

**EASTERN CARIBBEAN SUPREME COURT
GRENADA**

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. GDAHCV2024/0307

BETWEEN:

IN THE MATTER OF THE ESTATE OF HENRY SCOON, DECEASED

**IN THE MATTER OF EASTERN CARIBBEAN SUPREME COURT CIVIL
PROCEDURE RULES 2000 PARTS 67.1, 67.2 AND 67.5 THEREOF**

AND

IN THE MATTER OF THE TRUSTEES ACT CHAP 329 SECTIONS 22 AND 30

**FLORENCE AGATHA AUDAIN SCOON
(by her Guardians Maria Bell and Maurice Audain Williams)**

Claimant

and

**[1] NEHRU LALSEE
(Executor of the estate of Henry Scoon, deceased)
[2] DESIR CHARLES
(Beneficiary under the Will of Henry Scoon, deceased)**

Defendants

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Ms. Deborah St. Bernard for the Claimant

Representative of the Estate of Henry Scoon in person

Ms. Chennelle Hyacinth and Mr. Kadeem Strachan for the Second Defendant

2025: October 1st;
2026: January 15th.

JUDGMENT

- [1] **ACTIE, J.:** The issue for determination in this matter is whether Florence Agatha Audain Scoon (hereafter referred to as “the claimant”) has an equitable interest in the matrimonial home situate on Lot # 84 at Tempe, St. George (hereafter referred to as “the property”) which forms part of the estate of her late husband, Henry Scoon (hereafter referred to as “the deceased”) who died testate on 27th February 2024.

Background facts

- [2] The claimant and the deceased were married on 21st June 1985. Prior to the marriage the deceased, through a deed of conveyance dated 25th April 1977, was the registered title owner of a lot of land measuring Fifteen Thousand Eight Hundred and Ninety Square Feet (15,890 Sq. Ft.) situate at Tempe, St. George. The deceased further acquired Twelve Thousand and Forty Square Feet (12,040 Sq. Ft.) of land situate at Tempe, St. George through a deed of gift dated 30th March 2004 from the daughter of the claimant as donor, which the deceased sold during his lifetime. The deceased further acquired an additional One Thousand and Twenty-one Square Feet (1,021 Sq. Ft.) of land also situate at Tempe, St. George by a deed of conveyance dated 18th April 2007.
- [3] The two lots comprising 15,890 Sq. Ft. and 1,021 Sq. Ft. remained solely vested in the deceased at the time of his death and together formed Lot # 84 on which the matrimonial home is erected. It is not in dispute that the claimant and the deceased (hereafter jointly referred to as “the parties”) throughout their marriage of thirty-eight (38) years resided peacefully in the matrimonial home.
- [4] Circumstances changed on 12th November 2020 when Dr. Herry-Thompson issued a medical report diagnosing the claimant with severe dementia. In September 2021, the claimant relocated to the United States of America for medical treatment under the care of her son, Maurice Audain Williams, who is one of the two court appointed guardians of the claimant.

- [5] The deceased made a Will on 4th March 2022, naming the first defendant and one Lester James as his executors. The second defendant, Desir Charles, was named as the sole beneficiary of Lot # 84 absolutely and also as residual beneficiary of the deceased estate.
- [6] By amended fixed date claim form filed on 28th November 2024, the claimant seeks, among other things: a declaration that she is entitled to at least one half share of the property, or such other share as the court deems just; a declaration under the principles of constructive trust and proprietary estoppel that the deceased held legal title to the property subject to the claimant's interest; an order for vacant possession; and costs.

The defendant's case

- [7] Both executors renounced their executorship on 17th September 2024 and 1st October 2024 respectively and have not participated in these proceedings. The court appointed Mrs. Allison Miller as a representative party for the continuation of the proceedings.
- [8] The second defendant, Desir Charles, said that she was initially engaged by the deceased as his apprentice in his denture-making practice from May 2021 to September 2021, but subsequently assumed the role of the deceased's caretaker from in or about September 2021 until his death in February 2024.
- [9] Ms. Charles in her defence disputes the claimant's claim. She asserts that the property was acquired by the deceased prior to his marriage, and that the fact that the parties remained married at the time of the deceased's death does not, without more, establish any entitlement of the claimant to the property.

