends that this misstatement, along with unfulfilled assurances that the matter would be resolved amicably, compounds the injustice she has suffered.
- [10] The Claimant accepts that the Defendant is entitled to set off two sums: (i) \$88,000.00 paid on account; and (ii) \$561,220.00 awarded by the High Court in matters SLUHCV2008/0893 and SLUHCV2009/0398 as reimbursement to the State for rental sums previously paid on her behalf.

- [11] Nevertheless, she maintains that the State bears sole responsibility for the delay and that, throughout the period, she has continued to engage with the authorities in good faith, enduring distress and suffering as a result.
- [12] In her affidavit, she asserts that she has no alternative means of redress for the violation of her constitutional rights and that there is no prescribed time limit for making such a claim. She denies having been guilty of any unreasonable delay in filing this claim.
- [13] She deposes that, both prior to and following the acquisition, she actively pursued her rights, including during public consultations, and that she made repeated appeals for assistance from four successive Prime Ministers without resolution.
- [14] She also refers to a request she made for an advance of \$100,000.00 to ease her financial difficulties, which was not entertained. She describes herself as a victim of arbitrary and unconstitutional conduct by State officials. Eighteen years have elapsed since her land was acquired, and she says this inordinate delay has been worsened by broken promises and oppressive treatment by public officers.
- [15] The Court found the Claimant was consistent in maintaining that the property was acquired in 2006 and that she never received the compensation awarded by the Board of Assessment. She candidly accepted that she had not received formal written explanations from the Government about the non-payment and agreed that she was largely waiting passively, expecting that the matter would be resolved. She confirmed that part-payments totalling \$88,000.00 had been made prior to the Board's award. While she was forthright about the impact of the delay on her business and health, the Court noted some vagueness in her recollection of who she engaged to assist her over the years and what precise steps were taken. Generally, the Court accepted her as a witness of the truth.

Evidence of Mr. Peter Edmunds:

[16] Mr. Edmunds gave evidence on behalf of the Claimant. He is a Financial Consultant by profession and was formerly the Corporate Relationship Manager at Barclays Bank PLC in Castries, until his transfer to the Turks and Caicos Islands in January 2003.

[17] His evidence is that from 1st January 1998 to 31st December 2002, he worked alongside Mr. Peter Floissac at Barclays and FCIB. Mr. Floissac served as Credit Manager and was responsible for ensuring that the Bank's security was perfected before the disbursement of funds, and for the collection of delinquent loans.

[18] Mr. Edmunds explained that loan interest becomes compounded when the interest liability for a particular period is added to the principal, such that interest is subsequently calculated on both the principal and the accumulated interest. He deposed as follows:

“Generally speaking, in most commercial loans, when instalment payments are made on time, interest is calculated on the reducing balance, which does not include interest, and is said to be simple interest applied to the reducing balance. However, when a scheduled payment is not made on time, the interest due for that payment period is added to the balance, so that subsequent interest liability is calculated on interest, thereby compounding it.”

[19] He accepts that the hypothec over the acquired property, unlike another exhibited by the Claimant, does not expressly state whether interest is to be compounded. He explains this by reference to general banking practices, which treat loans as subject to compound interest once they become delinquent.

Evidence of Mr. Peter Floissac:

[20] Mr. Floissac's evidence was on the issue of interest. He was an employee of Barclays Bank from 1982 until his employment with its successor ended in 2007. He deposes that he knew the Claimant in the course of his work and at the time her accounts became delinquent, when he was responsible for collections.

[21] His evidence is that the loan granted to the Claimant was granted at 12% compounded interest. He deposed that he knew that at that time all mortgage loans, business loans and overdraft facilities were granted on a compound interest rate basis.

[22] Under cross-examination, Mr. Floissac was asked whether he had any direct knowledge of the terms actually enforced by the bank after default, or whether there was any evidence of continuing compound liability. He acknowledged that he had not reviewed any updated loan statements or obtained confirmation from the bank as to whether the Claimant continued to owe compound interest.

[23] The Court finds that while Mr. Floissac was professional and sincere, his evidence lacked the independent foundation expected of accounting evidence in court. His reliance on assumptions and the absence of contemporaneous bank records will lead the Court to attach little weight to his calculations, especially where they go beyond the terms of the Board's express award.

The Defendant's Evidence in Opposition:

[24] In opposition, the Defendant relies on the affidavit of Ms. Suzette Lewis-Jean, the Permanent Secretary in the Department of Physical Development and Urban Renewal.

[25] Ms. Lewis-Jean begins by raising a preliminary point: that the Claimant's constitutional motion amounts to an abuse of process. The Defendant contends that the Claimant has an alternative remedy, namely, enforcement of the Board of Assessment's decision through the High Court.

[26] On the issue of delay, the Defendant asserts that there has been inordinate delay in filing the claim, which was brought just one month shy of six years after the decision of the Court of Appeal.

[27] The deponent states that following the Court of Appeal's ruling, several attorneys acting for the Claimant contacted her department not only seeking payment of compensation but also requesting that the Government waive certain amounts allegedly owed by the Claimant. Her evidence is that there was a dispute with the Claimant over the sums

payable to First Caribbean International Bank (Barbados) Limited (formerly CIBC Caribbean Bank Limited), under a hypothec and the interest thereon. The Claimant insisted that the sums should be paid directly to her, not the bank, which had been the Third Claimant before the Board of Assessment.

[28] Ms. Lewis-Jean contends that these requests caused significant delays in the payment process, as her department was required to convene multiple meetings with counsel to resolve the issues. One such meeting, specifically referenced, took place on 7th March 2024 and involved the deponent, the Deputy Permanent Secretary, a Financial Analyst, Counsel for the Defendant, and Sir Dennis Byron, who acted as an advisor to the Claimant. This meeting was followed by a letter dated 27th May 2024 addressed to the Minister directly, seeking payment in the amount of \$8,525,473.64.

[29] Just over two months later, another letter dated 5th August 2024 was sent by a different attorney, this time seeking payment in the sum of \$10,733,318.00.

[30] The deponent says that, to date, the parties remain in disagreement as to whom the amount owed to the bank (and the accruing interest) should be paid. The Claimant maintains that the sum is payable to her, while the Defendant insists it must be paid to the bank.

