

Evaluation of real estate management assigned to the Public Trustee



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1. Executive Summary

The post of Public Trustee established under the Public Trustee Ordinance No. 01 of 1922 is entrusted with the function of acting as a General Trustee, acting as a Custodian Trustee acting as a Collector of Estates under an order to collect, acting as a Curator of the Estates of a Minor and acting as a manager of the estate of a person of unsound mind.

The basis for this performance audit was the persistence of unresolved issues for years regarding the estates appointed by the parties to be the custodian or custodian of their property in order to achieve different aspirations. Accordingly, an audit was carried out on 15 such estates in the Investigation Division, where the institutional background developed for the efficient and effective discharge of the responsibilities of the Public Trustee, the process of settling the estate and the management of the property and any issues arising thereon after the licensing of the property have been evaluated in this relation.

There, the failure to anticipate and meet the resource requirements required for the effective implementation of corporate objectives, the lack of strategic planning, and the inadequacies of the organizational structure due to weaknesses in the organizational structure and administrative structure have not solved the problems that have existed for many years regarding these properties are the issues caused. Furthermore, the interest in identifying, settling, and protecting property assigned to the Public Trustee is diminished and abnormal, slow execution of court orders, unnecessary expenditure of resources and time on tasks contrary to the intentions of the estate, improper use of the property Problems with this property, have been unresolved for long period due to problems such as mismanagement. Due

to all these factors, the various economic, social and religious objectives expected by the transfer of their property to the Public Trustee by various parties were not adequately achieved.

Develop strategic plans to achieve the objectives of the heirs by overcoming these problems and weaknesses, correct the weaknesses of the administrative structure, evaluate the progress of the objectives of each estate in a timely manner, conclude cases expeditiously in consultation with lawyers and action to be taken for the conservation of historically valuable property, investment of funds in effective investment avenues, formal agreement between the two parties regarding property leased to other persons, surveying of estates with unauthorized constructions and taking legal action against unauthorized constructions are the recommendation for overcome these issues.

2. Introduction

2.1 Background

Position of Public Trustee has been established as an independent legal person under the Public Trustees Ordinance No. 1 of 1922 as amended by Ordinances No. 11 of 1931 and No. 59 of 1938, Acts No. 44 of 1973 and No. 25 of 1975 and Acts No. 41 of 1983 and No. 61 of 1988.

“Pursuant to the provisions of the Public Trustee Ordinance No. 01 of 1922 and the Trust Ordinance No. 09 of 1917, efficient and effective execution of professional responsibilities and duties within the legal framework In a trustworthy impartial and transparent way by the public trustee” is the vision of the Department of Public Trustee of Sri Lanka.

The mission of the Department of public Trustee is to discharge all powers functions and duties of the office of public Trustee and the Department of Public Trustee of Sri Lanka within the legal framework in a transparent way and to provide impartial efficient and the best service to those who seek such service fully trusting the Department of public Trustee in order to draw a high goodwill and recognition to the Department of Public Trustee of Sri Lanka nationally and internationally.

2.1.1 The Public Trustee Ordinance, Civil Procedure code, Judicature Act and other enactments and rules have assigned the following functions to the Public Trustee.

- (a) Acting as an ordinary trustee.
- (b) Acting as a custodian trustee.
- (c) Acting as a collector of estates under an order to collect.
- (d) Acting as the curator of the estate of a minor custodian or next friend (manager) (when entrusted by the District Court).
- (e) Acting as a manager of the estate of a person of unsound mind (when entrusted by the District Court).
- (f) Acting as a manager of immovable property upon a contract on terms and conditions as may be mutually agreed upon. (Where the public Trustee is appointed as custodian trustee he is obligated to exercise of the powers of management or any other power of discretion rested in such board of managing Trustees.)
- (g) As attorney for persons absent from Sri Lanka for the purpose of receiving and paying money.
- (h) Under the civil procedure code of public Trustee shall be deemed to be a suitable person as a manager of an estate.

- (i) Acting as an administrator of a person without a last will and testament in cases assigned by the Court.
- (j) Acting as a custodian trustee of properties of pardon who is serving a sentence in person.
- (k) Accept the custody for the purpose of safe keeping a last will of any living pardon.
- (l) Acting as a trustee of the compensation give to the acquisition of temple property.

2.1.2 The services provided by the Department in relation to that role are as follows.

- (a) Granting scholarships to encourage the most financially challenged children for their studies .
- (b) Providing medical assistance to the patients in need of emergency treatment to obtain medical treatment.
- (c) Providing financial assistance for the purpose of trusts established for the maintenance and development of religious places of worship
- (d) Charitable activities
- (e) Assisting helpless persons who are unable to live due to various reasons and institutions where such persons are present.
- (f) Management of trusts / real estate.
- (g) Remittance of a percentage of the revenue earned as a public institution to the General Treasury.
- (h) Distribution of compensation for immovable property acquired by the government under the Temples and Shrines Act on the recommendation of the Commissioner General of Buddhist Affairs.
- (i) Directing and supervising the affairs of the Associated Newspapers Ltd. by holding the shares of the Company on behalf of the Government.

(j) Distribution of money received as foreign compensation among dependents or legal heirs.

(k) Remittance of a percentage of the income earned as a public institution to the General Treasury.

The various parties transfer their properties to the Public Trustee through a last will and testament, and by July 31, 2019, the court had granted permission to proceed with 110 estates, according to information provided by the Department. It is the responsibility of the Public Trustee Department to act with credibility, impartiality and transparency within the existing legal framework so assigned to the Department and to fulfill the objectives of the heirs.

2.2 Selecting the topic for audit

After the death of the property owner, the property is transferred to the Public Trustee by a last will and testament, ensuring the security of his property and the distribution of the property, or the purposes for which it is intended to be fulfilled and the Public Trustee is bound by the Public Trustee Ordinance to protect the property by establishing legal custody of the property and to fulfill the intentions of the deceased heir assigned by the last will.

According to the information provided by the Department, the number of properties currently active is 110 and 57 of them, or more than 50 percent of the estate files have been retained by the Investigation Division for many years due to various issues. This topic was chosen to evaluate the performance of resolving those issues and fulfill the estate owners' intentions.

2.3 Audit Objectives

(a) Follow up on the legal background of the property

(b) Discuss organizational structure and administrative weaknesses.

(c) Implementing arrangements for the receipt and protection of last wills.

(d) Evaluate the process of settling real estate and enforcing court orders.

(e) Evaluate the process of achieving the objectives of the estate.

2.4 Authority for auditing

This performance audit was carried out in accordance with the provisions of Article 154 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka and the National Audit Act No. 19 of 2018.

2.5 Scope of Audit

The above mentioned estates are managed by the Public Trustee Department under 5 divisions.

Division	Number of Estate
(a) Religious section	9
(b) Medical Assistance Division	11
(c) Scholarship Division	11
(d) Personnel Trust Division	22
(e) Investigation Division	57

	<u>110</u>

More than 50 per cent of the estates are managed by the Investigation Division and this audit is expected to select a sample of 15 properties based on the available resources and time and evaluate the property settlement, asset management, performance of achievement of objectives, etc. of those estates.

2.6 Scope Limitation

In cases where the administrative powers relating to the management of the property have been delegated to the Public Trustee without a last will and testament, it could not inspect the property as evidence could not be obtained to confirm the completeness of the property lists submitted to the court in respect of those property owners so as unable to check those in the audit.

2.7 Audit Criteria

- (a) Public Trustee Ordinance No. 01 of 1922
- (b) Last will and testament of the estate owners
- (c) Judgments relating to estates
- (d) Provisions of the Code of Civil Procedure No. 6 of 1993
- (e) Land Acquisition Act No. 09 of 1950

3 Observations

3.1 Institutional background

3.1.1 Future plans

The scope of the Public Trustee includes the management of estates and trusts, exemptions from temple compensation and foreign compensation, and the provision of assistance such as scholarships, medical aid, charity, and charitable assistance. As the Public Trustee has been entrusted with functions under several divisions, the Department had to formulate strategic plans to carry out those functions efficiently and effectively, but this was not done. According to the information provided by the Department, as on 31st December 2019, there were 110 active estates, 1,112 trusts, 239 foreign compensations and 491 temple compensations and 386 last wills which have not been opened and administrative licenses have not been obtained, and were deposited in the department's safes in and the court.