Legal Analysis

- [10] Efforts for an amicable settlement through mediation and Judicial Settlement Conference having failed, the court must consider the legal issues which arise for determination.

- [11] The claimant, through her guardians, contends that she is entitled to a beneficial share in the property. They assert that notwithstanding the devise of the property to the second defendant under the Will, she and the deceased remained lawfully married until his death, and that she made contributions to the development of the property.
- [12] The general rule is that a testator of full capacity may dispose by will all real and personal estate to which he is entitled, whether at law or in equity, at the time of his death¹. However a testator in a Will cannot give what he doesn't own.
- [13] Counsel for the claimant placed considerable emphasis on principles of matrimonial law, referring to the Matrimonial Causes Act, and inheritance law. Counsel also relied on the decision of the English High Court in **Kaur v The Estate of Karnail Singh et al**². In that case, a widow who was disinherited by her husband of sixty-six years brought a claim under the Inheritance (Provision for Family and Dependents) Act 1975 for reasonable financial provision from her deceased husband. The court using the divorce cross check emphasized that a surviving spouse should not be placed in a worse financial position than if the marriage had ended in divorce and ultimately awarded the widow 50% of the estate.
- [14] This court is guided by the pleaded cases and the applicable law within this jurisdiction. Counsel for the claimant has not directed the court to the applicability of any legislation with equivalent provision in this jurisdiction as was applied in the case of **Kaur**. In the decision of **Paulette Maduro v Elliot Walwyn Brewley**³, on which counsel for the claimant placed significant reliance, Ellis J. (as she then was) noted that the legislative framework within the Virgin Islands does not include an Inheritance (Provision for Family and Dependents) Act, and that consequently, the surviving spouse could not bring a claim against the deceased spouse's estate on the basis of inadequate provision.

¹ Halsbury's Laws of England Vol 102 (2021) para 26

² [2023] EWHC 304 (Fam)

³ BVIHCV2016/0147

- [15] The advancement of the claimant's claim in equity however is grounded in the law of constructive trust and proprietary estoppel.

Constructive trust

- [16] The deceased acquired adjoining parcels of land at Tempe, St. George by deeds of conveyance in 1977 and 2007, in his sole name. The starting point is that sole legal ownership gives rise to sole beneficial ownership⁴. This inference may only be displaced if the court could impute from the parties' conduct, a common intention that the non-owning party should enjoy a beneficial interest in the property⁵. The burden rests on the claimant to prove that the beneficial ownership differs from the legal ownership.
- [17] To succeed, a claimant must establish that the legal owner induced a belief that the claimant would hold a beneficial share which may be demonstrated by (i) express agreement or (ii) contribution to the acquisition, coupled in either case with detrimental reliance⁶. If established, the court may find that the legal owner holds the property on constructive trust for both parties. The court then determines the parties' respective shares by either examining their whole course of dealing or, where no clear intention can be ascertained, by imputing what is fair.
- [18] As explained in **Lloyds Bank plc v Rosset**⁷, the fundamental issue is whether there existed an agreement, arrangement or understanding, arising before or, exceptionally, after acquisition, that the property would be shared beneficially, and whether the claimant relied on that understanding to their detriment. Absent such agreement, detrimental conduct alone is insufficient.

