

**IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE**

**SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT**

SKBHCV2024/0201

**In the Matter of an Application for the Removal
of Javin Tyrone James as Trustee**

and

**In the Matter of an Application by Krista Lauren
James, Co-Trustee**

BETWEEN:

KRISTA LAUREN JAMES

Claimant/Applicant

and

JAVIN JAMES

Defendant/Respondent

Appearances:

Mrs. Claudette Jenkins for the Claimant

Ms. Deniece Alleyne for the Defendant

2026: February 11;
March 23.

JUDGMENT

- [1] **GILL, J:** An aggrieved mother moves the court to have her ex-husband removed as co-trustee in relation to land intended to benefit their children.
- [2] The claimant is a school principal. The defendant is a red cap porter at the airport and he also operates a tour business. The parties are former spouses. The marriage was dissolved by court order dated 30th October 2018, which became effective on 30th November 2018. The union produced two female children, now aged 15 and 9.
- [3] Ancillary relief proceedings resulted in a consent order dated 17th July 2019, pursuant to which the parties were recorded in a Certificate of Title as co-

trustees for the minor children, in respect of a residential lot of land measuring 4000 square feet. The Certificate of Title is dated 4th March 2021 and registered in Book U3 Folio 95 of the Register of Titles for the island of St. Christopher.

- [4] The land, the trust property, is bounded on the south by the claimant's property, the former matrimonial home, where she and the minor children reside. The defendant's property where he resides is also in boundary with the former matrimonial home.
- [5] The claimant initiated these proceedings by a fixed date claim filed on 1st November 2024, seeking an order for the removal of the name of the defendant as co-trustee for the minor children, and that the claimant be the sole trustee of the said property.
- [6] The application is brought pursuant to the provisions of the Trusts Act,¹ and the court's inherent jurisdiction, which empower the court to remove a trustee where it is necessary or expedient in order to protect the beneficiaries and ensure the due execution of the trust.
- [7] The claimant's case is that the evidence clearly demonstrates that the defendant's continued presence as trustee has rendered the proper administration of the trust impossible.
- [8] The defendant disagrees with the claimant's assertions and contends that their joint trusteeship can be effectively exercised notwithstanding their personal relationship.

Issue

- [9] The main issue for determination is whether the court should exercise its jurisdiction to remove the defendant as trustee for the minor children on the basis that his continued appointment jeopardises the proper administration of the trust.

¹ Cap. 5.06 of the Laws of Saint Christopher and Nevis

The Law

Relevant Sections of the Trusts Act

- [10] The Trusts Act governs the relationship between trustees and beneficiaries.
- [11] Section 26 provides:
- (1) *Subject to the terms of the trust, the number of trustees shall not be less than two, unless only one trustee was originally appointed or the sole trustee is a corporate trustee.*
 - (2) *Where there is no trustee or less than the number required under subsection (1) a trust shall not fail on that account.*
- [12] Section 27 empowers the court to appoint a new or additional trustee where the terms of the trust contains no such provision.
- [13] Section 29 provides for the removal of a trustee by the court. Section 29(4)(a) states that a trustee shall cease to be the trustee of a trust immediately upon his or her removal from office by the court.
- [14] Section 30 reads:
- Subject to the terms of the trust, where the number of trustees falls below the minimum required under sub-section (1) of section 26, the required number of new trustees shall be appointed and until such minimum number is reached the surviving or continuing trustees shall act only for the purpose of preserving the trust property.*
- [15] Section 31 deals with the duties of a trustee. It provides:
- (1) *A trustee shall, in the execution of his or her duties and in the exercise of his or her powers and discretion -*
 - (a) *act –*
 - (i) *with due diligence;*
 - (ii) *as with a prudent person;*
 - (iii) *to the best of his or her ability; and*
 - (b) *observe the utmost good faith.*
 - (2) *...*
 - (3) *Subject to the terms of the trust, a trustee shall –*
 - (a) *so far as is reasonable, preserve the value of the trust property;*
 - (b) *so far as is reasonable, enhance the value of the trust property.*

