

Privy Council Appeal No. 15 of 1968

Boswell Williams - - - - - Appellant

v.

The Government of the Island of Saint Lucia - - Respondent

FROM

THE COURT OF APPEAL OF THE WEST INDIES ASSOCIATED
STATES SUPREME COURT

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 21ST JULY 1969

Present at the Hearing:

LORD HODSON

LORD DIPLOCK

SIR GARFIELD BARWICK

[Delivered by SIR GARFIELD BARWICK]

The appellant was the owner of some 21.2 carrés of land in the Quarter of Soufriere in the Island of St. Lucia when on 20th December 1963 the Administrator in Council of that Island made a declaration in purported pursuance of section 3 of the Land Acquisition Ordinance Chapter 109 of that Island with a view to the compulsory acquisition of that land. The appellant contested the validity of this declaration before a Board of Assessment appointed to assess the compensation payable in respect of the acquisition of the land. The objection was over-ruled. He appealed to the British Caribbean Court of Appeal. His appeal was heard by the Court of Appeal of the West Indies Associated States Supreme Court. That Court by a unanimous judgment dismissed the appeal. The appellant now appeals to Her Majesty in Council upon a number of grounds against the order of the Court of Appeal. He has presented his case in person. However, although the appellant fully and clearly canvassed all his grounds of appeal, their Lordships found it unnecessary to call upon counsel for the respondent.

Section 3 of the Land Acquisition Ordinance Chapter 109 is in the following terms:

“(1) If the Administrator in Council considers that any land should be acquired for a public purpose he may cause a declaration to that effect to be made in the manner provided by this section and the declaration shall be conclusive evidence that the land to which it relates is required for a public purpose.

(2) Every declaration shall be published in two ordinary issues of the *Gazette* and copies thereof shall be posted on one of the buildings (if any) on the land or exhibited at suitable places in the locality in which the land is situate, and in the declaration shall be specified the following particulars in relation to the land which is to be acquired:

- (a) the parish or district in which the land is situate;
- (b) a description of the land, giving the approximate area and such other particulars as are necessary to identify the land;
- (c) in cases where a plan has been prepared, the place where, and the time when, a plan of the land can be inspected;
- (d) the public purpose for which the land is required.

(3) Upon the second publication of the declaration in the *Gazette* as aforesaid the land shall vest absolutely in the Crown.

(4) Nothing in this section shall be deemed to prevent the acquisition of lands for public purposes by private treaty."

The declaration of the Administrator in Council was as follows:

DECLARATION OF ACQUISITION OF LAND IN THE SAINT
LUCIA GAZETTE

Saint Lucia Gazette, 28 December 1963, Saint Lucia

IN THE MATTER OF THE LAND ACQUISITION
ORDINANCE CHAPTER 109

AND

IN THE MATTER of a Declaration by the Administrator in Council that certain land, situate in the Quarter of Soufriere, in the Island of Saint Lucia, are to be acquired for a public purpose.

DECLARATION OF ACQUISITION OF LAND

WHEREAS it is enacted by section 3 of the Land Acquisition Ordinance, Chapter 109 that if the Administrator in Council considers that any land should be acquired for a public purpose he may cause a declaration to that effect to be made;

AND WHEREAS it is considered by the Administrator in Council that the land mentioned and described in the Schedule hereto should be acquired for a public purpose, to wit, the development of tourism;

NOW THEREFORE, IT IS HEREBY DECLARED by the Administrator acting in accordance with the advice of the Executive Council that upon the Second Publication of this Declaration in the Gazette, the land mentioned and described in the Schedule hereto shall be acquired for the above-mentioned purpose and shall vest in the Crown.

SCHEDULE

(A description of the land)

The plan of survey hereinbefore referred to may be inspected at the office of the Commissioner of Crown Lands on any day except Wednesdays, Sundays and public holidays between the hours of 9 a.m. and 4 p.m. and on Wednesdays between the hours of 9 a.m. and 12 o'clock noon.

Dated this 20th day of December, 1963.

(Sgd) U. RAVENEAU,
Clerk of the Executive Council.

This declaration was Gazetted on 21st December and again on 28th December 1963.

The principal objection raised by the appellant to the declaration was that it did not declare but merely recited that the Administrator in Council considered that the land should be acquired for a public purpose and that what it did declare was merely the legal effect which would have ensued upon the due publication of a declaration conforming to the requirements of section 3 (1) of the Ordinance. Their Lordships have no need to canvass the arguments furnished by the appellant in support of this objection. They are adequately dealt with in the judgment of the Chief Justice in the Court of Appeal. Upon the assumption that upon its proper construction section 3 (1) of the Ordinance in requiring "a declaration to that effect" calls for a declaration that the Administrator in Council considers that the land should be acquired for a public purpose, their Lordships are content with the reasons advanced by the Chief Justice for dismissing the appeal and find no reason to amplify them. The

declaration is not legislative in character and the fact that the Administrator had considered that the land should be acquired is none the less relevantly declared by it although contained in a recital.

However, their Lordships would observe that sec. 3(1) may possibly be construed to require no more than a declaration that the land should be acquired. They do not consider it necessary to resolve this question of construction, for in their Lordships' opinion, even if the latter construction were adopted, the declaration of the Administrator in Council would not disconform to the section. In this regard, their Lordships agree with the opinion expressed by P. Cecil Lewis J.A. when he said "In the first place any reference in the declaration to its publication in the Gazette, be it a first or second publication, is unnecessary, but this does not in itself make the declaration bad". The declaration, in their Lordships' view is that the land should be acquired. The acquisition is effected by the publication of the declaration in the Gazette and upon its second publication. (Section 3(3)).

Of the other grounds argued by the appellant only one need be specifically noticed. There is in their Lordships' opinion no substance in any of the others.

The appellant challenged the validity of the declaration also upon the ground that the statement "the development of tourism" was not a sufficient statement of a public purpose to satisfy the terms of the Ordinance. That the promotion of tourism can be a public purpose in the Island of Saint Lucia can scarcely be denied. But it is said by the appellant that the particular use of the land by which the Government intended to promote tourism in the Island ought to have been stated, presumably to enable a judgment to be formed as to whether or not such a use could conceivably promote tourism. No doubt, the expression "the development of tourism" has a degree of vagueness but what is called for by the Ordinance is the statement of a public purpose, which necessarily must be in very general terms. The Ordinance, in their Lordships' opinion, is satisfied by a statement of the objective in view in the acquisition of the land and does not require the disclosure of the means by which that objective is to be achieved. It is a purpose and not a method which has to be stated. The expression "the development of tourism" does state a purpose which is a public purpose. Such an approach has been found appropriate where constitutional as well as statutory validity is in question see *W. H. Blakeley and Co. Pty. Ltd. v. The Commonwealth of Australia* (1953) 87 C.L.R. 501 at p. 522. Their Lordships are unable to accept the appellant's submission that the declaration fails adequately to state a public purpose for which the land is to be acquired.

Their Lordships will humbly advise Her Majesty that the appeal should be dismissed. The appellant must pay the costs of this appeal.

In the Privy Council

BOSWELL WILLIAMS

v.

**THE GOVERNMENT OF THE ISLAND OF
SAINT LUCIA**

**DELIVERED BY
SIR GARFIELD BARMWICK**