⁴ Stack v Dowden [2007] 2 ALL ER 929

⁵ Burns v Burns [1984] 1 All ER 244

⁶ Gissing v Gissing [1971] AC 886

⁷ [1990] 1 All ER 1111

Common Intention

- [19] In **Grant v Edwards**⁸, Sir Nicolas Browne-Wilkinson V-C, explained that proof of common intention can be established by either direct evidence or inferred common intention. In **Burns v Burns**⁹, Fox LJ stated that a common intention may be inferred from direct or indirect financial contributions toward the acquisition of the home.
- [20] The courts however have recognised the difficulty in inferring common intention where property was acquired before the relationship commenced. In **Paulette Maduro v Elliot Walwyn Brewley**¹⁰, it was observed that:
- “Where a claimant asks the court to infer an agreement from contributions to the acquisition or improvement of the property made after the date of purchase, courts have been increasingly more flexible, crediting indirect financial contributions to the payment of household expenses which have permitted the owner to make mortgage payments. However, it is also clear that the mere fact that a financial contribution has been made does not guarantee that a common intention will be inferred. No constructive trust will arise if the contribution is made in circumstances that demonstrate that there was no intention on the part of the contributor to obtain an interest in the property. A common intention will not be inferred if the parties merely do what spouses or partners would ordinarily do.”
- [21] Where there is no express agreement therefore, the court may infer a common intention from the conduct of the parties, including direct and indirect financial contributions to the purchase price, mortgage payments, payments for repairs or improvements to the property or, in exceptional circumstances, non-financial contributions such as raising children and looking after the household. Critical to any such inference is proof that the parties shared an unspoken intention that the property be jointly owned.
- [22] The difference between inference and imputation is similarly critical. As stated in **James v Thomas**¹¹, a judge’s aim should be to find an agreement that the parties made rather than to impute an agreement to them. In drawing an inference, the

⁸ [1986] 2 All ER 426

⁹ [1984] 1 All ER 244

¹⁰ BVIHCV2016/0147

¹¹ [2007] EWCA Civ 1212

court is attempting to determine what the parties actually decided even if this is not expressly spelt out. In the case of imputation, the court determines what the parties *should* be taken to have decided having regard to all the circumstances.

- [23] In **Abbott v Abbott**¹², the Privy Council emphasised that the entire course of the parties' dealings must be taken into consideration. The court endorsed the reasoning of the trial judge, Mitchell J., who relied on the parties' joint and several liability to repay the mortgage, their life insurance policies and their operation of a joint bank account in concluding that the parties held equal beneficial ownership to the property. In **Abbott v Abbott**, Baroness Hale further adopted the approach of the House of Lords in **Stack v Dowden**¹³ which is stated as follows:

"If the question really is one of the parties' 'common intention' we believe that there is much to be said for adopting what has been called a 'holistic approach' to quantification, undertaking a survey of the whole course of dealing between the parties and taking account of all conduct which throws light on the question what shares were intended."

- [24] Our Court of Appeal in **Romig Michael v Heather Michael**¹⁴ quoted the following approach with approval:

"[19] The trial judge (Blenman J., as she then was) applied the 'holistic approach' on the guidance in *Abbott v Abbott* to determine the parties' common intention with respect to the beneficial ownership of the 2 properties, in light of their entire course of dealings and conduct. The judge adopted the following words of Baroness Hale:

"The law has indeed moved on in response to changing social and economic conditions. The search is to ascertain the parties' shared intentions, actual, inferred or imputed, with respect to the property in light of their whole course of conduct in relation to it."

[20] In my view, this was the correct approach, particularly because *Abbott v Abbott* was a recent judgment given in a case that was on appeal to the Privy Council from Antigua and Barbuda. Baroness Hale had quite succinctly stated the basic applicable principle on determining common intention thus:

¹² [2007] UKPC 53

¹³ [2007] 2 ALL ER 929

¹⁴ *Romig Westerby Michael v Heather Michael* HCVAP2008/0015

‘The parties’ whole course of conduct in relation to the property must be taken into account in determining their shared intention as to its ownership.’”

- [25] Any indirect financial contribution relied upon must exceed that which would ordinarily be expected within a domestic partnership. Non-financial contributions must therefore be of such a nature and extent as to lead to the inevitable conclusion that the parties intended from the outset that the claimant would acquire a beneficial interest in the property¹⁵.