There is a need to identify the tasks that need to be done up to the process of settling open estates, achieving objectives, making long-term and short-term plans for effective targeting and accomplishment of objectives, and monitoring the information in a timely manner in relation to unopened last wills.

Further, the need for a time frame was observed for the process of identifying compensation holders in respect of temple compensation and foreign compensation exemptions. Accordingly, it

was difficult to achieve the objectives due to the failure to formulate a detailed action plan identifying the officers responsible for the objectives of the department and the time taken for them.

3.1.2 Information system

Active, inactive, temporarily closed, pending action to be taken in respect of trusts and estates managed by the Department, pending proceedings, directed to accomplish objectives etc. and identified beneficiaries with respect of temples and foreign compensations, problems with payment, etc. are the information to be maintained for this purpose and need to keep a formal information system up to date in order to carry out the role of the department efficiently, but there was no such formal system.

Furthermore, due to not maintaining information with respect to the new last will and testament the name of person of the last will, address, national identity card number, details of dependents, tax file number, Grama Niladhari Division etc, there are problems to act with those last wills.

Accordingly difficulties in obtaining accurate and up-to-date information were observed due to the lack of a formal information system.

Ex: -

- (a) Differences between the number of estates submitted to the audit, that was the number of Estates in the action plan and the number of estates in the Annual Performance Report
- (b) Lack of formal information on inactive and temporarily closed estates.
- (c) Presence of estates / trusts for which financial statements have not been prepared
- (d) Observed the file misplacement.
- (e) Lack of easy access to information on estate / start date, purpose, trustee details, file holdings, current status, etc.

- (f) There may be some instances where the objectives of the trust have not been fulfilled due to the lack of information about the beneficiaries / persons who established the trusts in respect of certain trusts (British Sri Lanka Company Trust, Florence Enid Exchange Estate).
- (g) As at 31 December 2019, there were 386 last wills which had not commenced work and out of which 254 were the last wills handed over to the Public Trustee during the period from 1931 to 1992 and 132 after 1992. The department did not have a system in place to properly maintain information on those last willing registrants and to update their information in a timely manner. Therefore, information had been called from the District Secretariats and a newspaper advertisement in 2018 to take action regarding the last wills deposited before 1992 and only information on the 50 dead and 16 survivors were available. Out of the 254 information callers, 188 were unable to obtain information and the objectives of those last wills were not met. No plans had been made to collect information on last wills deposited after 1992.

It was observed that due to these shortcomings, there is an unnecessary delay in achieving the objectives and it is difficult to evaluate the performance.

3.1.3 Physical Resources

The building where the head office of the department is maintained is building belonged to the D.B.Jayatilleke estate and it was observed that there was no sufficient space to run an office. Several sections of the department were located in the adjoining building as the roof of the building had deteriorated due to years of non-maintenance.

Furthermore, faults in the electrical system were observed and attention should be paid to the building which has a history of more than 100 years repair and maintain for the office or rehabilitate and use for other suitable purpose.

3.1.4 Human Resource Management

As at 31st December 2019, the approved, permanent and vacant staff of the Department were 87, 69 and 18 respectively and the necessary work had not been done to identify the staff requirements and manage the staff so that the role of the department could be performed efficiently and effectively. The details are as follows.

- (a) The post of Administrative Officer, which is an essential post for the Department, has been vacant since July 2015 and the post of Translator has also been vacant since January 2016.
- (b) Although the post of Legal Officer had been approved on 21st May 2018, no officer had been recruited for it. The need for officers with legal knowledge for the Investigation Division was observed and was not taken into consideration in formulating the recruitment procedure.
- (c) It has been observed that no written assignment has been made to the officers of the Department and the Estate Superintendents recruited for the estates controlled by the Department and there is no systematic supervision and performance measurement system.
- (d) It was observed that the roles of the officers are frequently transferred between the various divisions of the Department and there is no proper handing over and receipt of files and the supervision of the Heads of Divisions in this regard is minimal.
- (e) A Human Resource Development Plan should be prepared and implemented to minimize the skills gap by evaluating the skills and existing competencies of the staff to achieve the desired results of the Department as per Public Administration Circular No. 02/2018 dated 24 January 2018. However, the department had not prepared such a plan.

3.1.5 Administrative structure

The following observations were made in this regard.

(a) In determining the organizational structure of the department, the organizational structure should have been prepared in such a way that the objectives could be achieved efficiently and effectively, but the department had not done accordingly.

(i) Legal professionals were regularly appointed to the Public Trustee post and two Deputy Public Trustee posts of the Department and there was no senior level post in the staff of the Department with regard to administrative matters. Therefore, problems were observed with regard to file administration, introduction of office procedures, supervision, maintenance of up-to-date information, and immediate provision of information to the parties seeking information including audit, identification of officials responsible for the relevant functions, etc.

(ii) Although the organizational structure should be designed in such a way that the authority flows systematically from top to bottom, the officers holding the posts of Typist and Computer Clerk in the Department were appointed as Head of the Department even though there were officers in the posts of Development Officers in the Departments of Personnel and Foreign Compensation.

(iii) No formal methodology had been introduced for the maintenance of files and documents. Since most of the estates managed by the department have been in existence for more than 7 decades, the files including the last will, license, administrative decisions, land deeds etc. related to those estates should be kept and managed securely, but adequate measures should be taken regarding the physical

security of those files, and but had not been done. Weaknesses in the maintenance of files and weaknesses on delegators duties, weaknesses on transferring files properly when duties are transferred were observed and the risk of damage to the files due to physical damage to the building was not taken into consideration. Such vulnerabilities were observed when files were misplaced as well as when essential information were missing from the files.

- (b) Although a computerized accounting system was maintained for recording the transactions of trusts and estates in the department, only one ledger account (revenue and expenditure account) was found in each trust / estate.
 - (i) It was observed that a separate Trial Balance could not be prepared for each of the aforesaid trusts / estates as there were no ledger accounts for investments, bank balances and other balances. Therefore, on the last day of each year, the balance sheets and income statements are prepared manually and there are instances where financial statements have not been prepared and financial statements have been prepared but certain assets have not been accounted for. Details are given in Annexure 01.
 - (ii) Furthermore, the accounting framework (generally accepted accounting principles, Sri Lanka Public Sector Accounting Standards, etc.) used for the preparation of financial statements and accounting policies had not been disclosed. A depreciation policy for fixed assets should have been determined and depreciated, but it has not been the done. The investments for each trust / estate were not been properly maintained investment record and in some sections the existing documents were erased, altered, and vaguely noted. These changes had not been brought to the attention of a supervising officer.

3.2 Real Estate Settlement Process

3.2.1 Identify the property

In cases where the Public Trustee has been appointed as the Manager of estate in respect of the property of various parties, it is the responsibility of the Public Trustee to identify the immovable and movable property belonging to that property and to establish legal ownership. However, an examination of the land settlement work on the property revealed that the land identification and settlement works were not at a satisfactory level. The following are some of the observations made on some of the properties tested.

- (a) From the D.S.W. Samarakoon's estate comprising Acres 141 Rood 2 and Perches 9.62 have been acquired from the Regidale Estate comprising Acres 134 Rood 1 and Perches 25.92 by the Government from the period of 1964 to 2001 and Rood 1 Perches 2.62 perches leased out to outside party with the permission of the court. Therefore, 21.08 perches of the total 6 acres of land should remain, but 60 years had elapsed from 9 November 1960, when the administrative powers were vested in the property, to January 2020, but ownership had not been verified.
- (b) The Department had failed to physically identify some of the houses, estates and paddy lands mentioned in the list of properties submitted by the Department on 17th October 1973 for the Samarakoon estate. Further, the Department had not taken any action regarding the movable property consisting of investments, furniture and vehicles valued at Rs. 1,520,736 on that day. The list of houses, estates and paddy lands with an unidentified value of Rs. 63,100 is given in Annex 2.
- (c) Mr. Harry Hapugoda's last will and testament stated that except for the Suduwelipotha estate in Baddegama and the two estates in Mattaka, the remaining plots of land should

be sold and credited to him and on May 16, 1961 the administrative powers were given to this estate. According to the list of properties with the last will and testament, 138 plots of land belonged to this estate, out of which Harry Hapugoda owned 17 plots of 35 acres 36.8 perches and the remaining 121 plots were undivided plots. Although 58 years have passed since the receipt of the administrative license, the department had failed to identify and survey these lands and sell the lands as stated in the last will. Therefore, the objectives of Mr. Harry Hapugoda's last will and testament were to provide scholarships to a student of the University of Sri Lanka and to provide financial assistance for natural disasters in the Southern Province have not been fulfilled.