[31] The Defendant's position is that when the property was acquired, the hypothec was discharged and the property was registered in the name of the Crown, free of encumbrances. Consequently, the Government takes the view that the bank's security interest no longer subsists. As such, the Defendant maintains it is entitled to deduct the amount due to the bank from the property's assessed value and pay that amount directly to the bank.

[32] It is the Defendant's case that the principal sum of \$425,000.00 must be deducted from the property's assessed value of \$610,470.00. The Defendant denies that the interest payable is to be calculated on a compound basis. Instead, it has calculated simple interest to the date of the claim, amounting to \$1,183,013.70, a figure which differs significantly from the sum claimed by the Claimant.

[33] In relation to the Claimant's assertion that she is entitled to recover 20% legal costs on collectables, the Defendant states that no evidence has been presented in support of that claim. The Defendant also points to its decision to waive interest in matters SLUHCV2008/0393 and SLUHCV2009/0398 as a gesture of good faith.

[34] The deponent contends that all matters relating to compensation, including the rent which the Claimant now seeks to recover, ought to have been raised before the Board of Assessment. In any event, the Defendant says that the issue of rental was already addressed in the earlier consolidated proceedings, which were not determined in the Claimant's favour.

[35] The Defendant denies any suggestion of oppressive, arbitrary, or unconstitutional behaviour.

[36] Ms. Lewis-Jean was not cross-examined at the trial as she was unavailable on that day. The Claimant did not press for her to attend on another day to be cross examined and instead opted to waive her right to cross examine her given her desire to proceed with the trial. Her evidence therefore stands unchallenged and applying the general principle that untested affidavit evidence must be accepted unless it is plainly contradicted by contemporaneous documents or other incontrovertible evidence, the Court accepts most of Ms. Lewis-Jean's factual assertions. This includes the finding that the Crown engaged with the Claimant in good faith and that the delay arose not from willful inaction but from disputed calculations and procedural steps.

Evidence of Mr. Mario Lendor:

[37] Mr. Mario Lendor gave expert evidence on the application of the Defendant. He is a qualified accountant.

[38] Mr. Lendor's evidence centred on how the payments made by the Defendant towards the property's value and the applicable interest should be calculated and allocated. His calculations are based on the application of simple interest.

THE DEFENDANT'S APPLICATION TO STRIKE OUT:

[39] By application filed on 21st November 2024, the Defendant sought to strike out the Claimant's claim as an abuse of process, arguing that she had alternative remedies available. This application was opposed by the Claimant on grounds set out in a Notice of Opposition filed on 9th December 2024. At the case management hearing, the Court indicated that it was not minded to determine the application separately from the substantive claim and directed that the matter would be dealt with as part of a 'rolled up' hearing.

[40] I will proceed to give my decision on the Defendant's application first.

[41] From the outset, it is clear that the Claimant has brought a constitutional motion pursuant to section 16 of the Constitution, alleging a breach of her section 6 right not to be deprived of property without compensation. The remedies sought include enforcement of the award made by the Board of Assessment under the LAA. The Defendant's application rests on the premise that the claim constitutes an abuse of process, given that the Claimant allegedly has adequate alternative remedies under section 20 of the Crown Proceedings Act (CPA) or by referral to a new Board under section 11 of the LAA.

[42] The Claimant, for her part, maintains that she is entitled to pursue constitutional redress and, in any event, that the suggested alternatives are either unavailable or ineffective. She urged the Court to adopt the cautious approach advised by de la Bastide PCCJ in **Barbados Rediffusion Services Ltd v Mirchandani**⁵ where it was observed that:

"A judge considering an application to strike out must bear in mind that denying a party a hearing on the merits is an extreme measure not to be taken lightly."

[43] I have identified five issues arising for determination on the Defendant's application, which I will address separately:

⁵[2006] CCJ 1 (AJ) at [44]

Whether the Claim Constitutes an Abuse of Process Due to the Existence of Alternative Remedies?

[44] The Defendant relies on the principle established in **Harrikissoon v AG of Trinidad and Tobago**⁶, and followed in **Percival Sonson v AG of Saint Lucia**⁷ and **Timothy Abbott v AG of St Kitts & Nevis**⁸, that the constitutional jurisdiction should not be invoked where adequate alternative remedies exist. However, those authorities make clear that the question is one of discretion and not a strict bar.

[45] I do not read **Harrikissoon** or the other cases as requiring automatic rejection of a constitutional claim where another legal avenue is available. Rather, those decisions caution against using the constitutional process to circumvent settled procedures where no real constitutional issue is at stake. But the discretion given to the Court under section 16(2) is exactly that, a discretion. It does not erect a hard barrier to constitutional relief. Each case turns on its own facts, and the real question is whether the constitutional motion is being used in good faith to vindicate a constitutional right, or merely to avoid the proper legal process. That is a matter the Court must evaluate in context as the Privy Council made plain in **Attorney General of Trinidad and Tobago v Ramanoop**⁹:

[46] Similarly, in **Gairy v Attorney General of Grenada**¹⁰ it was stated that:

“[21] ... Had such a means of redress been shown to exist and to be adequate, the court could have declined to exercise its powers under section 16(2) of the constitution pursuant to the proviso to the subsection. But the court would not have been bound to decline. Since nearly five years had elapsed since the consent order of Moore J when Alleyne J gave judgment on this application, he could scarcely have thought it was the lack of a certificate issued under section 21(1) which was holding up payment, particularly when account was taken of the evidence and the fact that some payments had been made. It was moreover likely that if the appellant pursued his rights under section 21 he might be denied enforcement in reliance on section 21(4), an obstacle he could overcome (if at all) only by relying on his rights under the constitution. But if the appellant was relying on the constitution, he was not bound by section 21 in so far as that section inhibited his claim to constitutional relief.” Emphasis mine

⁶ (1979) 31 WIR 348

⁷ SLUHCv 2005/0695

⁸ SKBHCVAP2018/0023

⁹ [2005] UKPC 15

¹⁰ [2001] UKPC 30

[47] In my view, these authorities establish beyond any doubt that the existence of another remedy does not, by itself, prevent the Court from granting constitutional relief where it is just to do so. **The Court remains entitled, indeed, obliged, to intervene if the alternative remedy is not adequate or effective, or if the matter properly raises a constitutional grievance.** The courts have clarified that constitutional relief remains appropriate where a claimant, acting in good faith, believes that a constitutional breach has occurred and where the alternative remedies are either inadequate or ineffective.

