IN THE FIJI COURT OF APPEAL

Appellate Jurisdiction

Civil Appeal No. 80 of 1984

Between:

THE MINISTER FOR HOUSING AND URBAN AFFAIRS — Appellant

and

1. VISHNU PRASAD
2. HONWING WILLIAM YEE
3. MOTI CHANDRA
4. NEMIA DRAUNA
5. ISIMELI VOLAVOLA — Respondents

R.W.R. Parker Q.C., G.P. Lala and M.B. Patel
for the Appellant
M.S. Sahu Khan for the Respondents

Dates of Hearing: 7th, 8th, 9th March, 1985
Delivery of Judgment: 22nd March, 1985

JUDGMENT OF THE COURT

O'Regan, J.A.

The appellant was appointed Minister of Housing and Urban Affairs in the government of Fiji as from 1st February, 1984 and in that capacity at all material times thereafter was invested with all the powers reposed by the various provisions of the Housing Act (Cap. 267) in the Minister.

When the Minister assumed his appointment the respondents were all members of the Housing Authority, a body corporate constituted by the Housing Act, pursuant to instruments of appointment made by the appellant's predecessor as holder of the Housing portfolio - in the case of Mr. Moti Chandra on 30th January, 1984 and in the cases of the other respondents on 6th January, 1984. Such appointments were for a term of 3 years expiring on 31st December, 1986. All these gentlemen, except Mr. Volavola had held previous appointments to the Board, Mr. Drauna since 1978, Mr. Prasad since 1979 and Messrs Yee and Chandra since 1980. Mr. Prasad had held the office of chairman of the Board for two terms of one year prior to his re-appointment on 6th January, 1984, on which date he was also re-appointed chairman of the Authority for a further three years.

In addition to the respondents, the holder of the office of Permanent Secretary for Lands, Local Government and Housing was at all material times a member of the Authority. His appointment - not by name but by office - was made on 6th January, 1984.

The Housing Authority and its status

The Authority was established pursuant to section 3 of the Housing Act, the relevant parts of which read :

> " (1) There is hereby established an authority to be known as the Housing Authority.
>
> (2) The Authority shall consist of not more than six members all of whom shall be appointed by the Minister.
>
> (3) Members of the Authority shall hold office for such terms not exceeding three years as the Minister may determine but shall be eligible for re-appointment.
>
> (4) .....
>
> (5) .....

(6) Subject to the provisions of this Act, the Authority may make its own rules of procedure."

The main functions and powers of the Authority are prescribed in subsection (1) of section 15 of the Act:

" (1) The Authority is hereby authorised to provide in accordance with the provisions of this Act housing accomodation for workers in the Cities of Suva, Lautoka and in any prescribed area and for that purpose the Authority is authorised and shall have power -

(a) to acquire land and buildings or any estate or interest therein and to develop the same as a building estate by the erection, construction, alteration, maintenance and improvement of dwelling-houses and gardens, recreation parks and other works and buildings for or for the convenience of persons occupying such dwelling-houses;

(b) to accept donations of land, money or other property;

(c) to subdivide and develop any land acquired by or vested in it;

(d) to acquire dwelling-houses suitable for the purposes of this Act;

(e)(i) to let or lease any land or building vested in it, to be used for the purpose of any factory, warehouse, shop, workshop, school, place of workshop or place of recreation which would, in the opinion of the Authority, be to the convenience or benefit of persons occupying houses provided by the Authority;

(ii) to construct on any land vested in it any building for letting or leasing for any of the purposes specified in subparagraph (i) and to retain for its own use any part of any such building;

(f) to sell or exchange any land or buildings vested in it;

(g) to invest at its discretion in any securities authorised by law for the time being for investment of trust funds any moneys (whether capital or income) at any time at the disposal of the Authority and not immediately required by the Authority for the purchase of property or the construction of buildings or for other purposes authorised by this Act;

(h) by way of loan, guarantee or otherwise to assist a worker to purchase a dwelling-house, or discharge a debt secured on a dwelling-house or erect, or effect substantial alteration, improvement or extension to, a dwelling-house upon such terms and conditions as the Authority may deem fit;

(i) with the approval of the Minister to make advances upon such securities as may likewise be approved to suitable social organisations for the purpose of assisting the erection of hostels;

(j) to purchase plant, vehicles, machinery, equipment, stores and building materials and accessories of any kind;

(k) to approve, if it thinks fit, schemes prepared by any other person, firm or company or local authority to provide housing accomodation for workers in Suva, Lautoka or any other prescribed area. "

And, in addition to such powers, the Act empowers the Authority to hold land (section 6), to sue and be sued (section 7), to employ servants (section 8) and to operate bank accounts (section 12).