3.2.2 Dealing with properties acquired by the government

Occasions were observed from time to time when the lands belonging to certain estates appointed by the Public Trustee as landlords were acquired by the Government and in such cases the property owner is entitled to compensation and interest in terms of Section 10 of the Land Acquisition Act No. 09 of 1950. Therefore, it is the responsibility of the Public Trustee to obtain the compensation due for the ownership of the land expeditiously and to use the money for the purpose of fulfilling the purposes of the estate. Although some lands have been acquired by the government for a considerable period of time, there have been instances where the estate has failed to achieve its objectives by improving the estate by obtaining the relevant compensation and interest. The details are as follows.

- (a) The Lot Nos. 01 and 02 of 16 Acres one Rood and 35 Perches of land belonging to D.S Samarakoon estates were taken over by the Government on 27th August 1982 and it was decided under Section 17 of the Land Acquisition Act No. 9 of 1950 Kesbewa Divisional Secretary had informed the Public Trustee Department on 16 January 2013 to pay

compensation of Rs. 2,634,500. However, according to the letter of the Kesbewa Divisional Secretary dated November 20, 2014, the compensation due to the department was Rs. 1,791,000. If not satisfy with the decision regarding the compensation notified by the acquisition officer, can appeal to the Compensation Review Board within 21 days of receiving that decision, but the department has not acted and the issue of compensation for loss is settled by 31 December 2019.

Out of the later amount of Rs. 1,791,000, only Rs. 1,050,000 had been received by 31st December 2019 and the remaining amount of Rs. 741,000 had not been recovered. Furthermore an amounted to Rs.1,937,095 as an interest and amounted to Rs.2,012,905 as an interest for the amounted to Rs.770,000 received on 13 August 2019 remained as due furthermore.

(b) The land at Matteboda Paddy Land, at Moratuwa belonging to the aforesaid estate was acquired by the Government under Section 38 (a) of the Land Acquisition Ordinance No. 1085/1 and Extraordinary Gazette Notification dated 21 June 1999. The 1.375 hectare land was subdivided into lots 1, 2, 3, 4 and 5 by Plan No. 8270 and notices were issued under Section 10 (1) (a) of the Land Acquisition Ordinance (Chapter 460). The ownership of the Public Trustee in Lots 1, 2 and 5 had been confirmed and a compensation of Rs. 885,000 had been received accordingly. However, by January 2020, the Department had not taken action to recover the annual interest of 7% of Rs. 841,827 in addition to the compensation for the period from the date of publication of the gazette notification to the date of payment of compensation.

(c) 4 Acres 3 Roods and 39 Pecres of land at Wewala, Oyagawa Estate, Udawatte,

Katupolayawatta belonging to the aforesaid estate had been acquired by the Government on 4 occasions and as there was no evidence in the department that compensation had been obtained for the property, action should have been taken to obtain the amount due in the name of the estate, although no action had been taken.

land	Date of Acquisition	Compensation calculated on the date of acquisition
Acres 1 Rood 1 Perches 0.05	1973.09.22	40,000
Rood 1 Perches 0.03	1974.12.13	22,103
Rood 1 Perches 3.8	1977.01.28	31,500
Rood 1 Perches 36	1989.05.13	1,225,000

		<u>1,318,603</u>

(d) The C.E. Wanigasuriya Trust had not availed of any benefits in respect of the land of 01 Acre , 2 Roods and 24.18 Perches at Uralinkanatta, Kadawatha which had been transferred to the Ministry of Defense, Public Safety, Law and Order in the year 2009 which belonged to the estate of CE Wanigasuriya.

3.2.3 Implementation of court orders

The responsibility for dealing with a particular estate is vested in the Public Trustee by an administrative license issued by the court, and in such cases it contains the procedure for dealing with that estate. Accordingly, there were instances where the Public Trustee did not have the right to manage the property in respect of estates without such an administrative license, but acted contrary to it.

- (a) The Public Trustee had not been given administrative powers to manage the property of Mrs. Pushpa Hewawitharana Nanayakkara and in the absence of a trust of her name in the department; Rs. 5,010,500 had been taken over by an outside party and invested on 28 June 2001. Rs. 4,000,000 had been repaid on 23rd December 2011 as capital repayment and although there was no objective to manage the funds, Rs. 1,500,000 was paid on September 13, 2002 as payment for trust Objectives and Rs.221,075 as charitable activities as at 31 January 2002. There was a bank balance of Rs. 190,782 as at November 24, 2019 and an investment of Rs. 1,700,194 in fixed deposits.
- (b) The Public Trustee had agreed to act as the custodian and manager of the property of Manohari Sunil Kanthi Madugalle, a demented person, in relation to the case held in the Colombo District Court on 30 June 2014, but no order or management certificate had been transferred in that regard. However, the department had been involved in the management of land covering an area of 25 Acres and 3 Roods called Peelpotha in Hiriyala Hathpattuwa, Sixty-six Korale in the Kurunegala District which belongs to the property owner. Under this property, Rs. 322,715 had been collected as the share of the harvest, Rs. 110,870 had been borne for various expenses including legal fees and travel expenses and the balance of Rs. 211,846 had been invested on 07 August 2019.

3.2.4 Obtaining Legal Assistance

The details are as follows.

- (a) It has become the general practice of the Department to select and pay lawyers at the discretion of the Public Trustee in such cases where it is necessary to settle and take to court the legal issues relating to testamentary cases and estates relating to the last wills deposit in the Department. It was observed that there is a need for legal officers for the

department as it is required to be constantly involved in judicial matters due to the nature and role of this department. Therefore, although a panel of lawyers was established annually to select the most suitable lawyers from time to time and to conduct court proceedings through them in a very efficient and effective manner and factors such as individual lawyers were appointed on a case-by-case basis and accordingly the discrepancies in fees and the interest by the relevant lawyers on each case decisions were influenced to the decisions on such matters.

- (b) There was no written agreement on the assignments of the attorneys involved in the court proceedings and the attorneys' fees had not been paid within a pre-determined fee or range of fees and had been paid at the discretion of the Public Trustee. Further, it was observed that the assets of the estate are used to cover the expenses of the court proceedings and in some cases where the assets of the estate are not authorized to be used for litigation proceedings and when there are debit balances in some estates, the expenses are incurred from other estates.

Ex -:

- (i) For legal action relating to the opening of 254 last wills deposited in the safe in the custody of the Public Trustee and Rs. 2,629,250 had been utilized from the D.S.W.Samarakoon estate in 2018, resulting in misappropriation of the estate's assets. Further more, the money had not been identified and accounted for as a receivable in the name of the Samarakoon estate.
- (ii) When there was a debit balance in the estate of NDA Silva Wijesinghe, Rs. 272,475 had been incurred in 2017 and Rs.1,181,500 had been spent for legal

expenses in the year 2018. And it had not been recorded that those expenses to be paid on any estate.

- (iii) when there were debit balances of the estate of Srma Indrani Soyza in the year 2017 and 2018, Rs. 73,220 and Rs 81,750 have been spent as legal expenses.

3.3 Real Estate Management

3.3.1 Acting in accordance with the objectives of the heirs

Once the administrative powers pertaining to a person's property have been transferred to the Public Trustee, the objectives of the last will and testament of the property owner must be served efficiently and effectively, but there have been instances where the objectives of the last will and testament have not been fulfilled and are contrary to the purpose. As a result, it was observed that the expectations of the estate owners would not be fulfilled due to the misuse of the assets of the estate and the wastage of resources and time.

- (a) According to the last will and testament of Mrs. Srma Indrani de Zoysa Wickramasinghe, who passed away on 14th April 2007, and as per the last will No. 4115 dated 2 October 2002, a trust was established under the name “Oliver de Silva Trust” and the manner in which the property was to be dealt with. The administrative license was issued to the Public Trustee on September 20, 2009, but by December 31, 2019, 10 years later, none of the heirs' intentions, including the establishment of a trust, had been achieved due to acts contrary to the intent of the last will. The observations regarding these two estates are as follows.

