

SAINT VINCENT AND THE GRENADINES

IN THE COURT OF APPEAL

CIVIL APPEAL NO.1 OF 2003

BETWEEN:

[1] **ALLAN WALKER**
[2] **GAIL WALKER**

Appellants

and

RALPH WALKER

Respondent

Before:

The Hon. Mr. Adrian Saunders

Chief Justice [Ag.]

On written submissions:

Ms. N. Sylvester for the Appellant

Mr. O. Dennie for the Respondent

2004: May 10;
September 20.

JUDGMENT

[1] **SAUNDERS, C.J. [AG.]:** This is a procedural appeal from the decision of Master Brian Cottle. At a Case management Conference held on 14th January, 2003, the Master had struck out the Defence filed as disclosing no reasonable grounds of succeeding under CPR 2000 Part 26.3(i)(b).

[2] There is little need to delve deeply into the facts of this case. It apparently concerns a family dispute over the ownership of and rights to a stone quarry. The Appellants, who are the Defendants, are children of the Respondent who is the claimant. The Appellants had filed a Defence denying many of the factual allegations of the claimant and putting forward a substantial body of positive allegations showing why the claims of the claimant should not be upheld. On its face the Defence filed does appear to disclose triable issues of fact.

[3] No reasons have been given as to why the Defence was struck out and Counsel for the Respondent did not favour the Court with a single reason why the Master's decision should be sustained. Indeed, no attempt was made to oppose the appeal. In all the circumstances I would allow the appeal with costs to the Appellant in the sum of \$2,500.00.

Adrian Saunders
Chief Justice [Ag.]