

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI
LANKA**

In the matter of an Application for Writs in
the nature of Certiorari, Mandamus and
Prohibition under and in terms of Article 140
of the Constitution of the Democratic
Socialist Republic of Sri Lanka

C.A (Writ) Application No: 400/2013

Juliyanaage Poorna Chandana Silva,
No. 26/5, Second Lane,
Wimalawatta Road,
Gangodawila, Nugegoda.

PETITIONER

Vs.

1. Hon. Janaka Bandara Thennakoon,
Minister of Lands & Land
Development,
- 1a. Hon. M.K.D.S. Gunawardana,
Minister of Lands & Land
Development,
Both of 80/5, Govijana Mandiraya,
Rajamalwatta Road, Battaramulla.
- 1aa. Hon. John Amarathunge,
Minister of Tourism Development
and Christian Religious Affairs and
Ministry of Lands,

6th Floor, Rakshana Mandiraya,
No. 21, Vauxhall Street, Colombo 2.

- 1b. Hon. Gayantha Karunathilaka,
Minister of Lands & Parliamentary Reforms,
Ministry of Lands,
"Mihikatha Medura", Land Secretariat,
1200/6, Rajamalwatta Avenue,
Battaramulla.
2. The Secretary,
Ministry of Defence & Urban
Development,
15/5, Baladaksha Mawatha, Colombo 3.
- 2a. The Secretary,
Ministry of Urban Development and
Water Supply,
3rd Floor, Sethsiripaya, Battaramulla.
3. Urban Development Authority,
6th and 7th Floor, Sethsiripaya,
Battaramulla.
4. The Divisional Secretary,
Divisional Secretariat Complex,
Welikada, Rajagiriya.
5. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: Arjuna Obeyesekere, J

Counsel: Romesh De Silva, P.C with Shanaka Cooray for the Petitioner

Vikum De Abrew, Senior Deputy Solicitor General with Ms. Chaya Sri Nammuni, Senior State Counsel for the Respondents

Written Submissions: Tendered by the Petitioner on 19th December 2018

Tendered by the Respondents on 20th December 2018

Decided on: 7th June 2019

Arjuna Obeyesekere, J

When this matter was taken up for argument on 26th July 2018, the learned Counsel for all parties moved that this Court pronounce its judgment on the written submissions that would be tendered by the parties.

The Petitioner has filed this application seeking *inter alia* the following relief:

- a) A Writ of Certiorari to quash the vesting of the land described in the Schedule to the petition;
- b) A Writ of Certiorari to quash the decision of the Respondents to evict the Petitioner from the land described in the Schedule to the petition;

- c) A Writ of Mandamus directing the Respondents to divest and/or re-transfer the land described in the Schedule to the petition.

It is admitted between the parties that the land that is the subject matter of this application has been acquired by the State in terms of the Land Acquisition Act in 1984. This application has been filed by the Petitioner after the 3rd Respondent, the Urban Development Authority filed action against the Petitioner and one other in the Magistrate's Court of Colombo under the provisions of the State Lands (Recovery of Possession) Act No. 7 of 1979, as amended, seeking to eject the Petitioner from a land identified as parts of Lot Nos. 9 and 11 in Preliminary Plan No. 6254¹ in extent of 1A OR 1.51, which land is part of the land acquired by the State in 1984.

The Petitioner states that his father, Juliyanage Nawaliyas Silva purchased from Magalage Richard Perera in September 1951, by Deed of Transfer No. 1517, annexed to the petition marked 'P4a', the land described therein. This Court observes that according to the schedule to the said Deed, the extent of the land was 1A OR OP 'according to Plan No. 7600 dated 17th September 1951 made by M.B. De Silva, Licensed Surveyor'.² The Petitioner states further that his father 'purchased' from Magalage Catherine Perera, two blocks of land adjacent to the land purchased by 'P4a' which is set out in Plan No. 152 marked 'P4c' as Lot B containing in extent 2R 25P, and Lot C containing in extent 1A OR 36P. As proof of the said transaction, the Petitioner has annexed to the petition a copy of an

¹ A copy of Plan No. 6254 has been annexed to the petition marked 'P1a'.

² This land has subsequently been identified as Lot A in Plan No. 152.