- (i) The house at No. 151 / B, High Level Road, Nugegoda to the Dharmavijaya Foundation and the furniture and equipment of that house to be provided to the

needy families and economically disadvantaged villagers through the Dharmavijaya Foundation, although the estate worked in the department in August 2009 at that time The Public Trustee had arbitrarily given the house to an officer to live in without a contract and rent. Although the officer was released from the Public Trustee Department on October 16, 2015 for the service of the Ministry of Sports, no action had been taken to reclaim the aforesaid property prior to her dismissal. The Department had filed the case No. 629/2016 / Land in the Nugegoda District Court on 09 August 2016 for the repossession of the house and the proceedings had not been completed by January 2020.

- (ii) Furthermore, the last will and testament stated that the proceeds from the sale of the Nissan March car numbered 300-5220 owned by the estate should be donated to the Dharmavijaya Foundation. Accordingly, no assets had been transferred and Rs. 700,800 from the sale of the vehicle had been deposited in a fixed deposit account from 01 January 2016 and kept in the department.
- (iii) The Dharmavijaya Foundation had filed a case against the Public Trustee for non-fulfillment of objectives and had incurred legal expenses of Rs. 662,825 for estate proceedings from the year 2010 to 2019. As at December 10, 2019, a debit balance of Rs. 610,230 was observed in the estate account and Rs. 50,000 incurred as legal expenses from other estate. There was also a lawyer's fee of Rs. 110,250 to be paid as at 31 December 2019
- (iv) Due to the aforesaid matters, the Department had failed to fulfill any of the objectives expected by the estate owned by appointing the Public Trustee as the custodian of his property even after a period of 10 years.

- (b) The Public Trustee was directed to construct a medical ward at the proposed hospital to be built at Piliyandala and to name it after his deceased mother in terms of Article 8 of the last Will, No. 3911 dated 10 February 1950 by Don Simon Wijewickrama but instead of constructing such a ward at the Piliyandala Base Hospital, only medical equipment worth Rs. 1,014,275 was donated according to the hospital reports.
- (c) The Public Trustee had been appointed as the power of attorney to pay the proceeds from the sale of the estate of Mrs. Florenz Enid Widham, who died on 11 August 1968, and the proceeds from the sale of the property amounting to Rs.8,081,281 had been spent beyond this matter.
- (d) Mr. G.S. Jayasuriya, who resided at No. 49, Raymond Road, Nugegoda and passed away on April 08, 1982, was appointed Public Trustee by the Administrative License dated November 09, 1982 as in executor. As the objectives of the last will donate Rs.500 monthly to the Bellanvila Temple for the payment of electricity bills and by name of Stephen Jayasuriya Memorial Scholarship for Chemistry and Muhandiram Charles Jayasuriya Memorial Scholarship for Mathematics and those two scholarships were awarded to two Sinhala Buddhist students of Ananda College, Maradana and a monthly stipend of Rs.250 and monthly donation to the Sri Lanka Cancer Society and to Victoria Niwasa at Rajagiriya for the patient of non-recoverable disease.

The Land Reconstruction Commission had taken over the land of Lady Catherine's Estate, Ratmalana, which belonged to Mr. Jayasuriya's first wife, by deed No. 1531 of 14 May 1950, and the Public Trustee had applied for compensation for the land. The deed of 1531 clearly stated that if the spouse entered into a second

marriage, the spouse would have no right to the property. Mr. Jayasuriya had entered into a second marriage and had to pay a legal fee of Rs.2,962,430 from 2000 to 2019 due to his claim for title to the land when he had no title to the land. Furthermore, it was decided that the Public Trustee was not legally entitled to claim compensation for the said property as per Order No. 522/00 / Special dated 23rd October 2019. Therefore, due to the unnecessary use of time and investment income of the estate for an unclaimed property, none of the aforementioned estate purposes could be achieved from 2010 onwards.

- (e) Out of the combined land extent of 31.2124 hectares, 31.0287 hectare land of Modaramuneyaya and Kadurugaswekada in Polmote village in Giruwapattuwa, Western Giruwapattu belonging to the Weerasinghe Abeynayake estate had been taken over by the government and the Department had received an amount of Rs. 16,500,000 on March 06, 2012 for this purpose. The Weerasinghe Abeynayake Trust Fund had lost amounted to Rs.4,516,050 of rent income during the period from 2012 to 2015 as that money on the compensation was deposited in public Investment Account instead of recognizing to the Weerasinghe Abeynayake Trust Fund. The Department had not taken steps to recover the lost money from the Public Investment Account and deposit it in the name of the Trust so as to fulfill the objectives of the Trust and had not taken action to account for the interest due.
- (f) According to Mr. Harry Hapugoda's last will and testament, estate income of 1/5 in each must be saved and when the balance was Rs. 100,000, it was stated that it should be collected to provide scholarships and to provide relief in case of disasters. However, the department had not saved any revenue to meet those objectives of the estate. During the

five year period from 2015 to 2019, the income was Rs. 24,865,439 and out of which Rs. 4,973,088 should have been saved and invested but not saved accordingly. Details are given in Annexure 04.

- (g) Although it has been decided that the house located at No. 57, Second Lane, Ratmalana belonging to the estate of Mr. Nihal Peiris could be rented out in 2007 with minor repairs as a result of not doing so, the repair estimate in 2013 was Rs. 4,202,772. As the estate did not have such a sum of money, it had been valued at Rs. 22,500,000 in 2015 and court permission had been sought in 2016 to sell it. Again in the year 2018 a repair estimate of Rs. 2,623,800 had been obtained from the Ratmalana Divisional Secretariat but no repair work had been done. The property remained idle until 2019 due to the inability to reach a definite decision on whether to repair it or earn revenue or sell it with court permission. Therefore, the estate had not been properly promoted and utilized for the benefit of the beneficiaries.

- (h) Mr. Padikara Mudali, who was at the Richmond House in Kalutara South, named Don Arthur Silva Wijesinghe Siriwardena of Appuhamilla, Nanayakkara Rajawasala, was appointed as the Administrator of his estate by his last will and testament and died on July 30, 1947.

The main objective of the estate was to create a home for the needy Sri Lankan boys called 'Silva Wijesinghe National Children's Home' and to shape the lives of children to become true citizens through the training they receive through education and to maintain it modeled on Dr. Bernardon's house in England to suit local needs. In order to achieve these objectives, the last will and testament stated that the income from the 42 acre land

with rubber and coconut plantations at Richmond House and the income from the 81 acre coconut estate called “Irahandayawa” at Henegama in the Gampaha District should be used.

(i) An orphanage named “Silva Wijesinghe National Children's Home” had been established and it was observed that there are 8 boys in it at present. Since September 2019, the hostel has been temporarily accommodating children in several rooms near the dining room due to dilapidation and cracked walls. The hostel was built in 2014 and was found to have low-strength timber (dew-purple wood) used for the roof, and by December 2019, their dormitory had not been renovated. It was therefore observed that the main purpose of the estate had not been adequately fulfilled.

(ii) the dilapidated roof of the house and the dilapidated condition of many places in this house of ancient significance with a history of over 100 years and the unsafe passage of the house; Therefore, it was observed that some places were restricted to visitors and the need for urgent repairs was observed. No renovations have been made to this mansion in the last 10 years.





(iii) A Chairman nominated by the Minister of Education, if desired, a board comprising the Archbishop of St. Joseph's College, the Chief Government Officer of the Kalutara District, the Public Trustee of Ceylon, the Roman Catholic Mission of Kalutara and the Vice Chancellor of the University of Ceylon stated that it should be controlled , but it was not done.

(iv) The following other objectives mentioned in the last will and testament relating to the N.D.A.Silva Wijesinghe estate have not been achieved during the last 5 years.

- Donation of Rs.1000 / - to the Roman Catholic Archbishop of Kandy for performing daily poojas for the consolation of his soul after death of Mudali Thuma
- Donating Rs. 75 from the income of his estate to the Chief Pastor of St. Joseph's College, Colombo for conducting daily small poojas for the consolation of the soul of Mudali

- Donating not exceeding Rs. 100 / - to the Chief Pastor of St. Joseph's College, Colombo for to make great sacrifices to comfort the souls of their parents
- If there is any balance, provide for the meals of the residents of the Colombo Elders' Home run by the Little Sisters of Poor
- Giving Rs. 100 for giving away two prizes in the name of themselves and their parents for the prize giving ceremony of St. Joseph's College, Colombo.