The Evidence

- [26] The court is satisfied on the medical evidence that the claimant lacks the requisite mental capacity to testify, having been diagnosed with Alzheimer’s dementia. Accordingly, the court proceeded on the testimony advanced through the claimant’s children and court appointed joint guardians, Maria Bell and Maurice Audain Williams, supported by the evidence of Patrina Weekes Worme, Sade Maitland and Joel Wickham.
- [27] It is incontrovertible that Lot #84 was acquired by the deceased in 1977 in his sole name prior to the parties’ marriage. At the time of acquisition, there is no evidence that a dwelling house existed on the land. On 23rd June 1989 during the subsistence of the marriage, the deceased mortgaged the property to the St. George’s Communal Cooperative Credit Union Limited for \$8,000.00, again in his sole name. The schedule to the mortgage makes no reference to any dwelling house. Moreover, significantly, the address recorded for the deceased on the mortgage (Gore Street, St. George’s) is identical to that which appears on both the 1977 conveyance and the parties’ 1985 marriage certificate. This strongly indicates that the Tempe property had not yet become the parties’ residence at the time of the mortgage.
- [28] From the sequence of the documentary evidence therefore, the court is satisfied that the dwelling house on Lot #84 was constructed after the 1989 mortgage and prior to date of the deed of gift between Sharon Audain and the deceased made

¹⁵ Button v Button [1968] 1 WLR 457 at 462

on 30th March 2004, by which date the deceased's recorded address had changed to Tempe, St. George. By 2021, the existence of the completed dwelling house is conclusively confirmed by the plan annexed to a deed of conveyance executed between the deceased and Marlon Gittens, which clearly identifies a residential structure on Lot #84. This chronology places the construction of the matrimonial home specifically between 1989 and 2004, during the subsistence of the parties' marriage.

- [29] The court accepts the testimonial evidence that the parties cohabited at the property until September 2021, when the claimant relocated overseas for medical treatment. The marriage endured for thirty-eight (38) years until the death of the deceased, and the claimant's personal effects, including her clothing, jewellery, furniture and household items, remain at the property. These facts are undisputed.
- [30] The claimant is under an obligation to prove that there was an understanding or common intention arising from express discussions between herself and the deceased and that she, with direct or indirect financial contribution, acted in reliance with the result that she became the beneficiary under the constructive trust principle.
- [31] The unchallenged evidence of Maria Bell is that the claimant was employed as a home attendant in the United States prior to her return to Grenada, and that she applied her earnings from that employment toward the development of the property. This evidence is buttressed by the second defendant, Desir Charles, at paragraph 12 of her witness statement where she states that "... (the deceased informed her) that (the claimant) worked at Richmond Home years before they got married". Counsel for the claimant accordingly submits that the evidence demonstrates that the matrimonial home was developed over decades, through the joint efforts of the parties.
- [32] However, counsel for Ms. Charles argues that the claimant has failed to establish any express agreement or shared understanding with the deceased that she would enjoy a beneficial interest in the property. Counsel further submits that no

contribution of sufficient significance has been proven so as to find a constructive trust.

- [33] The evidence establishes that the parties enjoyed a long-standing and harmonious marital relationship. There is no evidence of disloyalty or estrangement to the marriage by either the claimant or the second defendant. On the contrary, the witness testimonies before the court demonstrate that the claimant and the deceased conducted their lives and financial affairs as a partnership.
- [34] The court further accepts the claimant's guardians' evidence at trial that furniture, household items and other fittings were purchased by the claimant during the construction of the matrimonial home and throughout the marriage. The guardians were unable to provide palpable evidence due to the length of time since the home was constructed. The guardians also stated that they never anticipated this current situation would have arisen, having regard to cordial relationship that existed between the parties and the circumstances that caused the claimant to be out of the matrimonial home.
- [35] The court is also satisfied on a balance of probabilities that the claimant applied her earnings from employment in the United States toward the construction and development of the matrimonial home, making substantial personal sacrifices and meaningful contributions to the shared life of the parties¹⁶. There is no contrary documentary evidence or otherwise to overshadow the assertion that the claimant invested in the matrimonial home during the marriage.
- [36] Turning to the circumstances of the claimant's departure from Grenada, the court rejects the assertion advanced by Desir Charles that the claimant was removed from the matrimonial home by her children without the deceased's knowledge or consent. The evidence establishes that the deceased was aware of, consented to, and facilitated the claimant's relocation for medical treatment. The evidence further establishes that the deceased financed the claimant's travel, arranged for her to be accompanied by the family's caretaker, Sade Maitland, and continued

¹⁶ Burns v Burns [1984] 1 All ER 244

to provide financial support during her absence by depositing monies on her behalf into her son's bank account.