Agreement to Sell dated 4th August 1954, marked 'P4b' but claims that the said Agreement to Sell is in fact a transfer of the said lots of land.

The Petitioner has annexed to the petition, Deed of Declaration No. 3676 executed on 5th November 1982 marked 'P4e' and Deed of Declaration No. 588 executed on 18th September 1985 marked 'P4d', executed by his father in respect of Lots B and C of Plan No. 152. This Court observes that while the Petitioner's father had claimed prescriptive title to the said two lots of land by 'P4e', no reference has been made in the said Deed of Declaration 'P4e' to the 'Agreement to Sell' marked 'P4b', which is the document by which the Petitioner claims that his father purchased the said lots in 1954. The Petitioner states that in February 2001, long after the State had acquired the said property, his father executed a deed of gift in favour of the Petitioner in respect of Lots B and C of Plan No. 152 annexed to the petition marked 'P4f'. This Court has examined 'P4f' and observes that although reference has been made therein to the Deed of Declaration 'P4e', no reference has been made to the Agreement to Sell 'P4b'.

The Respondents have disputed the title of the Petitioner to the land that is the subject matter of this application and states that even though the Petitioner's father had title to Lot No. 10 in Plan No. 6254 annexed to the petition marked 'P1a', which admittedly is almost identical to Lot A of Plan No. 152 and which land had been divested to the Petitioner in the year 2000, occupation of the lots of land adjacent to Lot No. 10 – i.e. Lots B and C of Plan No. 152- is unlawful. This Court must observe that several complaints have in fact been made against the Petitioner's father as far back as in 1992 that he is engaged in the illegal filling of

land.³ It has been consistently held by this Court that it cannot go into disputed questions of fact including issues relating to title where such title is disputed by the parties. Hence, this Court cannot determine in these proceedings if the Petitioner or his father had title to the said land from which the Petitioner is sought to be ejected, prior to its acquisition in 1984, even if called upon to do so.

Be that as it may, this Court would consider the relief sought by the Petitioner on the assumption that the Petitioner has title to the land in question.

This Court will start with the Writ of Mandamus seeking a divesting of the land that the Petitioner claims belongs to him.

The first section in the Land Acquisition Act that this Court needs to consider is Section 39 which deals with the revocation of a vesting order by which a land has been acquired by the State.

Section 39 reads as follows:

“Notwithstanding that by virtue of an Order under section 38 (hereinafter in this section referred to as a "vesting order") any land has vested absolutely in the State, the Minister may, **if possession of the land has not actually been taken for and on behalf of the State in pursuance of that Order**, by subsequent Order published in the Gazette revoke the vesting order.”

³ Vide documents marked 'R4' – 'R9' annexed to 'P7a(ii)'.

In D.D. Gnanawathi Ranasinghe vs. P.H.K Dharmasiri Ranasinghe⁴ the Supreme Court, having considered the situations in which Section 39 could be applied, held as follows:

“The governing part of the above section, in my view, is the following phrase:
“if possession of the land has not actually been taken for and on behalf of the State in pursuance of that order.”

In my view if the possession of the land has **not** been taken for and on behalf of the State, the Minister has the power to make an order under Section 39(1) of the Act. But if the possession of the land has been taken over for and on behalf of the State, the Minister has no power to make an order under Section 39(1) of the Act.

The Supreme Court, having considered the affidavit of the respondent that possession of the land has been taken over by the Urban Development Authority on 2nd October 1980 and the fact that 44 people had been paid compensation for the acquisition of the land in question, came to the conclusion that the possession of the land has been taken over by the State, and held as follows:

“Therefore, the Minister (the 1st Respondent) cannot revoke the vesting order in terms of Section 39(1) of the Act. Therefore, the court cannot issue a writ of mandamus directing the 1st Respondent to revoke, in terms of Section 39(1) of the Act, the vesting order. For the above reasons, I hold that

⁴ SC Appeal 87A/2006; SC Minutes of 13th September 2017.

the Court of Appeal was correct when it refused to issue a writ of mandamus directing the 1st Respondent to revoke, in terms of section 39(1) of the Act, the vesting order.”