The management of the department had not paid attention to revise the donation money as per the above objectives and pay it to the relevant parties.

3.3.2 Ensuring the security of properties

- (a) In cases where the Public Trustee has been appointed as the custodian of the property, it is the responsibility of the Public Trustee to take adequate measures for the protection of the movable property pertaining to that property. Accordingly, although it was found that the goods belonging to certain persons were kept in a safe in the department building, it was observed that the responsibility of the Public Trustee as the custodian of those assets had not been fulfilled as most of the goods had not been documented and stored in such a way as to identify the persons / estate to which they belonged. Further more, the management had not taken appropriate action to settle the various types of deposit certificates, Lease deeds and other documents in the safe.
- (b) The last will and testament of N.D.A.Silva Wijesinghe Mudali stated a list of artefacts of ancient value and stated that the artifacts should be deposited and preserved in his house. (The list of items is given in Annexure 02.) However, it was observed that only a few of the artifacts were kept in the safe of the department and the department had no record of the location of the other artifacts. The vault in the safe was also dilapidated and

insufficient steps had been taken to preserve the items of historical value. Accordingly, it is observed that the purpose of transferring the property to the Public Trustee has not been fulfilled.

(c) Jewelry deposited in Locker No. 738, Bank of Ceylon, Nugegoda Branch, Nugegoda on 17 September 2007 by the Legal and Investigation Officer of the Department in accordance with the last will and testament of Mrs. Srimala Indrani De Zoysa, have been checked and listed out and difference were Observed between the types of Jewelry listed on the list and the types, sizes and metals mentioned in the last will and testament.

List of properties by last will and	List of properties according to the document that was physically inspected and prepared
Two gold chains & gold bangle	Silver necklaces with white chains with gold chains 01 numbers
Diamond necklace, eardrops, erasures and diamond pendant	Pairs of silver hanging earrings with white stones 01 numbers
Ceylon stone necklace and ear studs	Pair of earrings with gold, brown and blue stones 01 number
Coral pendant and ear studs	One pound gold pendant 01 numbers Empty jewelry boxes 01 numbers

The Department had not paid attention to these changes, and although it has been stated that two Bank Officers, two Officers from Dharmavijaya Foundation and the Development Assistant (Legal and Investigation) and Internal Audit Officer of the Public Trustee Department were present to open the Bank Locker No. 738 above and obtain the inventory, the list of items is submitted only with the signature of the Legal and Inquiry

Officer. Therefore, adequate measures had not been taken to ensure transparency in the inspection and acceptance of goods.

- (d) The resident of Norton Farm, Talawakele Road, Norton Bridge named as I.W.C. Wijeratne who died on 19 October 1989 had been appointed by the Public Trustee as the Guardian of Defense for his estate in accordance with his last will No. 197 dated 21st April 1982 from 14 June 1990, the Public Trustee was responsible for fulfilling the objectives of the last will, and in accordance with paragraph 6 of the last will, it was intended to running a nursing home or a school for the deaf in a home in Norton Bridge. Accordingly, the Public Trustee had handed over about 5 acres of land and the house on 07 December 1993 to the Ginigathhena Divisional Secretariat for an old age home. The Ginigathhena Divisional Secretariat had established an old age home on 25 May 1994 in this house, called the Chandra Wijeratne Memorial Elderly Care Center, which is governed by a Board of Trustees chaired by the Ginigathhena Divisional Secretary.
- (i) An agreement should have been reached to reach a formal agreement on the handing over of the estate, handing over of the house and maintenance of the house to another party, but 25 years had elapsed by 10 December 2019, no formal agreement had been reached.
- (ii) Although the building had been constructed on three occasions stating that the Space of the house was insufficient; it was observed that it was an unauthorized construction as the formal approval of the Department had not been obtained for that purpose.

- (iii) According to the field inspection report carried out by the officers of the department on 25th and 26th February 2019, a notice board displaying that about 5 acres of land belonging to this estate is not being used and that no security fence has been erected on either side of the boundary of private lands, displaying the ownership of the department. Although it was observed that it was not, further investigations were carried out and the necessary improvements were not made. Furthermore, the Board did not have a monitoring system or a system for obtaining accounts.

3.3.3 Operation after obtaining an administrative license

Many estate owners have transferred many estates to the department with the intention of playing an economically, socially and religiously important role, and in such cases, directing the executor to execute the objectives immediately upon receipt of the administrative permit will do justice to the estate as well as contribute to the economic and social progress. However, after obtaining the administrative license, it was observed that the objectives of the heirs were not achieved due to the failure of the Public Trustee to realize his responsibility and pursue the objectives efficiently and thus the loss of economic and social benefits.

- (a) A person who was a resident of the Wellawatte area in the Colombo District and died on 28 November 1999, the Public Trustee was given administrative powers to deposit the proceeds from the sale of Mr. C.E.Wanigasooriya's property in a trust called "Sisil Wanigasuriya".on 10 November 2005. But by December 2019, 14 years later, the department had failed to sell the following lands and buildings and fulfill the objectives of the estate reliably and efficiently. Further, a program had not been implemented to identify those lands and protect the rights of the Public Trustee.

- (i) Remaining portion of 1/3 of the land located at Assessment No. 26, Wellawatte Railway Station Lane, taken over by the Government
 - (ii) Property and buildings bearing assessment numbers 220,220 / 1 and 220/2 within the boundaries of Kolonnawa Urban Council of about 4 acres
 - (iii) Unsold remaining 1 Acre 3 Rood 6.3 Perches land in Uralinkanatta land in Miriswatta, Kadawatha
 - (iv) ¼ of undivided share of 7 Acres, 3 Rood and 8 perches low lying land at Rammudda, Hikkaduwa
 - (v) Undivided 1/3 of the 4 acre land at Borakadunna
 - (vi) The undivided 1/3 part of the 50 feet and 15 feet large plot of land in Batakattiya
 - (vii) 1/3 part of 80 perches large paddy land at Row 3, Panadura located in Lot No. 3 mentioned in Plan No. 4070
- (b) The land extent of 1 Acres 2 Rood 18.46 Perches acquired by the Government from the Regidale Estate in Piliyandala belonging to the D.S.W.Samarakoon estate was terminated on 02 June 2009 and returned to the Department on 23 March 2011. By December 2019, 8 years had passed but the land had not been sold. Further, more the court had determined on July 2, 1965 that the Public Trustee Department owned the 6 acre 35.8 perch land in Delgahawatta, Piliyandala which belonged to the same estate, but no action had been taken to sell the land and use it for the purposes of the estate.
- (c) The Administrator's powers on 31st March 1968 directed the Public Trustee to sell the property and obtain money to fulfill the objectives of the Last Will No. 92 dated 06th August 1965 written by Mrs. Johanna Dias Jayaweera Abeysekara who resided at Barnes Place, Colombo 7 and died on 10th August 1965 had received.

- (i) Out of the aforesaid properties, the shop room No. 23 at Batapola, Cinnamon Hill, Elpitiya and the land at No. 33/1, Batapola Road, Cinnamon Hill, Elpitiya have been leased out without agreements for more than 20 years. Though this shop and land were valued at Rs.1,100,000 and Rs.2,300,000 in 2013 and 2015 respectively, it was stated that the tenants currently occupying the shop and the land had agreed to purchase at the appraised value and there was no written agreement to that effect. Furthermore although it was calculated that the rent for the shop should be Rs. 227,380 up to May 2018 and for the land should be Rs.143,400 for the period from 2005 to 2015, rent includes those amounts receivable up to 2019 had not been collated.
- (ii) Public Trustee was entitled to 01 Rood, 26.6 Perches as per the final decision received on 26th August 2013 regarding the division case of the Nugegoda Kanda Addara Kattiya or Ihala Kanda land belonging to this estate. Although 6 years have passed, no actions have been taken to develop this land or to obtain assessment reports and sell it.
- (d) To control the property of John Weerasinghe and Baby Angie Abeynayake in the estate case No. 5466 in the Matara District Court on March 30, 1982 in connection with the last will and testament No. 19047 dated May 09, 1956 and the Code of Conduct No. 22712 dated November 23, 1960 an administrative license had been issued to the Public Trustee. The purpose of the last will was to set up a fund from the annual proceeds from the property and to distribute it equally to the Ruwanweli Seya in Anuradhapura for the development of the Dagaba and to the Mahabodhi Society of India for the development of the Dambadiva shrines. The observations in this regard are as follows.