The limitations and restrictions upon its exercise of power are to be found first in section 3A of the Act which provides :

" The Authority in exercise of its functions and powers under this Act shall act in accordance with any general or special directions as to policy given to it by the Minister "

and secondly in a group of provisions (sections 14, 19 and 20) imposing the oversight and control of the Minister upon the major financial operations of the Authority.

Save, then, in four respects where the Minister has powers which, if exercised, impose limitations on the exercise of the Authority's discretion, the Authority has freedom of action in performing its functions. Those four potential limitations are, first, that the appointment of its members are the sole preserve of the Minister (section 3); secondly, that the Minister has power "to remove, suspend, dismiss or revoke the appointment" of members (section 44 of the Interpretation Act); thirdly, that the Minister may give directions as to the policy it should pursue (section 3A); and fourthly, the Minister may exercise control on the borrowing of money. They relate to matters of moment but the reality of the situation is that they do not greatly impinge upon the exercise of the powers and rights which the Authority may exercise in the performance of its charter as enshrined in section 15 of the Act.

All in all, we think that the degree of independent control possessed by the Authority is such that we conclude it should be categorised as a statutory corporation and not as a servant or agent of the Crown. In the words of Lord Denning -

> " In the eye of law (it) is its own master and is as answerable as fully as any other person or corporation. It is not the Crown and has none of the immunities or privileges of the Crown. Its property is not Crown property. It is as much bound by Acts of Parliament as any other subject of the King" - Tamlin v. Hannaford (1950) 1 K.B. 18 at p.25, approved by the High Court of Australia in Launceston Corporation v. The Hydro Electric Commission (1959) 100 C.L.R. 654, 661.

Mr. Parker submitted that the members of the Authority were in the service of the Crown and subject

to a general rule that they were dismissible at pleasure unless relevant statutes made contrary provision. In support of these propositions he cited a long line of cases beginning with De Dohse v. R. (decided in the House of Lords on November 25, 1886, not reported, but referred to and followed in Dunn v. The Queen (1896) 1 Q.B. 116 at 117 et seq) and including Gould v. Stuart (1896) A.C. 575; Ryder v. Foley (1906) 4 C.L.R. 422; Fletcher v. Knott (1938) 60 C.L.R. 55 and Buller Hospital Board v. The Attorney-General (1959) N.Z.L.R. 1259. And he went on to contend that the relevant statutory provisions, the Housing Act itself and section 44 of the Interpretation Act (Cap. 7), made no contrary provision.

In our view, the members were not dismissible at pleasure. This we apprehend to emerge clearly from the legislative history of subsection (4) of section 3 of the Housing Act. Prior to 1973 the subsection had provided that the chairman and other members "shall subject to the pleasure of the Governor" and then later in 1976 "shall subject to the pleasure of the Minister", hold office ....., but by an amendment of the Act in 1980 the words we have emphasised were omitted. The dropping of the phrase "at the pleasure of the Minister" from the statutory provision is clear indication that subsequent to the 1980 amendment, appointments made were not "at pleasure".

Mr. Sahu Khan for the respondents, submitted that the question is concluded by subsection (1)(h)(iii) of section 128 of the Constitution of Fiji (Cap. 1). The provision, insofar as it is relevant, reads :

> " (1) In this Constitution the expression 'public office' shall be construed -
>
> (a) .....
>
> (b) as not including -
>
> (i) .....
>
> (ii) .....

(iii) except insofar as may be otherwise prescribed, the office of member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law."

In section 127 of the Constitution (the interpretation section) it is provided that -

" 'public service' means, subject to the provisions of section 128 'an office of emolument in the public service'. "

And that -

" 'the public service' means the service of the Crown whether in a civil or military capacity in respect of the Government of Fiji'. "

We think that the Authority constituted by the Housing Authority Act falls within the prescription of subjection (1)(b)(iii) of section 128 inasmuch as it is a "similar body" to those specifically mentioned and that its members are accordingly not holders of public office and accordingly not in the service of the Crown.