It is the position of the learned Senior Deputy Solicitor General that possession has been taken over on behalf of the State. The Petitioner has annexed to the petition marked 'P7a(i)' the petition filed by his father in CA (Writ) Application No. 737/96, seeking *inter alia* a Writ of Certiorari to quash the notice published in terms of the proviso (a) to Section 38. In the said petition, a specific allegation had been made that possession of the said land had not been taken over by the acquiring officer. This Court has examined the Statement of Objections filed by the Respondents in that case in 1997, which have been annexed to the petition marked 'P7a(ii)' and find that the respondents have taken up the following position with regard to the taking of possession:

- (a) Possession of the land was taken over by the acquiring officer, the then Assistant Government Agent Nugegoda, S.M.P. Samarakoon on 12th November 1984;
- (b) Legal possession has been handed over by the said Assistant Government Agent to the Urban Development Authority, with the occupants thereon, on 12th November 1984, and possession had been accepted by D.R.I. Beneragama on behalf of the Urban Development Authority on the same date.

A copy of the gazette notification issued under proviso (a) to Section 38 directing the Acquiring Officer to take possession of the entire land referred to therein, has been annexed to the said statement of objections marked 'R1'. The certificate of handing over of the legal possession to the Urban Development Authority has been annexed to the said statement of objections marked 'R2'.⁵ By a letter dated 4th June 1985, the Urban Development Authority has informed the Divisional Secretary, Colombo that possession of the land was taken over on 12th November 1984.⁶ Thus, this Court is satisfied that possession of the land that was acquired in 1984 had been taken over by the State soon after the acquisition.

In any event, the settlement in CA (Writ) Application No. 737/96 pursuant to which Lot No. 10 in Plan No. 6254 was divested, was effected not by a revocation of the vesting order as provided by Section 39 but by the publication of a divesting order under and in terms of Section 39A(1). This is borne out by the Gazette Notification relating to the said divesting, marked 'P7d', which confirms that the said Order has been made under Section 39A(1) of the Land Acquisition Act, which in turn confirms the position of the learned Senior Deputy Solicitor General that possession of the entire land had been taken over by the State.

⁵ 'R2' reads as follows: "ඉඩම් අත්කර ගැනීමේ පනතේ 38 (අ) වගන්තියේ විධි විධාන යටතේ යථා පරිදි බලය පවරනු ලැබූ නුගේගොඩ සහකාර ආණ්ඩුවේ ඒජන්ත එස්. එම්. පී. සමරකෝන් වන මම බස්නාහිර පළාතේ කොළඹ දිස්ත්‍රික්කයේ වැලිකඩ ගමේ මූලික කැලඳුම් අංක 18/84 හි පෙන්නුම් කර ඇති මුල් ප්‍රමාණයෙන් අ.14 රු.0 ප. 01.2 ක් වශයෙන් දැක්වෙන ඉඩම් කැබැලිවල කායික හා තිරවුල් භුක්තිය අද දින නාගරික සංවර්ධන අධිකාරියේ නියෝජිත ඩී. ආර්. ටී. බෙහරගම මහතාට කර දුන් බවට සහතික කරමි."

⁶ This document has been submitted by the Urban Development Authority in CA (Writ) Application No. 2529/2004, marked '3R1' and is annexed to 'P14c'. The said action had been filed by the Petitioner seeking the identical relief as in this application.

In the said circumstances, as possession has been taken over by the State, the vesting order cannot be revoked and therefore the provisions of Section 39 would not apply to this application.

However, where possession has been taken over, a divesting order can be made in terms of Section 39A, which reads as follows:

- (1) "Notwithstanding that by virtue of an Order under section 38 (hereafter in this section referred to as a "vesting Order") any land has vested absolutely in the State and actual possession of such land has been taken for or on behalf of the State under the provisions of paragraph (a) of section 40, the Minister may, subject to subsection (2), by subsequent Order published in the Gazette (hereafter in this section referred to as a "divesting Order") divest the State of the land so vested by the aforesaid vesting Order.

- (2) The Minister shall prior to making a divesting Order under subsection (1) satisfy himself that-
 - (a) no compensation has been paid under this Act to any person or persons interested in the land in relation to which the said divesting Order is to be made;

- (b) the said land has not been used for a public purpose after possession of such land has been taken by the State under the provisions of paragraph (a) of section 40 ;
- (c) no improvements to the said land have been effected after the Order for possession under paragraph (a) of section 40 had been made; and
- (d) the person or persons interested in the said land have consented in writing to take possession of such land immediately after the divesting Order is published in the Gazette.