[48] On the facts presented, there is no dispute that a Board of Assessment made an award in the Claimant's favour in January 2015. The State has failed to pay the balance of that award, and the Defendant has not demonstrated that the procedures under section 20 of the CPA, or the appointment of a new Board, would result in a timely or effective remedy.

[49] While the Defendant characterises the constitutional claim as a backdoor attempt to relitigate compensation, I do not think this accurately reflects the claim. The Claimant does not dispute the Board's award but seeks to enforce it through judicial orders grounded in the Constitution, including mandamus. This distinguishes this case from **Abbott** and **Sonson**, where the core issue was liability.

[50] Further, **Gairy** is authority that the CPA cannot override constitutional relief where State inaction amounts to a continuing breach of constitutional rights. Lord Bingham in **Gairy** held that the failure of the Crown to satisfy a monetary award, particularly in the absence of a viable statutory enforcement route, constituted a breach of section 6 and that mandamus could issue to enforce compliance. This view remains persuasive and directly applicable to the present case.

[51] Considering the above, I find that the claim is not an abuse of process. The existence of section 20 of the CPA does not provide a viable or adequate alternative remedy where the State has failed to act, and no enforcement mechanism is available for the Board's award. Nor does the suggestion that a new Board be appointed assist, as that body is *functus* and enforcement is not within its remit.

Whether the Claim Is Properly Brought under Judicial Review or as a Constitutional Motion?

[52] The Defendant contends that the claim was brought solely as a constitutional motion and cannot now be recharacterised as a judicial review claim. It relies on Part 56.3(1) of the CPR and asserts that the Claimant has failed to plead a case for judicial review. This is a technical objection, and while it has some merit, I am not minded to uphold it in this context.

[53] Part 56.6 of the CPR gives the Court discretion to treat a procedurally mislabelled claim as one properly brought under another head. In **Ramanoop**, Lord Nicholls warned against over-technical objections to constitutional proceedings. Moreover, the underlying issue here is enforcement of a public duty to pay compensation, a classic basis for judicial review. The relief sought, including mandamus, is consistent with both judicial review and constitutional enforcement.

[54] Although the pleadings are not textbook in their framing, the essence of the claim seeking enforcement of a duty under section 6 is clear. The Claimant has from the outset grounded her case in the failure of the State to satisfy the compensation award, a matter properly justiciable either under administrative law or constitutional law.

[55] In my opinion, the Court ought to take a pragmatic approach. The claim ought to be permitted to proceed to a determination on the merits, whether as a matter of judicial review or constitutional redress or both, especially given the overlap of facts and law.

[56] Additionally, there is no longer the requirement to seek leave on specific grounds under the Civil Procedure Rules (Revised Edition) 2023. The Defendant is not prejudiced in having to answer a different case or considering different evidence.

Whether Section 20 of the Crown Proceedings Act Provides an Adequate Remedy?

[57] The Defendant submits that the Claimant should have pursued enforcement under section 20 of the CPA. However, I agree with the Claimant that section 20 is aimed at

enforcing court judgments, not administrative awards like those of a Board of Assessment.

[58] The language of section 20 is specific to “orders made by the court” and includes provisions about taxation of costs and certification by the court none of which fit neatly with the Board’s processes. Further, the Board is functus, and the Claimant cannot now obtain any certificate from it. Lord Bingham in **Gairy** observed that procedural hurdles in the CPA can render it an ineffective remedy, particularly where delay has already occurred.

[59] I find that section 20 does not displace the Court’s jurisdiction under section 6(2)(d) and section 16 of the Constitution. Even if theoretically available, it cannot be said to provide adequate and effective redress, given the elapsed time and lack of any meaningful enforcement progress.

Whether the Board of Assessment Award is Enforceable under CPR Part 43?

[60] The Defendant has placed emphasis on CPR 43.10 as a means of enforcing the Board’s award. This submission, in my view, is unpersuasive. As enforcement and the enforcement methods against the State is restricted by the CPA.

[61] Section 17 of the LAA speaks to the filing and appeal of the award, but not to its enforceability. Unlike court judgments, there is no machinery under the Act to enforce the Board’s award through execution. That being so, CPR 43.10 does not assist.

[62] The Defendant’s reliance on **Trapp v Mackie**¹¹ to support the quasi-judicial status of the Board is relevant to the procedural fairness and privilege attaching to its proceedings, but it does not establish enforceability in the absence of a statutory mechanism.

¹¹ [1979] 1 ALL ER 489

Whether the Section 16(2) Proviso Should be Invoked to Decline Jurisdiction?

[63] The proviso to section 16(2) of the Constitution allows the Court to decline jurisdiction if adequate alternative means of redress exist. However, the discretion is not mandatory. The Court is not bound to refuse jurisdiction where injustice would result. In **Ramanoop, The Attorney General v Joseph and Boyce**¹², and **Gairy**, the courts reiterated that constitutional access should not be lightly denied.

[64] In this case, I find that no truly adequate alternative exists. The Board is functus. The CPA route is uncertain, cumbersome, and not designed to address ongoing constitutional breaches. The State has failed to pay a lawfully determined sum, and that failure, now lasting nearly a decade, cannot be brushed aside as a mere procedural lapse.

[65] I therefore exercise my discretion to retain jurisdiction under section 16(2), rather than strike out the claim. The constitutional protection of property rights and access to redress would be hollow if delayed payments could be shielded behind technical enforcement hurdles.

Conclusion on application to strike out:

[66] For these reasons, the Defendant's application is refused and is accordingly dismissed. The application was not frivolous and was determined as part of a rolled-up hearing. As such I exercise my discretion to make no order as to costs on this application.

[67] If I am wrong on my disposition of the application to strike out, I now go on to consider the merits of the claim.

¹² BB 2006 CCJ 3

THE CLAIM:

Was the Claimant's right under Section 6 of the Constitution breached?

[68] Section 6(1) of the Constitution protects the right to property. Where land is taken for a public purpose, the State has a constitutional duty to ensure that compensation is not just fair in amount but paid promptly. It's not enough for the State to acknowledge the right on paper, there has to be action. Without that, the guarantee is hollow.

