

**BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL**

ELAT 1269/16

**In the matter of :**

**Mr. Narain Dhayan**

**Appellant**

**v.**

**District Council of Riviere du Rempart**

**Respondent**

**In the presence of:**

**Mr. Vijay Jhugroo**

**Co-Respondent**

**Ruling**

The Respondent has raised a point in law to the effect that the appeal should be dismissed in as much as it was flawed 'ab initio', being given that the Appellant did not have locus standii to lodge the appeal. The Appellant relied on the Supreme Court Judgment of Baumann v. District Council of Riviere du Rempart i.p.o Syndicats des Co-Proprietaires de Savannah Sparrow Residence and Others [2019 SCJ 311] to support its motion. A similar motion was made by counsel for the Co-Respondent.

At the outset, Tribunal agrees with the position of the Respondent that a point in law can be taken at any time prior to a determination, the more so that it is a point regarding the jurisdiction of the Tribunal. This is why we find that the correct approach is to give a ruling on the point in law raised, albeit at a late stage (in the light of the Supreme Court Judgment of Baumann), rather than giving a determination, despite the fact that the hearing on the merits has been completed.

In Baumann (supra), the Supreme Court made a pronouncement on who is an "aggrieved person" within the meaning of section 117(4) of the Local Government Act 2011 whereby their Lordships stated that "*The Tribunal does not have the jurisdiction to consider and determine complaints from persons who are not "aggrieved persons" within the definition of the Local Government Act 2011.*"

The Environment and Land Use Appeal Tribunal (ELUAT) is an inferior jurisdiction to the Supreme Court. Based on the principle of *stare decisis*, it is bound and must abide by the decision of the Supreme Court. This has been the position adopted by the Tribunal in a ruling delivered by ELUAT in the case of Peerthy v. Municipal Council of Vacoas-Phoenix i.p.o A. Chinatamby Co.Ltd [ELAT 1671/18].

The Tribunal can therefore not allow an abuse of its own process by entertaining further motions for arguments on the question of its jurisdiction that has already been thrashed out by a superior court and spelt out in the above ruling.

We therefore allow the point in law raised by the Respondent and Co-Respondent that the appeal cannot proceed as the Appellant has no 'locus standii' to appeal against the decision of the local authority.

The appeal is set aside. No order as to costs.

Mrs. V. Phoolchund-Bhadain, Chairperson

Mr. Purnima D. Rawoteea, Member

Mr. Herveendeve Meetoo, Member

Date:

8<sup>th</sup> July 2020