

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

Design Consortium Limited,  
No. 85, Kynsey Road,  
Colombo 8.

Petitioner

**CASE NO: CALA/08/2014**

**COMPENSATION TRIBUNAL NO: COM T/01/15/82**

Vs.

1. R.A.R.M.N. Rajakaruna,  
Chairman, Office of the  
Compensation Tribunal,  
Tax Appeals Commissions  
Building, No. 49/12,  
Galle Road, Colombo 3.
2. P.W. Senaratne,  
Member, Office of the  
Compensation Tribunal,  
Tax Appeals Commissions  
Building, No. 49/12,  
Galle Road, Colombo 3.
3. Sunil Fernando,  
Member, Office of the  
Compensation Tribunal,  
Tax Appeals Commissions  
Building, No. 49/12,  
Galle Road, Colombo 3.

Respondents

Before: Mahinda Samayawardhena, J.  
Counsel: Avindra Rodrigo, P.C., with Akiel Deen for the Appellant.  
Farzana Jameel, P.C., A.S.G., with Ganga Wakishta Arachchi, S.S.C., for the Respondents.  
Decided on: 11.09.2019

Mahinda Samayawardhena, J.

The Petitioner Company (Design Consortium Limited) filed this appeal against the determination marked X5 dated 31.10.2014 of the Compensation Tribunal set up under the provisions of the Revival of Underperforming Enterprises or Underutilized Assets Act, No. 43 of 2011 (which has now been repealed by Act No. 12 of 2019) whereby the claim made by the Petitioner Company was rejected on the basis that the Petitioner Company has no ownership to the Assets vested in the State.

The Petitioner Company's claim for a sum of rupees nearly 59 Million relates to providing Consultancy Services to the Ceylinco Homes International (Lotus Tower) Ltd. in respect of design and construction of "Ceylinco Celestial Residencies" at No. 116 and 134/1, Galle Road, Colombo 3, which Assets, according to the Petitioner Company, were vested in the State by operation of the said Act.

According to section 4(2)(b) of the Act, the owner or owners of any Underutilized Assets shall be entitled to receive prompt,

adequate and effective compensation in terms of the succeeding provisions of the Act.

Section 4(3)(b) further states that the compensation payable shall, in relation to an Underutilized Asset, reflect the value of such Asset based on the ownership by one or more owners.

There cannot be any doubt that the Petitioner Company which provided services to construct a luxury apartment complex in the Assets vested is not the owner or one of the owners of the said Assets.

Hence the determination of the Tribunal not to pay the Petitioner Company for Consultancy Services so provided, in my view, is correct.

I dismiss the appeal of the Petitioner Company without costs.

Judge of the Court of Appeal