[69] This case presents a clear example of how that duty has been breached. The Claimant's property was acquired in May 2006. The process of determining compensation took nearly nine years, culminating in the decision of the Board of Assessment in January 2015. That decision was appealed, but the Court of Appeal dismissed the Claimant's challenge in September 2018. Since then, nearly seven more years have passed, and still, no payment has been made.

[70] Let me be plain: this is not a case where the State is waiting on valuation reports. This is not a situation where the sum to be paid is unknown. There is a final award, upheld by the Court of Appeal, and no legal uncertainty remains. The Claimant has been left in limbo, not for weeks or months, but for years, while the State has done little, if anything, to fulfil its obligation.

[71] I accept that there have been some issues raised, interest, set-off, whether part-payments were properly credited, but none of these justify complete non-payment. The State could have paid what was undisputed. It could have returned to the Court to resolve the balance. Instead, the approach has been to do nothing. There has been no affidavit from the Accountant General, no timeline offered, no real explanation. Just delay.

[72] The Claimant relies on **Gairy**, and rightly so. In that case, the Privy Council made it clear that where the State fails to satisfy a final judgment, especially one concerning a constitutional right, the breach continues for as long as the obligation remains unmet. I

find that reasoning applies squarely here. The constitutional promise of prompt compensation is meaningless if the State can delay payment indefinitely.

[73] The Defendant referred me to **Harrikissoon**, cautioning that not all legal wrong gives rise a constitutional breach. I do not disagree. But this is not a case of mere administrative delay or a technical oversight. This is a State that took property in 2006 and, nearly two decades later, has not paid. That is not routine. It is unacceptable.

[74] In the circumstances, I find that the Claimant's right under section 6 has been breached. The obligation to pay full compensation, promptly and in accordance with law, has not been honoured. The breach is ongoing, it is unjustified, and it warrants both a declaration and appropriate redress.

What is the correct quantum payable under the Board of Assessment's award?

[75] The foundational relief sought by the Claimant is enforcement of the compensation awarded by the Board of Assessment in its written decision dated 31st January 2015. That award comprises three components:

- 1) \$610,470.00 for the land and building, with interest at 6% per annum from 10 April 2006 to the date of payment;
- 2) Compensation for disturbance: loan interest accrued on the sum of \$425,000.00 from 11 October 2002 to the date of payment;
- 3) Legal costs to be assessed if not agreed.

[76] The Claimant's position, set out at paragraphs 12 – 16 of her closing submissions, is that the disturbance compensation should reflect the actual cost to her of unpaid loan interest, interest she contends was compounding at 12.5% annually.

[77] Mr. Floissac confirmed in his affidavit and under cross-examination that the disturbance sum of \$5,115,053.00, claimed by the Claimant, was based on compound interest at 12.5%, consistent with the terms of the facility letter from CIBC (then Caribbean

International Bank), which was tendered into evidence as Exhibit “PF1”. Mr. Floissac explained that banks typically calculate loan interest on a compound basis and that this approach was commercially orthodox.

[78] However, the Defendant, in its written submissions at paragraphs 35–44, argues that the Board’s award did not specify whether the interest on the \$425,000.00 should be simple or compound. It contends that in the absence of express language, and given that the award is quasi-judicial in nature, the interest should be presumed to be simple. Moreover, the Defendant questions whether the Claimant remains personally liable to the bank for the compound interest sum, particularly in circumstances where the judgment debt secured by the bank may already have been discharged or settled by agreement.

[79] The Defendant further relies on the judgment in **Mathew McMillan v Alonzo Carty**¹³ citing Lord Diplock’s observations in **Harrikissoon**, to argue that constitutional claims should not be used to circumvent the usual procedures for debt enforcement, particularly when what is sought is enforcement of an existing quasi-judicial award.

[80] In her reply submissions, the Claimant rejects this analysis, relying instead on **Gairy** and **Ramanoop** to argue that the State’s failure to pay a binding constitutional obligation entitles her not only to enforcement, but also to redress for ongoing breach. She emphasises at paragraphs 12–16 that the disturbance award reflects not merely loan interest but the economic loss flowing from the State’s deliberate and unconstitutional delay, and should be enforced accordingly.

[81] The Claimant also relied on the opinion of Mr. Peter Edmunds, a former banker, who explained that in standard commercial lending practice, interest is compounded upon default. He stated that if payments were not made on time, interest would be added to the principal, thereby compounding future liability.

¹³ SKBHCV2017/0380

[82] However, Mr. Edmunds admitted that the hypothec was silent on whether interest was to be compound. He also acknowledged that no bank statements, letters, or contracts were produced to show the loan actually did compound. In contrast, Mr. Lendor calculated interest on a simple basis, consistent with the Board's award, which made no mention of compounding.

[83] I find that simple interest applies. The general rule is that compound interest is not presumed unless expressly agreed or awarded. In this case, no such agreement or award has been proven.

[84] Additionally, I am fortified in my view that the Claimant is entitled to simple and not compound interest by the provisions of Article 1009A of the Civil Code which is clear on when compound interest is to be awarded:

"1009A. In any proceedings tried in any Court for the recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment:

Provided that nothing in this article—

(a) shall authorise the giving of interest upon interest, except in the cases mentioned in article 1009; or

(b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or

(c) shall affect the damages recoverable for the dishonour of a bill of exchange."

[85] Using simple interest at 12.5% per annum on \$425,000.00 from 11th October 2002 to 25th May 2025 (a span of approximately 22.6 years), the disturbance compensation would be calculated as:

$$\$425,000.00 \times 12.5\% \times 22.6 \text{ years} = \$1,193,750.00$$

[86] Similarly, the interest on the \$610,470.00 award at 6% simple interest over 19.1 years (10th April 2006 to 25th May 2025) would total:

$$\$610,470.00 \times 6\% \times 19.1 = \$699,242.20$$

[87] This brings the combined interest liability to approximately \$1.89 million, and the total judgment, excluding costs and any rental or general damages to approximately \$2.5 million.