[37] Based on the foregoing, the court is of the view that the claimant has satisfied the threshold of proof, on a balance of probabilities, of the existence of a common intention between the parties of her shared beneficial interest in the property. While the court acknowledges that there are aspects of the case of the claimant that are precarious, with limited evidence of direct financial contribution by the claimant to the acquisition of the land itself, this is not determinative of the question of beneficial interest. The claimant's relocation to Grenada after working in the USA, and her continuous support and contributions to the deceased during his occupation as a dental technician whether directly or indirectly are undisputable. The evidence suggests both a direct and inferred common intention.

[38] Further, the shared link between the parties in the conduct of their marital and financial affairs further supports a common intention. It is the evidence that the claimant's daughter conveyed by deed of gift 12,040 Sq. Ft. of land to the deceased in 2004 which was later sold by the deceased in 2022 for the sum of \$158,046.00. It is the guardians' evidence that the deceased deposited \$300,000.00 in the claimant's account during her period of illness and treatment in the USA. The witness for Ms. Charles, Thomas Simon, in his witness statement states that he was a close acquaintance of the deceased who informed him that he gave the claimant the sum of \$300,000.00 when she left for medical treatment in the USA, corroborating the evidence of the claimant. It is also the evidence that the deceased was visibly emotional in conversations about his wife's absence during the period of her illness in the USA.

[39] The financial provisions made by the deceased to the claimant during her relocation are cogent evidence of the integrated and cooperative financial arrangements under which the parties operated. The evidence at trial from persons with extensive knowledge of the parties described the parties as a happy couple and testified that the claimant remained close to the deceased throughout

the years of marriage and supported him during his long career as a dental technician.

[40] The burden shifts to the second defendant, Desir Charles, to disprove the common intention of the parties. The evidence indicates that Ms. Charles was a mere customer of the deceased in 2021 who then became a voluntary caregiver and started residing in the matrimonial home in 2023. The court is of the view that Ms. Charles is a total stranger to the parties' relationship and affairs throughout their thirty-eight (38) years of marriage. She has failed to produce any evidence to rebut the incontrovertible evidence of the claimant's investment in the construction of the matrimonial home and/or the common intention of the parties.

[41] The constructive trust principle is imposed by law whenever justice and good conscience require it. It is a liberal process, founded on large principles of equity where the defendant cannot conscientiously keep the property for himself alone but ought to allow another to have the property or a share in it¹⁷. Adopting the holistic approach as endorsed in **Abbott v Abbott**¹⁸, this court is satisfied that a common intention that the claimant would enjoy a beneficial interest in the property is properly inferred from the conduct of the parties..

[42] Accordingly, in the absence of evidence to the contrary, the court is of the view that the right inference is that the claimant acted in reliance of the common intention to jointly own the matrimonial home.

Detriment

[43] The court must now assess whether the claimant acted to her detriment in reliance on the common intention.

¹⁷ Per Lord Denning MR in *Hussley v Palmer* [1972] 3 All ER 744

¹⁸ [2007] UKPC 53

[44] In **Lloyds Bank v Rosset**¹⁹, Lord Bridge affirmed that to establish a constructive trust, the claimant need only show that they have acted to their detriment or have significantly altered their position in reliance on the common intention.

[45] The nature of the required detriment was clarified in **Grant v Edwards**²⁰, where Sir Nicolas Browne-Wilkinson V-C, observed that:

“...once it has been shown that there was a common intention that the claimant should have an interest in the house, any act done by her to her detriment relating to the joint lives of the parties is, in my judgment, sufficient detriment to qualify. The acts do not have to be inherently referable to the house.”