Case Law – Principles on Removal of Trustees

- [16] The pivotal case of **Letterstedt v Broers**² established the principles for removal of a trustee. Lord Blackburn laid down that the welfare of the beneficiaries and the proper execution of the trust are the paramount considerations, and where continuance in office would prevent the trust being properly executed, the court may remove a trustee.
- [17] In **Miller v Cameron**,³ out of the High Court of Australia, Dixon J stated:
- “The jurisdiction to remove a trustee is exercised with a view to the interests of the beneficiaries, to the security of the trust property and to an efficient and satisfactory execution of the trusts and a faithful and sound exercise of the powers conferred upon the trustee. In deciding to remove a trustee, the Court forms a judgment based upon considerations, possibly large in number and varied in character, which combine to show that the welfare of the beneficiaries is opposed to his continued occupation of the office. Such a judgment must be largely discretionary. A trustee is not to be removed unless circumstances exist which afford ground upon which the jurisdiction may be exercised. But in a case where enough appears to authorize the Court to act, the delicate question whether it should act and proceed to remove the trustee is one upon which the decision of a primary Judge is entitled to especial weight.”
- [18] In the Privy Council case of **Schmidt v Rosewood Trust Ltd**,⁴ Lord Walker affirmed the court’s inherent jurisdiction to supervise and, if necessary, to intervene in, the administration of trusts.
- [19] In **Tempest v Lord Camoys**,⁵ the court recognised the principle that hostility and breakdown of trust between the trustees may justify removal of trustees, but made it clear that mere friction or hostility between trustees is not enough to justify removal or intervention. However, if hostility or friction is such that it obstructs or prejudices the proper administration of the trust, the court can step in.
- [20] In the case of **Scott v Scott**,⁶ the court refused to remove one of two brothers where one sought to remove the other as a trustee on the basis of breakdown

² [1884] UKPC 1

³ (1936) 54 CLR 572, at 580-581

⁴ [2003] UKPC 26; [2003] 2 AC 709 at para. 51

⁵ (1882) 21 Ch D 571

⁶ [2012] EWHC 2397 (Ch)

in relations and alleged mismanagement. The court emphasised that hostility alone is insufficient unless it obstructs proper trust administration.

[21] In **Riley v Seed**,⁷ a dispute arose between two sisters and a third sister over the administration of their late mother's estate. The court ordered the removal of all three trustees, finding a clear impasse with the defendant's refusal to cooperate and the claimants lacking confidence in her administration. The court directed that an independent personal representative be appointed to administer the estate.

[22] The claimant relies on paragraph 355 of Halsbury's Laws of England which reads:⁸

"The court will remove a trustee...where they refuse to execute the trust or have mismanaged the trust or have disqualified themselves by their circumstances or conduct from continuing to hold office, and may perhaps do so if their continuance in office would be likely to be detrimental to the trust owing to their being out of sympathy with the objects or with the beneficiaries. The guiding principle is the welfare of the beneficiaries. By analogy with the inherent jurisdiction of the court to remove a trustee, it appears that the court can appoint or replace a person known as a protector, being an officeholder having fiduciary powers."

[23] The authorities reveal that the court may remove a trustee where:

- hostility between the trustees prevents cooperation;
- communication has broken down;
- confidence in the trustee has been undermined; or
- the trustee's conduct threatens the effective administration of the trust.

Case for the claimant

[24] The claimant avers that her evidence demonstrates sustained hostility and acrimony between the parties following their divorce in November 2018 to present. She contends that the hostility has gone beyond ordinary disagreements, and has become entrenched and personal, resulting in a breakdown of effective communication between the parties.

⁷ [2013] EWHC 4863 (Ch)

⁸ Volume 98 (2024)

- [25] The claimant points out that the aforementioned consent order, which granted joint custody to the parties, was varied giving sole custody to the claimant.
- [26] In her evidence, the claimant alleges acts of the defendant in relation to the trust property, such as denying access and use of the property by the children, placing padlocks and chains on gates to which he alone has access, and making unwarranted police reports about the claimant parking in front of the trust property gate.
- [27] In a bid to enhance the trust property, on or about 18th March 2023, the claimant approached the defendant about enhancing the space by developing the property for the benefit of the children. She informed him of her intention to construct on the property two apartments with a swimming pool so that in the future, the children would each have an apartment fully paid for with a lovely yard. She requested from the defendant as co-trustee, his approval and blessing to enhance and develop the property for the children's use and benefit. The defendant communicated to her in no uncertain terms, by WhatsApp message, "No, you don't have my blessing," without giving any reason.
- [28] The claimant exhibited pictures regarding the trust property where the defendant attached a piece of galvanized metal to the columns of the gate between the children's residence (where they reside with her) and the trust property, thereby denying them direct access to the trust property.
- [29] The claimant states that the defendant exhibits inconsistent and erratic behaviour and that recently in a fit of rage, he removed the back gate to the trust property alleging that it belongs to him.
- [30] The claimant deposed that because of the defendant's behaviour, she obtained a protection order against him in February 2020.
- [31] Further, the claimant deposed that their relationship is so strained that the defendant refuses to communicate with her directly and prefers to communicate directly with the minor children, giving them directives despite her objections.