- (i) Although the administrative license was obtained in the year 1982, it had taken 27 years till 23rd June 2009 to prepare a deed of trust and 29 years till 2011 to commence the fulfillment of the objectives of the estate.
- (ii.) The 32 perches large plot of land and building at No. 03, Punchipathahewatta, Matara Gabada Street belonging to the aforesaid estate, divided by the letter 'B', No. 03, had not been effectively managed up to the year 2013 and on the basis of the lease agreement No.312 of 05 February 2013, Y.T.K. Harischandra was leased for Rs. 8000 per month. The above lease agreement had expired on 31st December 2013. Although the permission of the District Judge of the Colombo District Court had been obtained on 29 September 2016 under Case No. 97/16 for the sale of this property, instead of selling the property and crediting it to the Fund, the above lessee had been leased out for Rs. 10,000 per month without entering into a formal lease agreement.
- (e) The Public Trustee of Singapore had appointed the Public Trustee of Sri Lanka in 1975 as the power of attorney to transfer to the heirs / beneficiaries the proceeds from the sale of immovable and movable property in Sri Lanka of Mrs. Florence Enid Widam who died in Singapore on 11 August 1968.
 - (i) The Land and Building of 1 rood 3.1.3 perches at No.19, Havelock Road, Colombo 05, had been sold for at a cost of Rs.69,066,000 and Rs.64,645,776 was to be distributed among 8 heirs / beneficiaries after deducting government and departmental expenditure. By the time the

Public Trustee was appointed as the power of attorney for the property in 1975, there were only eight heirs to the property, but over a long period of time the number of heirs has now increased to 46 as identified. Accordingly, an amount of Rs.35,880,064 had been given to 30 heirs / beneficiaries. A further Rs.28,765,712 had to be paid for 16 beneficiaries and more than 8 years had elapsed since the sale of the property but an acceptable arrangement had not been implemented.

(ii) The proceeds from the sale of the property and the interest thereon shall be distributed to the heirs of the deceased in accordance with Case No. 624 /T and the decision of the Colombo District Court dated 6 October 2008. However, when Rs.24,531,570 received from the sale of the property was distributed among 16 beneficiaries during the period from 2010 to 2016, the beneficiaries had lost the interest due to not investing in effective investment sources avenues until the release of the money.

(iii) Although 44 years have elapsed since the receipt of the power of attorney to deal with this estate, the land with the house of 1 rood and 5.62 perches at No. 12, Clausen Place, Havelock road Rood Colombo 5, against the sale of the property by the occupants of that house and due to a petition filed, Public Trustee of Sri Lanka had failed to sell the property and pay the beneficiaries. It was observed that the objectives of the property owners are not fulfilled due to not making the right decisions in

a timely manner, not making plans to perform the tasks efficiently and not following the follow-up action adequately.

(f) According to the last will and testament dated 9 September 1993 of R.L.H. Chandrasekara who was a resident of Anuradhapura Town, Anuradhapura District, North Central Province a limited probate license for property control was granted to the Public Trustee on June 4, 2003.

(i) Even though 16 years have passed since the issuance of the license, no action had been taken to measure the extent of the land belonging to this estate, demarcate the property and protect the objectives stated in the last will. The department stated that the delays were due to a property case involving the estate and that the decision in the case was pronounced on 30th September 2019, but the implementation of the objectives was further delayed due to the filing of appeals.

No 1 and 2, of 18 acre 3 rood the Anuradhapura District belonging to this estate, in Nuwaragam Korale, Nuwaragam prorfnce Ratmalethu pothanegama and for Lot no3of 17 acte 2 rood 23 perch large land, Public Trustee has appointed a temporary lessee on 04 July 2000. But it was unable to enter in to a formal agreement by January 2020 for the purposes such as secure of the land, cultivation in the land and conditions on rent income.

The Department of Public Trustee had never supervised or monitored the exact number of acres of paddy lands cultivated by the tenant farmer, the guaranteed price for paddy in the relevant season and the quantity and yield cultivated from

the coconut land and the correct inheritance accordingly and accepted and accounted for the inheritance, which he paid at his discretion. Accordingly, from the year 2000 to the year 2019, the income received from 36 Acres, 1 Rood and 24 Perches were only Rs. 3,575,542.

(ii) The Commercial Building No. 238 and 239 on Kurunegala Road in the old town of Anuradhapura belonging to this estate had been leased out without a formal agreement and the lessee had failed to pay taxes from March 2000 and had not paid attention to the management of the property thereafter.

(iv) The Department had failed to earn income in the name of the estate by properly settling the property in accordance with the decision of the case No. 14289 / L regarding the commercial building and land located at No. 48/388, Harischandra Mawatha, Anuradhapura New Town.

3.3.4 Property Management

Ten estate properties transferred under various estates are managed by the Public Trustee and it is expected that the properties will be properly managed and the founders' objectives will be achieved from their income. The properties thus assigned are as follows.

Name of the estate	Name of the Land	Location	Main Crops
Harry Hapugoda estate	Suduwelipotawatte Mattakawatte	Baddegama Niyagama	Coconut, Rubber Tea
N.D.A.Silva Wijesinghe estate	Richmond Park	Kalutara	Cocunut, Rubber
A.A. L. De Alwis estate	Irahadyawa watte Maluwahenawatte	Henegama Merigama	Coconut Coconut
D.B. Jayatilleke estate	Pitakandawatte	Dodangaslanda	Coconut
N.D.S Silva estate	Labuhenawatte	Kurunegala	Coconut
Muhandiram Jayawickrema estate	Thissamaharamaya	Up/Muddy land	Paddy
Mendis Silva estate	Thissamaharamaya	Up/Muddy land	Paddy
H.A. De Silva estate	Thopwatte	Horana	Rubber

- (a) During the examination of the income received from estates during the last four years of 2016, 2017 and 2018 a profit of Rs.3,744,310, Rs.9,336,629 and Rs.3,984,175 respectively have been reported and there was a loss for the year 2019 amounted to Rs.6,222,482. Detailed information on income, expenditure and profit are given in Annexure 03. Plantation income fluctuated and in 2019 was at a loss and it was observed that adequate measures have not been taken to achieve the objectives of the respective estate owners by taking steps to increase the income of these estates.
- (b) The following matters were observed with regard to the management of the 17 acre Mattaka Estate in the Niyagama area in Galle which belongs to the Harry Hapugoda estate.

- (i) The Department had paid attention only to the land of 15 acres 2 Rood 38 perches in this estate and had not paid attention to the remaining extent of land. The management had failed to identify the lands, clear the boundaries, construct fences and use them for agricultural purposes.
- (ii) The area of 15 Acres 2 Rood and 38 Perches was divided into 5 parts from A to E and some parts of A, D and E were cultivated with tea and parts B and C were overgrown with weeds. The tea plantation was observed to be more than 20 years old and many vacant plots were observed due to lack of seedlings.
- (iii) The average number of tea trees to be cultivated per acre is 5,000 and 150 kg / acre of fertilizer should be applied every 3 months. The department did not have information on the number of trees planted as no census has been taken regarding the trees. In the year 2019, the fertilizer was applied as follows and it was not possible to assess whether the amount of fertilizer was sufficient due to the lack of information on the number of seedlings planted per acre. However, no land was fertilized every 3 months.

	Size (Kg)	Fertilized land	The size of the plot of land
	-----	-----	-----
2019/04/26	350	A,B,C	Acres 5,Roods 3,Purches 32
2019/04/30	200	D	Acres 5,Roods 2,Purches 34
2019/05/02	250	D	Acres 5,Roods 2,Purches 34
2019/05/09	300	D	Acres 5,Roods 2,Purches 34
2019/10/03	300	E	Acres 4,Purches 12
2019/10/11	300	A,B,C	Acres 5,Roods 3,Purches 32

	<u>1700</u>		

(iv) The physical condition of the estate bungalow was found to be in a dilapidated condition and it is observed that the maintenance work is in poor condition. No estate guard was employed for the estate and no daily police patrol was available. Attendance documents confirmed that the attendance of leaf pickers was very low due to the inadequate daily wage. Considering these administrative weaknesses, no action had been taken to effectively manage the 17 acres of land.