[88] The legal basis for enforcing the award with interest remains section 6 of the Constitution and the principle that compensation must be “prompt and full.” The Claimant’s reliance on **Ramanoop, Joseph and Boyce**, and **Gairy** reinforces the Court’s jurisdiction to order enforcement and constitutional redress even where enforcement machinery is otherwise available.

Whether the Defendant is entitled to set-off?

[89] There is no real dispute that the Claimant received \$88,000.00 in part-payments, and that she owes the Defendant \$561,220.00 under a 2018 judgment. The Defendant pleaded set-off and relies on Article 1117 of the Civil Code. CPR 10.12(2) allows the Crown to plead set-off without leave.

[90] As to the \$88,000.00, there is no dispute that the Defendant made these payments on account of compensation following acquisition. Initially, the Claimant accepted these as part-payments towards the award but now seeks to withdraw that concession. However, the evidence establishes that the payments were made expressly in relation to the acquisition, and there is no indication that they were made for any other purpose. In those circumstances, the Court finds that these sums must be credited against the principal award or interest. They are not in the nature of a set-off in the legal sense, but rather payments on account. The total payable to the Claimant will therefore be reduced by \$88,000.00, appropriately apportioned between the two heads of compensation.

[91] The Defendant’s expert, Mr. Mario Lendor, provided a detailed calculation showing how those amounts were applied, first to interest, then to principal, as required by Article 1090 of the Civil Code. As of 4th May 2018, \$403,196.83 remained outstanding after the application of set-off.

[92] I have considered carefully whether the Defendant is entitled to deduct from the compensation owed to the Claimant the sum of \$561,220.00, being the amount awarded to the Crown in SLUHCV2008/0893 and SLUHCV2009/0398 by judgment dated 26th June 2018. That judgment arose from the Claimant's continued occupation of premises leased by the State following the compulsory acquisition of her own property. The State paid rent for those premises for several years, and the Court found that the Claimant was liable to reimburse those sums. The judgment remains unsatisfied.

[93] The Claimant now seeks enforcement of a compensation award stemming from the same acquisition, including accrued interest dating back to 2002 and 2006. In substance, then, I am asked to enforce one final judgment in her favour, while the State is owed another final judgment from the same overarching transaction. In these circumstances, I am satisfied that the issue of set-off is properly engaged.

[94] The Civil Code of Saint Lucia, at Articles 1117 and 1118, provides that debts between the same parties are extinguished by set-off where they are liquidated, due, and of the same nature:

“1117. When 2 persons are mutually debtor and creditor of each other, both debts are extinguished by set-off in the cases and manner hereinafter mentioned.

1118. Set-off takes place by the mere operation of law between debts which are due and liquidated and are each in respect of a sum of money or a certain quantity of indeterminate things of the same kind and quality.

So soon as the debts exist simultaneously they are extinguished in so far as their respective amounts correspond.”

[95] Those conditions are met here. The Claimant's award is quantified and final, having been affirmed by the Court of Appeal. The State's judgment debt is likewise liquidated and enforceable. There is nothing contingent or disputed in either case. Mutuality is established.

[96] In her submissions, the Claimant raised the argument that the right to compensation under section 6 of the Constitution should not be diluted or offset by unrelated liabilities.

However, in my view, this is not a case of using set-off to defeat a constitutional right. Rather, it is a case where both parties have final judgments arising from the same series of events, and the Crown is entitled to insist that the Claimant not receive more than the net amount truly owed.

[97] The Defendant referred to **Hanak v Green**¹⁴, which remains good authority for the proposition that legal set-off is available where both debts are due and mutual. That principle has been consistently applied in this jurisdiction. I also note the principles of equitable set-off, as set out in **Geldof Metaalconstructie NV v Simon Carves Ltd**¹⁵, where the Court held that set-off may apply where there is a close and direct connection between the debts, such that it would be manifestly unjust to enforce one without taking account of the other. At paragraph 43, the Court stated:

“[43] In my judgment, this jurisprudence allows the following conclusions:

- ① The impeachment of title test, although derived from the leading case of *Rawson v Samuel* and still stated by Lord Denning in his formulation in *The Nanfri*, even if it is there immediately glossed by his “so closely connected . . . that it would be manifestly unjust” test, should no longer be used: *The Dominique* and *Bim Kemi*. It is an unhelpful metaphor in the modern world. In the light of the emphasis put on it by Hobhouse J in *The Leon* and the reliance sought to be placed on it by the charterers in *The Dominique*, it made sense for the House of Lords to go out of its way to downplay its significance.
- ② There is clearly a formal requirement of close connection. All the modern cases state that, whether *Hanak v Green*, *The Nanfri*, *The Dominique* (by reference to the *Newfoundland Railway* case), *Dole Dried Fruit* or *Bim Kemi*. The requirement is put in various ways in various cases. Morris LJ in *Hanak v Green* spoke of a “close relationship between the dealings and transactions which gave rise to the respective claims”. Lord Denning in *The Nanfri* spoke of claims and cross-claims which are “closely connected”. How closely? “[S]o closely connected with his demands that it would be manifestly unjust to allow him to enforce payment without taking into account the cross-claim”. *The Dominique* adapted the *Newfoundland Railway* test and spoke of a cross-claim “flowing

¹⁴ [1958] 2 QB 9

¹⁵ [2010] EWCA Civ 667

out of and inseparably connected with the dealings and transactions which also give rise to the claim". *Dole Dried Fruit* returned to Lord Denning's test in *The Nanfri* but also spoke of a claim and cross-claim which was so "inseparably connected that the one ought not to be enforced without taking into account the other". *Bim Kemi* expressed a preference for the test in *The Dominique*, while warning against being caught up in the nuances of different formulations.