- [32] She further stated that the defendant on 13th June 2025 acted in a manner to publicly humiliate and embarrass her at her professional environment – the school premises of which she is the principal.
- [33] In cross-examination, the defendant admitted that he refused to sign important documents for the minor children to renew their passports, unless the claimant forgave or waived the over EC\$100,000.00 arrears of the children's maintenance owed by him. He explained this by telling the court that his mind was gone.
- [34] In his evidence, the defendant stated that acrimony existed between him and the claimant from the time of the divorce. In cross-examination, he admitted that it still exists up to today.
- [35] The claimant submits that she has clearly outlined the defendant's behaviour and the effect it has on the administration of the trust and the parties being unable to work together effectively.
- [36] Of particular note, the claimant draws the court's attention to the defendant's affidavit sworn to and filed on 18th September 2025, where he purports, for the first time, to agree to allow certain enhancements of, or improvements to, the trust property and the benefit that would be to the beneficiaries. The claimant is of the view that this admission is self-serving, coming only after litigation was initiated and following repeated requests by the claimant. She alleges that the timing and context suggest that the defendant's concession is strategic rather than a genuine demonstration of willingness to cooperate. She posits that the concession does not mitigate the cumulative evidence of hostility, dysfunction and prior lack of engagement.
- [37] In cross-examination, when asked if, at a meeting with the parties and counsel, he indicated he would contribute anything, the defendant asked Counsel in court, "Why you chose to bring this to me at this moment? My mind wasn't there."
- [38] The claimant asserts the admissions of the defendant, viewed alongside his demeanour and inconsistent evidence, raise serious legitimate concerns

regarding his mental capacity and the ability to exercise sound, rational, reliable judgment as well as make responsible decisions concerning the trust property and beneficiaries' interests required of a trustee.

[39] The claimant contends that her evidence and that of the defendant revealed in cross-examination cumulatively show that there exists entrenched hostility between the trustees, complete breakdown of effective communication, credibility concerns regarding the defendant's evidence and troubling admissions regarding his behaviour, judgment and questionable mental capacity.

[40] The claimant submits that these circumstances and factors make it impossible for the trust to be administered effectively while the defendant remains a trustee on the trust property.

[41] The defendant deposed that the relationship of trusteeship between the parties is separate and apart from other aspects of their relationship. In response, the claimant asserts that these relationships are inextricably intertwined and cannot be separated.

[42] The claimant asserts that the evidence comfortably satisfies the threshold in **Letterstedt v Broers** and submits that the relationship between the parties has deteriorated to such an extent that cooperation, mutual confidence and the orderly administration of the trust are no longer possible.

[43] The claimant therefore urges the court to exercise its jurisdiction and order the removal of the defendant as trustee and to make such consequential orders as may be necessary to ensure the effective administration of the trust going forward.

Case for the defendant

[44] The defendant agrees that since the divorce the parties have had an acrimonious relationship including and concerning the children. He states that he has always made it clear that he was going to be a part of any decision made that would impact the children.

- [45] He stated his initial objections to the claimant's plans as it was his understanding that the claimant wished for him to relinquish all rights to have a say in the disposition of the trust property.
- [46] His opinion shifted to the view that there should be apartments built for the children so that they could both live there independently and be able to derive rental income. However, he remains opposed to a swimming pool on the basis that the parcel of land is too small. He states that he has no intention of preventing the construction of the units and will sign any documents required to facilitate the construction.
- [47] He counters the claimant's allegations and avers that he has never restricted the children's access to the property.
- [48] The defendant recognises the power of the court to remove a trustee but submits that to reduce the number of trustees below the minimum of two would require real harm to the trust property, which is not evident in this case. There is no suggestion that the value of the trust property is in danger or lost. He highlights the provision in section 26 of the Trusts Act that where the number of trustees falls below the minimum, the continuing trustee(s) shall act only for the purpose of preserving the trust property.
- [49] Therefore, the defendant submits that in these circumstances, there is little scope for the court to exercise its discretion and reduce the number of trustees below the minimum.
- [50] The defendant points out that at no time in her evidence-in-chief or under cross-examination did the claimant indicate that there is another person she would present as an alternative trustee to ensure that the trust remains within the law. He is of the view that she fully intends to be the sole trustee in which case she would be unable to pursue her desired course of action and develop the land. Her only powers would be to preserve the trust property.
- [51] The defendant submits that in order for the trust to remain within the parameters of the law the parties would have to act in concert or the claimant would be

required to identify another trustee which would likely inflame the situation further.

