

SAINT LUCIA

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 6 of 1991

BETWEEN:

JOSEPH FLENTIS RICHELIEU

Appellant

and

AUGUSTIN AUGUSTIN

Respondent

Before: The Honourable Chief Justice Floissac - President
The Honourable Mr. Justice Byron J.A.
The Honourable Miss Justice M. Joseph J.A. (Ag.)

Appearances: Mr. K. Monplaisir Q.C. for the Appellant
Mr. E Calderon, Solicitor for the Respondent

1992: May 26.

JUDGMENT

FLOISSAC, C.J.

The appellant has appealed against a judgment which was delivered by Matthew J. on 11th March 1991 and whereunder the learned judge awarded the appellant the sum of \$6,000 compensation pursuant to Article 372 of the Civil Code of Saint Lucia which provides as follows:

"When improvements have been made by a possessor with his own materials, the right of the owner to such improvements depends on their nature and the good or bad faith of such possessor. If they were not necessary, and were made by a possessor in good faith, the owner is obliged to keep them, if they still exist, and to pay either the amount they cost or that to the extent of which the value of the land has been augmented....."

In this case, the improvements consisted of bananas planted by the appellant on the respondent's land. In making his award the learned judge said:

"As Defendant himself stated bananas have to be replanted every five years and that was his practice. It seems that after a person leaves a banana plantation especially if he reaps his ratoons the land is not necessarily improved. If anything the valuable nutrition would have been utilised. Having regard to what I have said above, on the whole I believe Defendant must have caused some improvements to the portion of land which I have said belongs to the Plaintiff. I would order the Plaintiff to pay the defendant compensation in the sum of \$6,000."

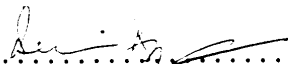
Counsel for the appellant contended that the compensation is inadequate. Unfortunately, there is no evidence on record of the

cost of the bananas at the time of the trial or of the extent to which the value of the land was augmented thereby at that time. In those circumstances, there is no material on record on the basis of which we could properly increase the award.

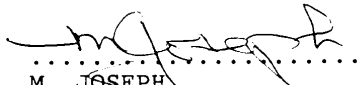
The appeal is therefore dismissed with costs.



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V.F.FLOISSAC
Chief Justice



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C.M.D.BYRON
Justice of Appeal



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M. JOSEPH
Justice of Appeal (Ag.)