Thus, the divesting of a land where possession has been taken over can only be effected if the aforementioned four conditions set out in Section 39A(2) have been satisfied.⁷

This Court will now consider if the requirements of Section 39A(2)(a) have been satisfied.

It is the position of the learned Senior Deputy Solicitor General that the acquiring officer acting in terms of Section 7(1) of the Act, had published a notice in Extraordinary Gazette No. 366/13 dated 11th September 1985, annexed to the petition marked 'P2c' calling for claims for compensation in respect of Lots 2- 21

⁷ D.F.A. Kapugeekiyana vs. Janaka Bandara Tennakoon, Minister of Lands [S.C. Appeal No. 161/2010; SC-Minutes; 18th November 2013] - "It is the assessment of this Court that to grant a divesting order on behalf of the Petitioner as per Section 39A of the Act, the four conditions set out in Section 39 A (2) must be satisfied."

of Plan No. 6254. Details of the lots referred to in 'P2c' which are relevant to this application are re-produced below:

කැබලි අංක	ඉඩමේ නම	විස්තරය	නිම්කම් කියන අය	මුල් නිම්කම් කියන අය	ප්‍රමාණය හෙක්ටයාර්
6.	කෝට්ටේ පාරේ වටී. අංක 1050 දරණ ස්ථානයේ කොටසක්	ගෙවත්ත සහ වගාවක් (වගාවක් නොමැත) ඇස්බැස්ටස් සෙවිලිකල පෙදෙරේරු ස්ථිර ගොඩනැගිල්ලක්ද ඇත	රජය	රෝනණ වික්‍රමපාල 1046, කෝට්ටේ පාර, වැලිකඩ, රාජගිරිය	0.6415
7.	බුන්ගමුව පාරේ වටී. අංක 90 සහ 94 දරණ ස්ථාන වල කොටසක්	වගාවක්	රජය	සමසඳිත්, ද සේරම් පාර, ගල්කිස්ස	0.8064
9.	බෙලිගහකුඹුර (වටිපනම් අංක සොයාගත නොහැක)	වගාවක්	රජය	පී.ඩී. ආචගල, 1090, කෝට්ටේ පාර, වැලිකඩ, රාජගිරිය	0.4085
10.	කෝට්ටේ පාරේ වටී. අංක 1042/5 සහ 1042/6 දරණ ස්ථානවල කොටස්	ගෙවත්ත සහ වගාවක් (වගාවක් නොමැත) ඇස්බැස්ටස් සෙවිලිකල පෙදෙරේරු ස්ථිර ගොඩනැගිල්ලක්ද තහඩුසෙවිලි කල තාවකාලික ගොඩනැගිල්ලක්ද ඇත.	රජය	ජේ.එන්.ඩී සිල්වා, 1042/5 කෝට්ටේ පාර, වැලිකඩ, රාජගිරිය	0.39
11.	කෝට්ටේ පාරේ වටී. අංක 1050/ඒ දරණ ස්ථානය	වගාවක්	රජය	ඒ. සමරසිංහ, 133/9, බැඳ්දගාන පාර, පිටකෝට්ටේ	0.2210
17.	කෝට්ටේ පාරේ වටී. අංක 1042/5 සහ 1042/6 දරණ ස්ථානවල කොටස්	ගෙවත්ත(වගාවක් නොමැත)	රජය	ජේ.එන්.ඩී සිල්වා, විසින් අනවසරයෙන් අල්ලාගෙන ඇත	0.0260

'P2c' also specified as follows:

“ඉහත සඳහන් ඉඩම්වලට හිමිකම, අයිතිවාසිකම් හෝ වෙනත් සම්බන්ධකම් කියා සිටින සියලුදෙනාම තම තමන් හෝ ඔවුන්ගෙන් ලියවිලිවලින් බලය ලත් අයවලන් හෝ 1985 ඔක්තෝබර් මස 17 වැනි දින පු. හා. 9.00 ට නුගේගොඩ උප දිසාපති කාර්යාලයේ දී මා සම්මුඛ විය යුතුයි.