(How weeds have grown in the Mattaka estate)

(c) The following matters were observed with regard to the management of the estate property at Suduwelipothawatte belonging to the same estate as mentioned above.

(i) At present rubber milk is obtained from only a few rubber trees in the rubber cultivated land of about 13.5 acres in the land called Ankutuduwa in Suduwelipothawatta and only one worker harvests rubber milk per day. It was observed that most of the trees were at the level where they should be removed and replanted. The physical inspection revealed that there were several unauthorized constructions in the estate and the department had not taken any action in this regard.

(ii) The rafters of the roof and window frames of the estate bungalow were dilapidated and some parts of the roof were covered with wax. Although the estate superintendent and field officer were staying in the bungalow, it was observed that it was not suitable for accommodation due to the dilapidated condition and needed urgent renovation.



(Dilapidated Estate Bungalow in suduwelipotha Estate)

3.3.5 Level of approach to the public regarding property management

The Department has a special role to play through various Acts and accordingly the Department provides various services to different parties. However, the department had not implemented a formal program to make the public aware of the functions performed by the department. Although a web page was set up under the name of the Department, it was not available for use in Sinhala and Tamil mediums. Further, only the background of the department, the role of the Public Trustee and the role of each division were included, and it was not included so that the public could obtain detailed information and be interested in appointing the Public Trustee as the custodian of their property.

Ex -(i) Awareness will be given to the persons seeking assistance by presenting detailed information on various aids such as scholarships, medical aid and charitable assistance given in each year and there will be an opportunity to perform a socially

valuable service by creating people who are willing to donate their property to such charitable activities.

- (ii) Although it was stated that the scholarship application forms could be downloaded through the web page, such facilities were not provided within the web page.

4. Recommendations

4.1 Planning

- (a) Identify the organizational role so that the objectives of the department can be achieved efficiently and effectively, determine the necessary resources and time for it and formulate short term and long term plans and evaluate the performance in a timely manner to ensure its implementation.
- (b) Maintain an information system that provides detailed information on all estates and trusts and assigns the responsibility of updating information to that system to a specific officer so as to facilitate the efficient and effective performance of the responsibilities and role of the Department.

4.2 Property Management

- (a) To take action to identify unidentified lands and properties, to establish the ownership of the Public Trustee and to negotiate with the parties to pay compensation for the lands for which compensation has not been paid and to maintain proper records and documents relating to compensation.
- (b) Deal with the estate only if legal licenses have been obtained, do not use the property for purposes contrary to the purposes of the estate and manage the property in a manner that does not prejudice the property.

- (c) To enter into formal lease agreements to ensure the security of the property and the fair return of the property when legal property is leased out to outsiders and take the necessary legal action to recover the tax due on the property.
- (d) The owners should act in accordance with the objectives of the estate with regard to the identifiable items among the items and documents available in the safe and submit the non-identifiable items to the court and take appropriate action with the permission of the court.
- (e) In order to protect the transparency of the inspection and acceptance of movable property, in addition to the departmental officers, independent parties (e.g. a lawyer, an official of the Ministry) should be involved and a list should be prepared with the signatures of all the officers who participated in the listing of the property.
- (f) To take steps to preserve the items of historical value and to display the name plates of the department on the lands belonging to all the estates under the control of the department.
- (g) The action should be taken to fulfill the objectives of the estate by selling court permitted lands and buildings for sale and to implement a program to identify and survey unidentified lands and to protect the rights of the Public Trustee.
- (h) The plans prepared for replanting of estates for the years 2020 and 2021 should be reviewed and necessary amendments should be made and implemented.
- (i) Take action to survey the estates where there are unauthorized constructions and take legal action against the unauthorized constructions and take action to construct safety fence in estate where safety fences have not been constructed and to repair the places where security fences have been broken.
- (j) Consideration should be given to the possibility of starting other crops of higher commercial value at present (eg pepper, fruits) and the possibility of obtaining

government subsidies for replanting on uncultivated lands other than the main crop of the garden.

- (k) To assign the work and responsibilities in writing to the Estate Superintendents and to give written instructions to maintain the proper records to be maintained by the Estate Superintendents regarding the estates.
- (l) Conducting a census of trees planted in estates and taking action to cover some of the cost of replanting the proceeds from the sale of old rubber trees.
- (m) To make estimates for the renovation of the dormitory at Richmond House and to prioritize its renovation and to renovate the roof and other dilapidated areas of the building and make it an attractive location.
- (n) Advise on the proper utilization of funds and the proper maintenance of all documents, including investment documents, and the regularization of supervision.

4.3 Administrative Affairs

- (a) Approving a senior level post regarding administrative matters and reorganizing the organizational structure.
- (b) Filling vacancies in posts, assigning responsibilities to all officers in writing, introducing a performance evaluation system and performing monthly/quarterly performance appraisals.
- (c) Preparation and implementation of human resource development plans in accordance with Public Administration Circulars dated 02/2018 and 24th January 2018.

- (d) A common methodology for documenting and maintaining files should be introduced and systematically numbered and maintained in cases where there is more than one file for the same estate / trust.
- (e) Establish a Bar Council consisting of lawyers who are willing to represent the Legal Affairs of the Department in accordance with the Government Procurement Guidelines and appoint a suitable lawyer in each case in a transparent manner.
- (f) Obtaining legal advice from the court on whether it is possible to set up a fund from existing financial assets in respect of trusts which have not achieved their objectives but have not found beneficiaries within 12 years as per Section 43 of the Assets / Estates and Public Trustees Ordinance.

4.4 File Management

- (a) The last will, administrative license, important documents related to the property and the originals of the case decisions should be kept in a safe in a safe manner.
- (b) Posting of advertisements in Sinhala, Tamil and English language newspapers and on the web pages of the Ministry and the Department to collect information regarding the last will and testament depositors deposited with the Public Trustee before the year 1992.

4.5 Preparation of financial statements.

- (a) Disclosure of the accounting framework (generally accepted accounting principles, Sri Lanka Public Sector Accounting Standards, etc.) and accounting policies followed for the preparation of financial statements.
- (b) Values to be paid to other estates and receivables from other estates should be disclosed in financial statements and the fair value of all movable and immovable property pertaining to all estates under the control of the Department should be assessed and accounted for.

4.6 Engaging with the public.

- (a) Provide facilities for updating the web page in Sinhala, Tamil and English languages and for downloading through the web page instructions and forms for writing a last will and testament, scholarship and medical aid etc.
- (b) Introduce a methodology for accepting the views, suggestions and complaints of the people.

Sgd./W.P.C. Wickramaratne
Auditor General
W.P.C. Wickramaratne
Auditor General

30 April 2021

(a) Estates not included in fixed asset accounts

The estate	Name of the asset / land / property	Date of receipt of administrative form
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(i) Srima Indrani de Zoysa	- No.151 B, Highlevel Road, Nugegoda (12.5 perches land and house)	2009.07.20
	- Jewellery deposited in Locker No. 738, Bank of Ceylon, High Level Branch, Nugegoda	
(ii) Weerasinghe Abeynayake Estate	- 32 Perches Large Land & Building No. 03, Building No. 03, Ward Street, Matara, Punchipathahewatta Divided No. 31	1982 .03. 30
	- Modaramuneyaya in Polmotegama, Western Giruwapattu - 72 perches land.	
(iii) R.L.H. Chandrarasekara Estate	- Lot No. 1 and 2 Acres - 18 Rood 03 Perches 01 Drawed by SK Kelenberg, Authorized Surveyor, Henanegama, Nuwaragam Province, Anuradhapura District on 23.02.1930	2003.06. 04

	- Lot No. 3 of that plan - 17 acres Rood 02 Perches 23	
	- Land and house at No. 48/388, Harischandra Mawatha, Anuradhapura New Town	
	- Commercial Building and Land No. 238 and 239, Kurunegala Road, Anuradhapura Old Town	
(iv) I.W.C Wijeratna estate	Home in Northern Bridge	1990.06.14
(v) Estate of Nihal Peiris	House No. 57, Ratmalana	2007.10.02
(vi) U.D.B. De Silva estate	220/1, Main Street, Haldummulla (Home)	1994.01.31

Annex 2**Housing / Property****Value dated
17th October
1973**

Houses No. 137, 138, 139, 145, 146, 147, 148, 149, 150 and
159 at Bokundara Piliyandala, Mapitiyagewatta and
Delgahawatta Acres 7 Rood 2 Perches 25.62

Rs.