We note that most of the authorities upon which Mr. Parker placed reliance are by no means recent. Indeed most of them, having regard to the rapid developments in the field of Public Law over the last half century, are old. And whilst they contain pronouncements from superior courts in the Commonwealth from the lips of Judges of great name and high station, they have been overtaken by events - the encroachment by governments into spheres of commercial activity undreamed of fifty years ago; by great developments in the instruments and machinery of government and by a greater acceptance of the fact that powers in older times reserved to the Sovereign are now instituted and carried out by the Sovereign's ministers of state for the benefit and advantage of the government of the state and not of the Sovereign.

And coincidental with these changes there has developed the widespread practice of prescribing, either by statute or regulations on the one hand or by agreement on the other, conditions and other incidents of employment which mitigate the rigour otherwise attendant upon dismissal at pleasure. In this respect we refer to the observations of Lord Wilberforce in Malloch v. Aberdeen Corporation (1971) 1 W.L.R. 1578 at p. 1597 :

> " ..... While the Courts will necessarily respect the right, for good reasons of public policy, to dismiss without assigned reasons, this should not, in my opinion, prevent them from examining the framework and context of the employment to see whether elementary rights are conferred on him expressly or by necessary implication and how far these extend. "

We hold that the members of the Authority are not servants of the Crown and are not dismissible at pleasure.

Against that background we turn to state the facts of the case leading up to the dismissal of the respondents by the Minister and to a consideration of the legal questions thrown up by the appeal.

The facts

On 27th March, 1983 "The Fiji Times" published a news item concerning increases in ground rentals of residential sections of which the Authority was lessor. The burden of it is apparent from the following extract:

> " The Housing Authority has increased ground rents for about 300 tenants from an average of $25 a year to about $400.
>
> In some cases the rents have shot up to more than $800.
>
> The percentage increases range from 1700 to 3500 per cent.

In letters it has sent to tenants the Authority claims the increases have been approved by the Prices and Incomes Board.

But the Secretary to the PIB, Mr. Vishnu Baldeo said yesterday the Authority's application for increases had not been approved. "

In the same issue of the paper appeared an editorial on the matter :

" **Full inquiry is necessary**

The Housing Authority has served notice on several tenants in the Raiwai/Raiwaqa residential area of ground rent increases ranging from 1700 per cent to 3500 per cent.

Such increases are not only exorbitant but exploitive.

What is worse, the authority has sent official letters to its tenants saying that the Prices and Incomes Board has approved the increases, when the PIB has done no such thing.

Why has the authority deliberately misled its tenants? To weaken their will to raise objections against its rapacious demands?

It is disgraceful that the authority, charged with the responsibility of housing the poor and low-income earners of the nation, should seek such unconscionable increases in ground rent.

It is even more disturbing that it should falsely claim that the PIB has approved the increases when no such approval has been given. The PIB secretary, Mr. Vishnu Baldeo, assures us that although he has received applications for these increases, the PIB has not granted them. No decision has been made, he says.

In all probability, the PIB might not approve the increases sought by the authority.

In accordance with its covenant with its tenants, the authority is exercising its right to review ground rent at the end of 10 years. The increases are calculated on a maximum six per cent of the unimproved capital value (UCV) of the lots in question.

It would be interesting to find out how the authority arrived at the valuations and the rent increases.

It is difficult to imagine how the rent on a plot of land can jump from $25 a year to $450, or even $800 in a few cases, in 10 years.

We urge the Minister for Housing, Mr. Edward Beddoes, to conduct a full inquiry into the whole affair.

The inquiry should examine the basis of the increases and, more importantly, the authority's highly questionable conduct in misleading its tenants by telling them that the PIB had already approved the increases. "

On the same day the chairman of the Authority sought reports on the matter. These reports showed that a deal of the material in the article - and subsequently assumed by the leader writer to be correct - were indeed not correct.

The chairman set about preparing a press release. But before it was released, the Permanent Secretary of the Minister telephoned the Secretary of the Authority and asked that the Minister be given a copy of the proposed press statement. That was done. Shortly thereafter the Minister directed the Authority not to issue a press statement and intimated that he would himself make a statement for publication.