තවද, 1985.10.11 වැනි දිනට මත්තෙන් ඒ ඉඩම සම්බන්ධයෙන් ඔවුන්ගේ අයිතිවාසිකම් වල ස්වභාවයක් එකී ඉඩම් ලබාගැනීම ගැන වන්දි ඉල්ලීමට ඇති කරුණු පිළිබඳ විස්තරව වන්දි මුදල හා ඒ මුදල ගණන් බැලූ හැටිත් මා වෙත පිටපත් දෙකක් සහිත වූ ලියවිල්ලකින් දැනුම් දිය යුතුයි. හිමිකම් තහවුරු කිරීම සඳහා අවශ්‍ය ඔප්පු සහ ලියකියවිලි පරීක්ෂණයේ දී ඉදිරිපත් කළ යුතුයි.”

The Respondents have taken up the position that the Petitioner’s father had made a lawful claim as the title holder only in respect of Lot No. 10 of Plan No. 6254 and that the Petitioner’s father did not make a claim in respect of any other lot in Plan No. 6254. The fact that persons other than the Petitioner’s father were claiming title to Lot Nos. 6, 7, 9 and 11 in Plan No. 6254 is borne out by the above table.

After a notice under Section 7 is published in respect of the land that is sought to be acquired, the acquiring officer shall, by way of a notice published under Section 9(1) of the Act, direct the persons interested in that land to appear before him to hold an inquiry into-

- (a) the market value of that land which is to be acquired;

- (b) such claims for compensation as may have been notified to him within the time allowed therefor;
- (c) the respective interests of the persons claiming compensation; and
- (d) any other matter which needs investigation for the purpose of making an award under section 17.

It is the position of the Respondents that the inquiry into the payment of compensation proceeded on the basis of the claims that they had received in response to the Section 7 notice 'P2c' in respect of each Lot in Plan No. 6254. There is no dispute that the Petitioner's father made a claim in respect of Lot No. 10. However, as there had been another claimant to Lot No. 10, the matter had been referred to the District Court of Colombo for adjudication,⁸ as required by Section 10 of the Act. This is the Lot that was subsequently divested to the Petitioner's father by virtue of the settlement reached in CA (Writ) Application No. 737/96, as reflected in the Order 'P7d'.

The Respondents have stated further that the claims and ownership with regard to Lot Nos. 6, 7, 9 and 11 in Plan No. 6254, for which the Respondents claim the Petitioner's father did not make a claim but which forms part of the land which the Petitioner is claiming in this application, had been adjudicated and that compensation has already been paid to those who made valid claims to the

⁸ Case No. 4148/LA.

acquiring officer. The Respondents have submitted with their Statement of Objections marked '4Ra' – '4Rd', the awards made under Section 17 of the Land Acquisition Act in respect of the said Lot Nos. 6, 7, 9 and 11. The endorsements made on the said documents confirm that compensation has been paid to the persons referred to therein. This Court is of the view that once compensation has been paid for a particular land, the question of divesting the said land does not arise.

This issue was considered in D D Gnanawathi Ranasinghe vs. PHK Dharmasiri Ranasinghe⁹ in the following manner:

“What happens if compensation has been paid to the claimants? Then the Minister is not empowered to make a divesting order in terms of Section 39A of the Act because in such a situation condition No.1 in Section 39A (2) has not been fulfilled.”

In the above circumstances, this Court is of the view that the Petitioner has failed to satisfy the provisions of Section 39A(2)(a) of the Act, and therefore, a divesting order cannot be made in terms of Section 39A(1).

This Court will now consider if the provisions of Section 39A(2)(b) have been satisfied, even though such a course of action is not required in view of the conclusion reached by this Court that the requirement of Section 39A(2)(a) has not been satisfied.

⁹ Supra.

The survey plan that was prepared for the purpose of calling for claims under Section 7 is Plan No. 6254 dated 16th May 1985. As already noted, it is admitted between the parties that Lot No. 10 of Plan No. 6254 belonged to the Petitioner's father and that pursuant to a settlement reached in CA (Writ) Application No. 737/96, the State had divested the said land as well as lands belonging to other persons which were not required for a public purpose.