- (i) Thus the *Newfoundland Railway* test of "inseparable connection" is one formulation of the close connection test, but it is not the only one. Potter LJ wisely referred to the wise refusal of the courts to become bogged down in the nuances of formulation. Oddly enough, both the *Newfoundland Railway* case and *The Dominique* were single contract cases, and therefore probably rather unhelpful contexts in which to judge what is meant by "inseparable connection". In truth, where separate contracts (or dealings or transactions) are concerned, the metaphor of inseparability is not all that helpful. Ex hypothesi, the contracts are separate (as in *Bankes v Jarvis*, the case about the veterinary surgeon's practice discussed by Morris LJ in *Hanak v Green*). I am not aware of the "inseparable connection" test being used to exclude a set-off, where some other formulation of the close connection requirement would have allowed it. It was not used to exclude a set-off in either the *Newfoundland Railway* case, nor in *The Dominique* nor in *Bim Kemi*. Nor is the test all that helpful in single contract cases: as Potter LJ remarked in *Bim Kemi*, where a case concerns a claim and cross-claim arising out of the same contract, although that fact is not in itself enough to ensure an equitable set-off, it is on the whole likely to take a special rule excluding set-off, such as the rules about freight, rent and cheques (and now direct debits, see *Esso v Milton*), to prevent a set-off. In this connection, *Modern Engineering (Bristol) Ltd v Gilbert-Ash (Northern) Ltd* [1974] AC 689 emphasises that an equitable set-off for defective work is not easily excluded even in building contracts where sums are payable under an architect's certificate. On the other hand, *The Nanfri* itself shows that in the context of maritime adventures and time charter hire, and against the background of the rule as to freight, a special regime of limited but not general set-off has been fashioned for cross-claims under the charterparty.
- (iv) There is also clearly a functional requirement whereby it needs to be unjust to enforce the claim without taking into account the cross-claim. This functional requirement is emphasised in all the modern cases, viz *Hanak v Green*, *The Aries*, *The Nanfri*, *Dole Dried Fruit*, *Esso v Milton*, and *Bim Kemi*. The only modern authority cited above which does not in terms refer to the functional requirement

of injustice is Lord Brandon's discussion in *The Dominique*. This has led Potter LJ in *Bim Kemi* (at para 38) to remark on the absence of reference to “manifest injustice” by Lord Brandon: but nevertheless it did not lead him to dispense with that requirement (*ibid*). It seems to me impossible to do so: it is not coherent to have a doctrine of equitable set-off which ignores the need for consideration of aspects of justice and fairness. Mr David Friedman QC, on behalf of SCL, has submitted that the test of “inseparable” connection contains inherently within it the need for a requirement of manifest injustice. That is what, he submits, “inseparable” means. In my judgment, such lack of transparency in a test would be undesirable, and I do not believe that it is as Mr Friedman submits. But I do not in any event think that Lord Brandon was intending to use the *Newfoundland Railway* formulation as an exclusive test for equitable set-off. Rather, he was using it to dethrone the concept of impeachment.

- (v) Although the test for equitable set-off plainly therefore involves considerations of both the closeness of the connection between claim and cross-claim, and of the justice of the case, I do not think that one should speak in terms of a two-stage test. I would prefer to say that there is both a formal element in the test and a functional element. The importance of the formal element is to ensure that the doctrine of equitable set-off is based on principle and not discretion. The importance of the functional element is to remind litigants and courts that the ultimate rationality of the regime is equity. The two elements cannot ultimately be divorced from each other. It may be that at times some judges have emphasised the test of equity at the expense of the requirement of close connection, while other judges have put the emphasis the other way round.
- (vi) For all these reasons, I would underline Lord Denning's test, freed of any reference to the concept of impeachment, as the best restatement of the test, and the one most frequently referred to and applied, namely: “cross-claims . . . so closely connected with [the Plaintiff's] demands that it would be manifestly unjust to allow him to enforce payment without taking into account the cross-claim”. That emphasises the importance of the two elements identified in *Hanak v Green*; it defines the necessity of a close connection by reference to the rationality of justice and the avoidance of injustice; and its general formulation, “without taking into account”, avoids any traps of quasi-statutory language which otherwise might seem to require that the cross-claim must arise out of the same dealings as the claim, as distinct from vice versa. Thus, if the *Newfoundland Railway* test were applied as if it were a statute, very few of the examples of two-contract equitable set-off discussed above could be fitted within its language. I note that in *Chitty on Contracts*, 30th

ed, 2008, Vol II, at 37-152, the test for equitable set-off is formulated in terms of Lord Denning's test."

[98] In my view, that test is also satisfied. The Claimant's occupation of the rental premises was a direct consequence of the acquisition. The unpaid rent and the unpaid compensation are part of the same factual matrix. It would be inequitable to allow the Claimant to recover her full award while ignoring her own outstanding obligation.

[99] I have also considered the procedural point raised under CPR 10.12(2), which provides that a defendant may not rely on set-off against the Crown without the Court's permission. In this case, the Crown is the Defendant, not the party against whom set-off is being raised. The set-off has been pleaded in affidavits and raised clearly in submissions. The Claimant has had full notice and has responded. I see no procedural unfairness and no bar to the Defendant relying on this position.

[100] In this regard, I am satisfied that the Defendant is entitled to apply legal and/or equitable set-off. The sum of \$561,220.00 will be deducted from the compensation payable under the Board of Assessment award. Additionally, the further sum of \$88,000.00, which was paid to the Claimant in instalments between 2008 and 2012, is to be treated as part-payment and deducted accordingly. The balance, with interest recalculated on the reduced principal, will be addressed later in this judgment.

Whether the Claimant is entitled to vindictory damages?

[101] The Claimant seeks vindictory damages of \$2.5 million and additional damages for distress and loss of rental income. She relies on **Ramanoop, Merson v Cartwright**¹⁶, **Montoute v AG**¹⁷ to support the award of substantial damages for breach of constitutional rights. She contends that her inability to receive payment has affected her housing stability, creditworthiness, and commercial opportunities.

¹⁶ [2005] UKPC 38

¹⁷ SLUHC VAP 2016/0021

[102] The Defendant argued that any delay was not arbitrary or malicious but arose from difficulty in determining whether payment should go to the Claimant or to her bank. The Permanent Secretary's affidavit stated that the Ministry was unwilling to pay until there was clarity on the loan secured and the identity of the proper payee. The Defendant also pointed out that the Claimant could have resolved the matter more quickly by consenting to payment being made to the bank.

[103] In **Ramanoop**, the Privy Council emphasised that an award of damages under the Constitution is not limited to compensating loss, but is intended to vindicate the constitutional right and underscore its value. Lord Nicholls stated:

“The award of damages under section 14 is to vindicate the right of the complainant... it is not always sufficient to declare that a right has been violated.”