On the same day the appellant caused the following letter to be sent to the Authority :

"

27th March, 1984

The Chief Executive,
Housing Authority,
SUVA.

Dear Sir,

GROUND RENTAL FOR HOUSING AUTHORITY TENANT

Reference is made to a report and the editorial in the Fiji Times of to-day's date concerning the

Housing Authority's decision to increase ground rental 'for about 300 tenants from an average of $25 a year to about $400'.

The Minister for Housing and Urban Affairs has given consideration to this matter and has directed that no action be taken to increase ground rental until he has been able to study the matter more fully.

You are therefore requested to provide a detailed outline of this proposal to increase the rental, for Minister's further consideration.

Yours faithfully,

(J.P. Gautam)
Permanent Secretary for Housing
and Urban Affairs

"

The appellant next issued a press statement which was published on 28th March, 1984. It announced that he had ordered "a freeze on moves by the Housing Authority to increase ground rents of about 300 tenants" and that the freeze would remain in force until he had investigated the Authority's action.

The press item did not deal with the detailed allegations contained in the original article many of which the Authority, not without reason, considered to be manifestly wrong. That it did not do so occasioned a deal of concern to both the respondents and the staff of the Authority. So that the appellant should be fully appraised of the situation, the Chief Executive of the Authority furnished him with a report on 28th March, 1984. The salient features were :

1. The Authority had carried out 700 rent assessments between May and December 1983 all of which had been approved by the Prices and Incomes Board.

2. Between January 1984 and March 28th, 1984 the Authority had issued 61 notices to

tenants informing them of the porposed increases on re-assessments then due and giving opportunity to them to make submissions thereon.

3. That applications for approval to such increases had already been made to the Prices and Incomes Board and 11 approvals had been granted.

4. That in respect of the remaining 50 cases the tenants had been wrongly informed that approvals of the Prices and Incomes Board had been obtained.

On 4th April, 1984 the Permanent Secretary for Housing and Urban Affairs wrote as follows to the Permanent Secretary for Lands, Energy and Mineral Resources :

" HOUSING AUTHORITY - GROUND RENTALS

You may already be aware of the recent criticism in the press about the increases in ground rentals proposed by the Housing Authority in respect of its tenants. The leases are due for rent reassessment this year.

2. The Minister for Housing and Urban Affairs has put a freeze on the proposed increases until the matter has been thoroughly investigated by this Ministry.

3. An important aspect of the proposed increases is the basis of valuation of the respective properties and rent increases proposed, based on the assessed value of these properties.

4. I am directed by the Minister to request you to release a valuer who could assist this Ministry by carrying out an independent valuation of these properties to ensure that the normal valuation principles and practices have been followed. It is imperative that the assignment be done immediately in view of the fact that the tenants are required to be given notices of intention to the increases before the due dates.

G.R. Sharan
for Permanent Secretary for
Housing and Urban Affairs"

That request was met. The valuer's report is not on record. The burden of it is contained in a memorandum from the Permanent Secretary for Lands to the Permanent Secretary for Housing and Urban Affairs, the relevant parts of which read :

"Further to my above referenced memorandum of 13th instant and our subsequent telephone discussion, further investigation was done to comment on the method adopted by Housing Authority to assess ground rent on its leases.

All the properties listed in my memorandum of 13th April, were valued in 1983 for assessment of city rates. This valuation was done under Local Government Act which requires that the valuation should be done on the assumption that properties are held in 'fee-simple' and free from all encumbrances. These values were adopted by Housing Authority for assessment of ground rent using its policy of 3% on Unimproved Capital Value. There does not appear to be any definition of Unimproved Capital Value in Housing Authority's regulations and it is assumed that definition of U.C.V. under Local Government Act is being adopted. If it is so, the Authority is safe in using values fixed for rating purposes provided a further discount is allowed because of the restrictive covenants that are attached to the leases. In my opinion a discount of twenty percent on the rating value would suffice provided both valuations are to be effective from the same period of time. From the information obtained from Housing Authority, no discount was given in the rating value figure and the rentals were fixed at three percent of the value.

Furthermore, all the Housing Authority leases are subject to payment of lump sum money in way of 'Development Premium'. Since premium is commonly regarded as being rent paid in advance, the lessees are in fact paying higher rental than what is shown in the lease documents. Accordingly, the money paid in way of premium will have to be taken into account in the reassessed rental. This factor was not considered by Housing Authority which resulted in very high reassessed rental.