Findings of fact

- [52] Having considered the evidence of the parties in their affidavits and elicited in cross-examination, and observed the demeanour of both parties who were the only witnesses in the matter, I accept the claimant's evidence showing that the working relationship necessary for joint trusteeship has collapsed beyond repair. In particular, I make the following findings.

Entrenched hostility and breakdown in communication

- [53] There is no dispute that longstanding acrimony has persisted since the divorce and continues today. Communication between the parties is dysfunctional, erratic, and frequently irrational. This has led to an inability to cooperate on trust matters.

The defendant's conduct hinders administration of the trust

- [54] The evidence shows that the defendant:
- denied direct access to the property by padlocking gates and attaching galvanized metal sheets;
 - made unwarranted police reports concerning the claimant's parking outside the property;
 - removed a gate in a fit of anger;
 - refused, without reason, to give consent for proposed development aimed at enhancing the beneficiaries' future interests.

There are concerns regarding the mental and emotional stability of the defendant

- [55] The defendant admitted that he refused to sign passport renewal documents for the minor children unless the claimant forgave over EC\$100,000.00 in child maintenance arrears, explaining that his mind was gone. Such conduct raises serious concerns regarding judgment and reliability in fiduciary decision-making. The defendant's troubling admissions raise legitimate concerns about

his ability to exercise rational and responsible judgment as required of a trustee.

The defendant's late-stage concessions are not credible

- [56] The defendant's sudden willingness – expressed for the first time in September 2025 – to permit certain developments on the trust property appears strategic and does not cure years of obstruction, hostility, and refusal to engage in proper trust administration.

Application of the Law to the Facts

- [57] The court must determine whether the defendant's continuation in office endangers the due administration of the trust or the welfare of the beneficiaries.

The evidence demonstrates:

- sustained hostility preventing cooperation;
- a complete breakdown of effective communication;
- conduct obstructing legitimate trust decisions;
- questionable judgment affecting fiduciary responsibilities;
- behaviour inconsistent with the duties of prudence, good faith, and preservation of trust property.

- [58] This is not a case of mere personal disagreement. It is a case where the trustee relationship has become unworkable and inimical to the beneficiaries' interests. The defendant's conduct has produced an impasse, and the trust cannot be properly administered while he remains in office. In my view, the threshold in **Letterstedt v Broers** and other similar decisions is clearly met.

- [59] I do not agree with the defendant's suggestion that the claimant must identify a replacement trustee before removal. Section 27 of the Trusts Act empowers the court to appoint a new trustee if necessary, and section 26 ensures that the trust does not fail by reason of a temporary shortfall in number. I will make the necessary consequential orders.

- [60] In the circumstances, I am satisfied that the removal of the defendant may properly occur notwithstanding that it results, at least temporarily, in the

claimant acting alone. The authorities make it clear that the court's supervisory jurisdiction over trusts is both flexible and directed to securing their due administration.

- [61] The relevant sections of the Trusts Act ensure that a trust does not fail for want of a trustee, empower the court to appoint additional trustees, and allow a sole trustee to act for preservation purposes. The court may make an order permitting the claimant to continue as sole trustee, with liberty to apply for the appointment of a further trustee as may be required for the effective administration of the trust.

Conclusion

- [62] Based on the reasons set out above, I am satisfied that the defendant's continued appointment as trustee jeopardises proper administration of the trust and is contrary to the welfare of the beneficiaries. His removal is necessary and expedient. The claimant can proceed as sole trustee with liberty to apply for the appointment of a second trustee where necessary to develop the trust property.

Order

- [63] Based on the foregoing, it is hereby ordered as follows:
- 1) The defendant Javin Tyrone James is removed as co-trustee of the trust property registered in Book U3 Folio 95 of the Register of Titles.
 - 2) The claimant Krista Lauren James is appointed sole trustee until further order.
 - 3) The claimant shall be at liberty to apply for an additional trustee or any order necessary for the proper administration of the trust.
 - 4) The defendant shall pay costs to the claimant agreed in the sum of \$7,500.00.

Tamara Gill
High Court Judge

By the Court

Registrar