[104] That approach was reaffirmed in **Merson**, where the Board upheld a separate award to vindicate constitutional rights that had been infringed through official conduct. **Montoute v AG** similarly applied the principle in the local context to address breaches arising from a failure to meet obligations under the LAA.

[105] I accept that the Claimant experienced disruption and uncertainty due to the delay, and that she was displaced from her business premises. While there is no evidence of malice, the State's failure to act meaningfully, particularly after 2018, demonstrates disregard for a binding constitutional obligation. However, I also note that the Claimant's own stance on payment, including refusal to consent to the bank being paid directly, contributed in part to the stalemate.

[106] The purpose of vindictory damages is not to compensate for loss but to reflect the importance of the right breached and the need to deter repetition. In arriving at a figure for vindictory damages I have had regard to the Court of Appeal decision in the consolidated appeals of **Econo Parts Ltd & Mr. Parts Ltd -v- The Comptroller of Customs and Exercise**¹⁸. In this appeal, the trial judge found that customs officers'

¹⁸ SLUHC VAP 2016/0021

actions were “most deplorable abuse of power by the Comptroller”. The Court of Appeal awarded vindictory damages in the sum of \$75,000.00.

[107] In my judgment, a reduced award of \$50,000.00 strikes a proportionate balance. It acknowledges the seriousness of the State’s prolonged failure to comply with a final award, while also recognising that the breach, though unjustified, was not aggravated by bad faith or deliberate obstruction. It also acknowledges that the conduct of the State was not as egregious as in **Econo Parts**.

[108] In the circumstances, I consider an award of \$50,000.00 in vindictory damages to be appropriate and proportionate.

Whether damages are recoverable for rental incurred post-acquisition?

[109] The Claimant seeks nearly \$900,000.00 in damages for rent she says she was forced to incur after the State’s failure to pay compensation. She claims that the State relocated her temporarily, promised compensation within a year, then failed to follow through, leaving her liable for rental expenses from 2007 to 2024.

[110] The Defendant disputes this claim on multiple grounds: (i) it says the rental arrangement was governed by a lease agreement separate from this matter; (ii) the Claimant failed to plead or prove her rental liability properly; and (iii) the matter was already litigated in the earlier suits concluded in 2018.

[111] The Claimant seeks to recover more than \$900,000.00, said to represent rent she was required to pay from 2007 onward because of the Defendant’s failure to promptly pay compensation and provide permanent business premises. While the sum claimed is significant, I am not satisfied that this head of loss has been made out in law or on the evidence.

[112] First, there are difficulties with how the claim is pleaded. Although the Claimant refers in general terms to rental hardship in her affidavits and submissions, there is no clear or specific statement in the Fixed Date Claim identifying rental expense as a distinct head of relief. There is also no pleaded basis explaining whether the rental

liability arose under contract, whether she remained in possession as tenant, licensee, or otherwise, and who exactly was entitled to receive the sums said to be owing. This omission is important. A claim of this nature, involving over \$900,000.00 in damages across a period of 17 years, required a much clearer articulation in the pleadings than what was provided.

[113] Second, there are serious evidential gaps. The Claimant referred generally to invoices and stated in cross-examination that she had some receipts, but only one such receipt was placed before the Court. No lease agreements were exhibited beyond the initial short-term arrangement in 2007 between the State and General Investments Ltd. The Claimant did not produce bank statements or receipts showing continuous payments, or any written demands for rent over the period from 2008 to 2024. This is not a case where the facts are self-proving. In the absence of cogent evidence, I cannot make a reliable finding that the Claimant has in fact paid or remains liable to pay the sum claimed.

[114] Third, I accept the Defendant's argument that the issue of rent was addressed, or ought to have been addressed, in earlier proceedings. In particular, I note that in the consolidated actions SLUHCV2008/0893 and SLUHCV2009/0398, the State obtained judgment against the Claimant for \$561,220.00, being unpaid rent for the very premises she occupied following the acquisition. That judgment is final. If the Claimant wished to contest liability for rent, the proper forum was in those proceedings or by way of appeal. What she cannot do now is reopen the issue under the guise of constitutional damages. To allow such a claim would offend the principle of finality and may risk inconsistent findings.

[115] Lastly, while I accept that rental expenses may, in some cases, form part of a claim for disturbance or consequential loss, any such claim must be consistent with the scope of the Board's jurisdiction and the appellate judgment affirming its award. The Board did not make an award for ongoing rental liability beyond the relocation period. It is not open to me to now reclassify or extend the scope of that compensation award under the guise of constitutional relief.

[116] For all these reasons, I decline to award the Claimant any sum in respect of the alleged rental payments beyond those already addressed by the Board of Assessment or the earlier judgment of the High Court. This part of the claim is therefore dismissed.

Whether the Claimant is entitled to general damages?

[117] This head of relief appears to overlap with vindicatory damages but is distinguished as compensating for actual loss. The Claimant alleges emotional distress and deteriorating health; the Defendant says no admissible medical evidence has been produced.

[118] Given that some medical evidence was exhibited and not contested, I find a modest award justified. However, most of the harm described appears to underpin the claim for vindicatory relief, and as such any general damages will be nominal. I have considered this head of damages at arriving at the figure for vindicatory damages above, as such, no separate award is made.

To whom should the disturbance compensation be paid?

[119] The Board's award included compensation for disturbance based on loan interest on a \$425,000.00 mortgage compromise figure. The Claimant insists that the award was made in her name and that she is entitled to receive the funds. The Defendant argues that since the disturbance was calculated by reference to the bank's interest, the funds should go to the bank.

[120] The Board's written decision supports the Claimant's position. It is clear that the disturbance compensation reflects the interest on the compromise loan figure. The bank was a co-claimant before the Board. The Claimant has produced no evidence that she has repaid the loan. In fact, her affidavit avoids directly addressing whether the debt remains. This does not interfere with her liability to pay the compromise loan figure of \$425,000.00 directly to the Bank.

[121] In these circumstances, I agree with the Claimant that the disturbance compensation is payable to her. To order otherwise would permit the Bank to benefit from the Claimant's disturbance.