Taking the above principles into account the rentals of individual properties are assessed as follows : "

Next follows a list of lessees and the valuer's assessments and then the memorandum continues :

> "As can be seen in the above schedule, only three leases qualify for increase in rental. The reason being very high premium was paid during the commencement of the leases. The above values represent present day market value of the properties in fee simple and in some cases are lower than the premium paid ten years ago. This means some tenants have already paid freehold value of the land and thus should not be asked to pay any more rental until the next reassessment date.
>
> Assessment of rental on any property where premium is involved requires principles and practices of valuation. Accordingly, to attain good landlord and tenant relationship as far as rentals are concerned services of a valuer should be obtained for any such exercise. "

On 25th May, 1984, six weeks after the receipt of the report, the appellant dismissed the respondents. His letter to the chairman, which save for some inconsequential differences in the wording of the first paragraph is the same as those sent to the other respondents, reads as follows :

> "You will recall our discussion in my office early in March 1984 soon after I assumed the Ministerial responsibility for my present portfolio. I had indicated to you at that meeting that as Minister for Housing, I would like to have the opportunity to be able to appoint to the Board of the Housing Authority individuals whose ability I was personally familiar with and in whom I had confidence with regard to the implementation of the housing policies of the present Government.
>
> In recent months I have had cause to give this matter further thought. And recent events have only served to confirm my initial thoughts in this important matter. I refer to the adverse publicity in recent weeks in which the Housing Authority was reported to have increased the ground rental charges payable by some of its tenants, without proper consideration. You will realise and no doubt agree that such a situation has caused considerable embarrassment to the Housing Authority, my Ministry and the Government in general. Indeed, a close assessment of the position as it applies to 21 tenants of the Housing Authority in Raiwaqa showed that

only three of these tenants qualify for an increase in ground rental. The others have already paid the freehold value of their land and should not be asked to pay any more rental until the next reassessment date. A copy of Government Valuer's Report substantiating this is enclosed.

The Board of the Housing Authority is, of course, responsible to me for the proper functioning and management of the affairs of the Authority. Recent events have shaken my faith in the ability of the Board to direct the operations of the Housing Authority in a manner that is consistent with Government policy. They have also strengthened my earlier intimation to you that I would much prefer to work with a Board in whom I have faith and confidence.

I have therefore decided to exercise the power given to me by section 44 of the Interpretation Act, Cap. 7, as Minister responsible for Housing to revoke your appointment. "

The appellant's evidence shows that he accepted the criticisms of the Authority's methods of valuation contained in the report of 17th April, 1984 and had concluded that such methods were wrong. In an affidavit filed in these proceedings, he deposed that :

" I considered the Authority's decision to increase the rental without properly assessing the values of the properties for rental purposes a serious error on the part of the Authority's board.

The said error caused considerable embarrassment to the Authority, my Ministry and the Government in general.

I was satisfied, having regard to all material matters before me that the Board of the Authority was not able to direct operations of the Authority in a manner consistent with Government policy and in a manner calculated to safeguard and advance the wider interests of the workers at large.

That I was further satisfied that the policy and objects of the Act could no longer be promoted by the Board of the Housing Authority in whom I had lost faith and confidence. "

In the court below the learned Judge said that "the court was told that there are and have been no ministerial directives, either general or specific as to policy, in accordance with the powers given under section 3A of the Act".

Before us Mr. Parker, who was not counsel at first instance, questioned whether such statement arose from a specific concession by counsel for the appellant.

In our view the Judge would not have so expressed himself without such a concession and in any event, policy being, as it is, a crucial element in the case, the contents of any ministerial policy directives on matters relevant would surely have been tendered in evidence. There is no evidence of any such directives either by the appellant or any of his predecessors in office and we conclude that there are none.

In January 1980, the Board of the Authority had formulated policies as to ground rents generally and methods of assessment in particular. These policies were published as Policy Directive No. 10. In the absence of ministerial directions on that topic the formulation of such policies was clearly within the power and competence of the respondents.

Policy Directive 10 reads :

"

GROUND RENT

Policy Directive No. 10

The Housing Authority will charge Ground Rent on all leases issued regardless of whether or not the Authority is itself required to pay ground rent to a head lessor.