51,100

Paddy lands

i. Werahera Walabayapotha Paddy Acre 4 Rood 3 Perches
38

3,000

ii. Werahera Borupanage paddy bushel 9

500

iii. Gorokgaha paddy field 3 acres

2,000

iv. Thumbowila Ruwalge Paddy Rood 3 Perches 28.5

750

v. Cinnamon Paddy Rood 3 Perches 30

750

vi. Yakdessa paddy field

2,000

vii. Thumbowila 1 acre 30 perch paddy field

500

viii. Bandipitiya paddy field 3 acres 18 perches

2,500

ix. Aswedduma Paddy Rood 1 Perch 14.35

x. Delgahawatta Paddy Acre .2 Rood .2 Perches 16

xi. Delgahawatta Paddy Rood .2

N.D.S Silva Wijesinghe List of artifacts according to the last will of the estate

- i. A royal emblem encrusted with diamonds and red beads presented by King George V to Commemorate Lord Mudali at Buckingham Palace.
- ii. Gold insignia and appointment to the rank of Knight Commander of the Order of Leopold II of Belgium.
- iii. Large Gold Medal Presented by the Chiefs of Kandy.
- iv. Large Gold Medal awarded by the people of Sri Lanka.
- v. Large Papal Reconciliation Medal.
- vi. Diamond star and body belt of the Knight Grand Commander of the Order of the Holy Sepulcher and the full uniform and appointment of that Order of the Holy Sepulcher.
- vii. Three small Papal Gold Medals
- viii. Diamond star and body belt of the Knight Grand Commander of the Order of St. Sylvester, full uniform and appointment of that Hon.
- ix. Large Silver Thanksgiving presented by the residents of Kalutara
- x. Appointment of gold and enamel cross and star to the rank of Knight Grand Officer of the Italian Crown.
- xi. Complete uniform with Padikara Mudali's gold sword and belt.
- xii. An album with photos of royal letters and commemorative signatures of royals.
- xiii. Letters from France, including the Gold Cross of Merit and appointment to the Society of Arts, Science.

- xiv. The star and torso of the Grand Cross of the Order of the Crown of Charlemagne in Charlemagne, France.
- xv. Silver insignia and collar and appointment of the Knight Commander of the Order of Black Eagle in Germany.
- xvi. Logo and Emblem of the Portuguese Government Cross of Devotion.
- xvii. Logo and Certificate of the Grand Officer of the Star of the Polish Ministry of War (Civil Division)
- xviii. Ordinance of the Order of St 'John the Baptist of Spain and the Grand Cross of St. John the Baptist in Spain.
- xix. Charter of the Honorary Life Commandership of Colonels in Kentucky, USA
- xx. Certificate of Membership of the Pontifical Academy of Rome.
- xxi. Charter of the Grand Cross of the Order of St. John Lateran's Grand Cross.
- xxii. The most valuable artifact is the True Cross presented by Pope Xi with the gold-plated casket with the Vatican Declaration.

Financial progress of the plantation sector

Estate		2016	2017	2018	2019
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Suduwelipotha	Income	2,722,842	4,074,863	2,205,438	1,605,261
	cost	<u>3,512,560</u>	<u>3,697,125</u>	<u>3,192,185</u>	<u>3,015,061</u>
	Profit / (Loss)	<u>(789,718)</u>	<u>377,738</u>	<u>(986,747)</u>	<u>(1,409,800)</u>
Mattaka Estate	Income	1,987,861	2,484,976	1,828,171	2,284,013
	cost	<u>2,384,803</u>	<u>1,980,457</u>	<u>2,044,373</u>	<u>2,800,418</u>
	Profit / (Loss)	<u>(396,942)</u>	<u>504,519</u>	<u>(216,202)</u>	<u>(516,405)</u>
Richmond Park	Income	2,832,537	3,299,475	2,657,603	2,469,680
	cost	<u>2,822,437</u>	<u>2,707,247</u>	<u>2,988,982</u>	<u>3,460,327</u>
	Profit / (Loss)	<u>10,100</u>	<u>592,228</u>	<u>(331,379)</u>	<u>(990,647)</u>
Irahandayawa	Income	6,979,401	7,085,991	9,113,343	6,005,763
	cost	<u>4,336,068</u>	<u>3,262,342</u>	<u>5,230,171</u>	<u>4,456,797</u>
	Profit / (Loss)	<u>2,643,333</u>	<u>3,823,649</u>	<u>3,883,172</u>	<u>1,548,966</u>
Maluwahena	Income	1,378,113	1,340,000	1,590,554	1,015,863
	cost	<u>1,017,579</u>	<u>1,306,659</u>	<u>1,589,124</u>	<u>1,557,252</u>
	Profit / (Loss)	<u>360,534</u>	<u>33,341</u>	<u>1,430</u>	<u>(541,389)</u>
Pitakanda	Income	3,112,316	5,258,846	6,156,553	4,395,255
	cost	<u>3,066,440</u>	<u>3,523,500</u>	<u>4,617,322</u>	<u>7,309,960</u>
	Profit / (Loss)	<u>45,876</u>	<u>1,735,346</u>	<u>1,539,231</u>	<u>(2,914,705)</u>

Labuhena	Income	1,188,569	1,161,166	1,288,602	786,054
	cost	<u>1,183,703</u>	<u>3,523,500</u>	<u>2,067,035</u>	<u>2,387,171</u>
	Profit / (Loss)	<u>4,866</u>	<u>(2,362,334)</u>	<u>(778,433)</u>	<u>(1,601,117)</u>
Thop Estate	Income	1,114,426	2,172,856	540,097	359,450
	cost	<u>873,707</u>	<u>788,415</u>	<u>492,318</u>	<u>370,274</u>
	Profit / (Loss)	<u>240,719</u>	<u>1,384,441</u>	<u>47,779</u>	<u>(10,824)</u>
Muhandiram	Income	2,126,782	3,317,538	652,784	387,976
Jayawickrama	cost	<u>1,138,942</u>	<u>1,048,795</u>	<u>589,076</u>	<u>1,178,094</u>
(Tissamaharama)	Profit / (Loss)	<u>987,840</u>	<u>2,268,743</u>	<u>63,708</u>	<u>(790,118)</u>
Mendis Silva	Income	844,370	1,050,763	944,423	1,137,720
(Tissamaharama)	cost	<u>206,668</u>	<u>71,805</u>	<u>182,807</u>	<u>134,163</u>
	Profit / (Loss)	<u>637,702</u>	<u>978,958</u>	<u>761,616</u>	<u>1,003,557</u>
		<u>3,744,310</u>	<u>9,336,629</u>	<u>3,984,175</u>	<u>(6,222,482)</u>

Harry Hapugoda estate income from 2015 to 2019

Year	The estate	Income	The amount that can be spent is 4/5	The amount to be saved is 1/5
		Rs.	Rs.	Rs.
2015	Harry Hapugoda estate	106,456	85,165	21,291
	Mattaka Estate	2,462,475	1,969,980	492,495
	Suduwelipotha Estate	3,098,584	2,478,867	619,717
2016	Harry Hapugoda estate	4,500	3,600	900
	Mattaka Estate	1,987,860	1,590,288	397,572
	Suduwelipotha Estate	2,722,842	2,178,274	544,568
2017	Mattaka Estate	2,484,976	1,987,981	496,995
	Suduwelipotha Estate	4,074,863	3,259,990	814,973
2018	Mattaka Estate	1,828,171	1,462,537	365,634
	Suduwelipotha Estate	2,205,438	1,764,350	441,088
2019	Mattaka Estate	2,284,013	1,827,210	456,803
	Suduwelipotha Estate	<u>1,605,261</u>	1,284,209	321,052
		<u>24,865,439</u>	<u>19,892,451</u>	<u>4,973,088</u>