COSTS:

[122] The general rule is that costs follow the event. On the substantive claim, the Claimant was successful on (1) breach of a constitutional right, (2) the procedural objection on the pleading points (3) the entitlement and grant of mandamus, (4) vindicatory damages. The Defendant was successful on the issues of (1) interest being simple and not compounded, (2) rejection of the claim for rental damages, (3) set off and (4) the mortgage compromise figure to be deducted from the property value. In summary, the Claimant was successful in four out of eight issues determined in the substantive claim.

[123] Accordingly, the Claimant shall recover fifty percent (50%) of her costs of the substantive claim to be assessed by this Court in default of agreement.

[124] Before concluding this judgment, I wish to express my sincere appreciation to Counsel for both parties for their detailed, timely, and thoroughly researched submissions. The high quality of the written arguments was of considerable assistance to the Court and is gratefully acknowledged.

Issues asked by the parties to be clarified:

[125] On May 27, 2025, the Court delivered its decision and provided counsel with a copy of its draft judgement and invited the parties to indicate any comments or clarifications they sought. Apart from typographical and referencing errors there are three main issues the parties wished the Court to clarify before the order was perfected. They are:

- 1) Whether the \$425,000.00 owed to the bank is to be deducted from the \$610,470.00 value placed on the property acquired?
- 2) Whether the disturbance compensation is payable to the Claimant or the Bank?

3) Whether the Court could quantify the sums payable to whom?

[126] On the first issue, the Court finds that the \$425,000.00 has to be deducted from the \$610,470.00 as the Board of Assessment expressly found that although the hypothec over the property is extinguished upon expropriation under Article 1966 of the Civil Code, the hypothecary creditor (First Caribbean International Bank) retains a right of recourse over the compensation price. The Board declared that the bank “is entitled to be paid **from the price of the Property**, the balance of the debt due to it under the hypothecary obligations at the date of acquisition”. In other words, there was no separate award of \$425,000.00 against the State to be paid to the Bank. That sum must be deduced from the Claimant’s compensation for the value of her property.

[127] On the second issue, in my first draft I lumped the \$425,000.00 and the interest thereon, the disturbance compensation into one, and expressed the view that these sums were payable to the Bank. Upon hearing Counsel on the issue, I have since revisited the lumping both sums into one figure to be paid to the Bank. Least there be any doubt, it is my view that the \$425,000.00 compromise figure on the mortgage is the only sum to be paid to the Bank. This sum represents a charge on the Claimant’s compensation. As the hypothec over the property was extinguished upon acquisition, this is the only sum the Bank is entitled to recover from the Claimant’s compensation. The disturbance compensation is for disturbance suffered by the Claimant not the Bank. As such, the disturbance compensation in my view, being the 12.5% simple interest on the mortgage compromise figure of \$425,000.00 must be paid to the Claimant and not the Bank.

[128] On the third issue, the Court is handicapped in its calculations as it is unable to perform the calculations of Mr. Lendor, which the Court accepts is the proper way to apply the part payment and the set off figures to the sums to be paid. In this regard, I would make a consequential order that the expert Mr. Lendor, recalculates the sums payable to the Claimant given the findings in this judgment on or before 16th June 2025. Consequentially, I would order as well pursuant to CPR 42.8 that this judgment and my

orders shall only take effect on 17th June 2025 for the purpose of enforcement or appeal, provided that Mr. Lendor's calculations are filed on or before June 16, 2025. If they are not, the effective day of the orders before shall be fixed by the Court upon filing of Mr. Lendo's calculations in compliance with this order.

ORDERS:

[129] For the reasons above, I make the following declarations and orders:

- 1) The Defendant's application filed on 21st November 2024 is dismissed with no order as to costs.
- 2) It is declared that the Claimant's constitutional right under section 6(1) of the Constitution of Saint Lucia, to the prompt payment of full compensation following the compulsory acquisition of her property, has been breached by the failure of the State to pay the sums awarded by the Board of Assessment on 31 January 2015.
- 3) An order of mandamus is granted, compelling the Attorney General of Saint Lucia, acting on behalf of the Government of Saint Lucia, to pay the following sums within sixty (60) days of the effective date of this judgment (17th June 2025), in compliance with the award of the Board of Assessment affirmed by the Court of Appeal in SLUHCVP2015/0006:
 - i. The sum of \$610,470.00 being the amount awarded for the value of the land and building, together with simple interest at the rate of 6% per annum from 10 April 2006 to the date of payment, to be paid to the Claimant, subject to the deductions stated below.
 - ii. Disturbance compensation, being the simple interest payable on \$425,000.00 (the mortgage comprise figure) at the rate of 12.5% per annum from 11 October 2002 to the date of payment, to be paid directly to the Claimant.

- 4) The Defendant is entitled to deduct from the above amounts before payment is made to the Claimant:
 - i. The sum of \$88,000.00, being payments previously made on account to the Claimant;
 - ii. The sum of \$561,220.00, being the amount of the final judgment debt owed by the Claimant to the Crown in SLUHCV2008/0893 and SLUHCV2009/0398; and
 - iii. The sum \$425,000.00 being the mortgage compromise figure and pay it directly to First Caribbean International Bank (Barbados) Ltd (formerly CIBC Caribbean Ltd), as the lender identified in the Board's award, unless the Claimant produces satisfactory evidence to the Attorney General that she has discharged the loan in full.
- 5) The Defendant shall obtain from the Court appointed expert Mr. Mario Lendor, a revised statement of calculations given the findings in this judgment and have the same filed on or before 16th June 2025.
- 6) If the calculations of Mr. Lendor are not filed on or before 16th June 2025, the effective day of the orders before shall be fixed by the Court or agreed by the parties, upon filing of Mr. Lendo's calculations in compliance with this order.
- 7) The Defendant shall pay to the Claimant the sum of \$50,000.00, with no interest thereon, as general damages and vindicatory damages for breach of the Claimant's constitutional rights under section 6(1), reflecting the seriousness and prolonged nature of the breach.
- 8) The Claimant's claim for damages for post-acquisition rent is dismissed.
- 9) The Defendant shall pay 50% of the Claimant's costs of the substantive claim, to be assessed by this Court in default of agreement. Failing agreement, the Claimant shall file her bill of costs within twenty-one (21) days of the effective

date of this judgment (17th June 2025) in accordance with the detailed assessment procedure.



Alvin S. Pariagsingh
Judge

By the Court,

Registrar