The minimum rates to be applied are set out below but these may be increased if they do not cover the ground rent charged by a lessor to the Authority under a Head Lease.

New leases will include a clause which provides for the revision of ground rent every ten years. Where possible existing leases will be amended accordingly.

A. Low-Income Workers

I. Nominal $15 per annum for first ten years.

II. 3% per annum of U.C.V. on first re-assessment where assessed every ten years.

III. 6% per annum of U.C.V. on first revision where assessed every twenty five years.

B. Tender Land, Commercial and Industrial Land

I. 3% per annum of U.C.V. where assessed every ten years.

II. 6% per annum of U.C.V. where assessed every twenty five years.

NOTE:

These rates operate from date of sale or allocation.

C. Sublet Residential Premises (excluding commercial and industrial)

I. 5% per annum of U.C.V. where assessed every ten years.

II. 6% per annum of U.C.V. where assessed every twenty five years. "

That directive was amended in February 1984. The amendment related solely to paragraph A1 which was replaced by the provision "1½% of the U.C.V. for the first ten years".

The respondents aver that the re-assessments in question were made in accordance with the provisions of the leases and, (save in one respect where it was relaxed in favour of a class of tenants) the amended

Policy Directive No. 10.

The respondents did not receive copies of the criticism of the valuation methods employed by them until they received the appellant's letter of dismissal and their complaint is that, in proceeding to dismiss them without giving them opportunity to consider it and to comment thereon, the appellant treated them unfairly and that in so doing rendered his decision subject to review. The learned Judge in the court below upheld this submission. In essence, he held that the dismissals fell within the third category of Lord Reid's classification made in Ridge v. Baldwin (1964) A.C. 40 at p.65 namely "dismissal from an office where there must be something against a man to warrant his dismissal". We think he was right in so doing. And as to that class Lord Reid said :

> " There I find an unbroken line of authority to the effect that an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation ..... "

The criticisms made of the methods of valuation upon which the Minister relied and acted do not bear the stamp of professionalism we would normally expect from an expert. Vague expressions such as "there does not appear to be any definition of Unimproved Capital Value in the Housing Authority's regulations and "it is assumed that definition fo U.C.V. under Local Government Act is being adopted" and "premium is commonly regarded as being rent paid in advance" signal a perfunctory approach by the author and give indication that no inquiry was made of the Authority as to the basis of its valuation and that the report was written without knowledge of the existence of Policy Directive 10.

Had the Minister shewn the respondents the reports of 13th and 17th April and invited their comments

he would surely have learned that the valuations were made in accordance with settled policy - a policy which, we note, he subsequently, in evidence, said he expected the management and staff to carry out in the reassessment of rentals - and would have evoked comment on what was stated in the report and perhaps injected precision in areas where assumption and uncertainty had previously been the order of the day. And the response would have made clear the method of valuation which had been adopted with the consequence that the Minister might well have stayed his hand and instead have given the Authority a special policy direction as to the mode and basis of rental assessment, pursuant to section 3A of the Act.

The appellant in his evidence alludes to his having exercised a discretion legally vested in him. It is a general principle of the law that the donee of a power must act reasonably and fairly: Westminster Corporation v. London & North Western Railway Company (1905) A.C. 426; Re H.K. (an infant) (1967) 2Q.B. 617, 630. We think that in omitting to give the respondents opportunity to consider and comment upon the reports he had before taking his decision the appellant did not come up to these requirements of the law. We think also that the dictum of Lord Reid in Ridge v. Baldwin (supra) is conclusive.

In our view it was right that the discretion invested in the Judge should be exercised in the respondents' favour. The position they each held was an important public office, removal from which was likely to occasion them loss of reputation and respect. Most of them had held office previously. All had just lately been appointed for a term of three years. That factor gave them assurance that they might retain office for that term unless it was sooner determined by the active intervention of the Minister for some unexpected cause and it raised a strong presumption that unless they misconducted themselves the statutory

power of removal would not be exercised - see the observations of Rich J. in Geddes v. Magrath (1933) 50 C.L.R. 520 at p.531. All in all, we think that the appeal should be dismissed and it is dismissed accordingly. The appellant is ordered to pay the respondents' costs.

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Vice President

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Judge of Appeal

.....
Judge of Appeal