

REPUBLIC OF TRINIDAD AND TOBAGO

Mag. App. 145 of 2005
Application NoTw 82 of 2005

IN THE MATTER OF THE APPEAL OF

KEARNE GOVIA

Appellant

AND

GAMBLING AND BETTING AUTHORITY

ANSLEM WARRICK

**THE INCORPORATED TRUSTEES OF
ST JOHN'S (LONDON) BAPTIST CHURCH**

Respondents

PANEL:

S. Sharma, C.J
R. Hamel-Smith J.A.

APPEARANCES:

Mr. Russell Martineau SC and Ms. Deborah Peake for the Appellant.

Mr. Seenath Jairam S.C, Mr. Rishi P.A Dass, Mr. Shiv A. Sharma and Mr. Andre Le Blanc for the Respondent.

DATE DELIVERED: 26th January 2006

JUDGMENT

DELIVERED by Sharma C.J.

1. This is an appeal filed pursuant to paragraph 22 of the First Schedule to the Gambling and Betting Act, Chap 11:19 (the Act) against the refusal of the Gambling and Betting Authority (the Authority) to approve the applications of

ii. increase the incidence of unsavoury and dangerous persons thereby

8. No doubt, the proximity of the Baptist church to the betting pool was the

rule " *qui per alium per se* (who acts through another acts through himself) nor does the section render it inapplicable to the circumstances of the case. See ***B.W.I.A Ltd. v Farmer***, CA Mag.123 of 1981. There is no evidence that

The Second application- Grant of a certificate authorising the issue of a betting office licence.

18. Counsel for the appellant has submitted several points in relation to the Authority's refusal to grant the second application. Prior to dealing with these, it is useful to set out the pertinent portions of statute. Paragraph 16 of the First Schedule to the Act under the heading "grounds for refusal to grant a certificate authorising the issue of a betting office license" provides:

" (1). In the case of an application for the grant of a certificate authorising the issue of a betting office licence, in respect of any premises, the authority may, in its discretion, grant a certificate authorising the issue of such licence, but the authority-

(a)---

(b) **may** refuse the application on the ground-

- i. subject to subparagraph (2) of this paragraph, that, having regard to the layout, character, condition or location of the premises, it is not suitable for use as a licensed betting office;

22. With respect to the Authority's finding which foresaw traffic congestion if the betting shop were allowed to operate at the proposed site, the Authority considered the evidence that on a good day the pool would have some 200 persons in attendance at any one time and when there was a funeral at the Baptist church there would be in excess of three hundred persons in attendance.

Church's stance on gambling was therefore a pertinent consideration in assessing the suitability of the premises for use as a betting office. In our view, it cannot therefore be viewed as the Authority yielding to the hypersensitivity of one group of persons.

27. Counsel on both sides relied on the case of ***Jankie Persad Sharma v Radhaykissoon Heeraj***

weighing conflicting evidence, and drawing its own conclusions, though it should make due allowance in this respect." of