The learned Senior Deputy Solicitor General submitted that the lands that have not been divested out of the said Plan No. 6254 are being used for public purposes, which comes within the Sri Jayawardenapura – Kotte Development Plan. Elaborating on the specific purposes for which the lands have been put to use, the learned Senior Deputy Solicitor General has submitted that part of the land has been used to construct a road linking Sri Jayawardenapura Mawatha with Buthgamuwa Road, while another part of the land is being utilized for a playground for Ananda College. He has stated further that the rest of the land, which consists largely of marshy land is being used for water retention purposes. This Court must observe that the acquisition of marshy lands for water retention purpose can be classified as a public purpose especially given the close proximity that the land that is the subject matter of this application has to the Diyawanna Lake and the fact that the lands situated in the said area is prone to flooding during rainy periods.

In these circumstances, this Court is satisfied that the acquired land is in fact being used for a public purpose and therefore cannot agree with the submission

of the Petitioner that the said land has not been used for a public purpose. This Court therefore takes the view that the Petitioner has failed to satisfy the requirement of Section 39A(2)(b) of the Act, as well.

The third requirement that must be satisfied in terms of Section 39A(2) is that no improvements should have been effected to the land that has been acquired. The fact that the land which the Petitioner claims is now being used for a link road as well as a playground demonstrate that improvements have been made to the land after possession of the said land was taken over. Thus, the requirements of Section 39A(2)(c) of the Act too has not been satisfied by the Petitioner.

In the above factual circumstances, this Court is of the view that the pre-conditions that must be satisfied for the Minister to consider making a divesting order in terms of Section 39A have not been satisfied. Assuming that the conditions for divesting have been satisfied, this Court would still have to consider whether a Writ of Mandamus can be issued, in view of the several judgments of this Court as well as the Supreme Court that have held that a Writ of Mandamus would not issue to compel the Minister to make an order under Section 39A(1).¹⁰ Be that as it may, this Court does not have to engage in that discussion as the pre-conditions set out in Section 39A(2) have not been satisfied.

¹⁰ D.S Ubeyasinghe vs. H.M Gamini Seneviratne [CA (Writ) Application No.21/2017; CA Minutes of 24th May 2019]; Kingsley Fernando v. Dayaratne and Others [(1991) 2 Sri LR 129]; De Silva v. Atukorale, Minister of Lands, Irrigation and Mahaweli Development and Another [(1993) 1 Sri LR 283]; Urban Development Authority v. Abeyratne and Others [SC Appeal No. 85/2008 & 101/2008; SC Minutes of 01st June 2009]; Wijewardena v. Minister of Lands and Others [SC Appeal No. 56/2008; SC Minutes of 24th November 2015]

This Court will now consider the application for the Writ of Certiorari seeking to quash the vesting that took place in 1984. It is observed at the outset that the Petitioner is not seeking to quash a particular document relating to the acquisition process, although it has pleaded in the petition the notices published in terms of Sections 2 and 7, and proviso (a) to Section 38, of the Land Acquisition Act.

The basis on which the vesting has been challenged is twofold – the first is that the notice under Section 4 had not been published; the second is that there was no urgency that necessitated the issuing of an order under proviso (a) to Section 38. The Petitioner and his father were aware of the acquisition process from its beginning but do not appear to have pursued these objections, in spite of having filed Writ applications on at least two occasions. In any event, this Court is of the view that the provisions of Section 4 of the Land Acquisition Act are rendered nugatory once an order is made under proviso (a) to Section 38. Furthermore, the position of the Petitioner that there was no urgency that required possession to be taken over, does not have any merit in view of the development purposes for which the land has been made use of. This Court is of the view that when considering whether there in fact was an urgency to take possession of a land, one must bear in mind that the commencement and execution of a development project can take a long period of time from the time it is proposed and that a development project cannot even be planned unless the land required for the execution of the said project is available from the outset.

The Petitioner is also seeking a Writ of Certiorari to quash the decision of the Respondents to eject the Petitioner from the land referred to in the schedule to the quit notices annexed to the petition marked 'P19a(i)' and 'P19b(i)'. While observing once again that the Petitioner is not seeking to quash a particular document, this Court notes that the Respondents are entitled to proceed under the provisions of the State Lands (Recovery of Possession) Act in view of the fact that the said land is State land.

In the above circumstances, this Court does not see any legal basis to issue the Writs of Certiorari and Mandamus prayed for by the Petitioner. This application is accordingly dismissed, without costs.

Judge of the Court of Appeal