[46] In **Parris v Williams**²¹ the court emphasised that the sufficiency of detriment is a matter of judicial assessment in light of the whole circumstances. The court noted that:

“...in any given case the claimed acts of reliance may be too trifling to enable the establishment of the claimed constructive trust: Rosset shows that. Whether in any particular case the claimed acts of detriment are or are not sufficient is essentially a matter of judgment for the judge concerned to hear the matter. That will involve a consideration of all the circumstances.”

[47] Ms. Charles contends that the claimant has failed to demonstrate any act of detriment in reliance on a common intention regarding the property. The law does not confine detriment to financial expenditure²². Detriment must be substantial in the sense that repudiation of the alleged assurance would be unconscionable in all the circumstances. Acts of detriment may include contributions to the purchase price, funding repairs and improvements to the property, as well as providing services or foregoing alternative opportunities by reason of the property. The key inquiry is whether the claimant’s conduct is explicable only on the basis that she believed she would share in the property or its security²³.

¹⁹ [1990] 1 All ER 1111

²⁰ [1986] 2 All ER 426

²¹ [2008] EWCA Civ 1147

²² Paulette Maduro v Elliot Walwyn Brewley BVIHCV2016/0147

²³ Paulette Maduro v Elliot Walwyn Brewley BVIHCV2016/0147

- [48] As has already been stated, the court accepts the evidence that the claimant upon marrying the deceased in 1983 and relocating to Grenada made substantial contributions to the construction and development of the matrimonial home by applying her earnings from employment in the United States toward the property. It is the evidence that the claimant lived in the matrimonial home up to when she left for medical treatment leaving all her personal belongings. The evidence reflects that the parties treated the house as their home and had a principle of sharing everything. It would be unconscionable to suggest otherwise.
- [49] The court accordingly finds that the claimant acted to her detriment in reliance on the common intention that she would share in the matrimonial home. Her contributions and sacrifice satisfy the legal threshold for detriment sufficient to support the imposition of a constructive trust.

Beneficial Shares

- [50] When there is evidence before the court upon which the court could properly conclude that each of the parties is entitled to an interest in the property, the starting point is to presume that they are equally entitled to a half share or interest in the property. This presumption can be displaced by cogent and credible evidence which points to a different position²⁴.
- [51] Lord Nicholls in **White v White**²⁵ stated that where each spouse has contributed equally in their different sphere to the family:

“[A]s a general guide, equality (in distribution) should be departed from only if, and to the extent that, there is good reason for it.”

- [52] The court notes that Ms. Desir Charles in her affidavit in response to the claim at paragraph 13 (iii) states “even if the court were to grant the half share interest claimed she would still be entitled to an equal half share interest of the property and that the claimant would have no right to occupy the whole of the property to her exclusion”.

²⁴ *White v White* [2001] 1 AC 596

²⁵ [2001] 1 AC 596

[53] The deceased's Will is not challenged. What is challenged is totality of the parties' shares in the matrimonial property, as claimed by the claimant. The court having considered the totality of the evidence and circumstances of this case, especially the longstanding marital relationship between the parties, is of the view that there is no need to depart from the equality in equity principle espoused in **White v White**²⁶. Accordingly, the claimant is declared to be beneficially entitled to a 50% share in the property.

Proprietary Estoppel

[54] The claimant further asserts an interest in the property by operation of proprietary estoppel. In **Thorner v Major**²⁷, considered by our Court of Appeal in the recent decision of **Mathilda Nelson v Alexis Alcide**²⁸, Lord Scott stated as follows:

“Lord Walker...identified three main elements requisite for a claim based on proprietary estoppel as, first, a representation made or assurance given to the claimant; second, reliance by the claimant on the representation or assurance; and third, some detriment incurred by the claimant as a consequence of that reliance. These elements would, I think always be necessary but might, in a particular case, not be sufficient. Thus, for example, the representation or assurance would need to have been sufficiently clear and unequivocal; the reliance by the claimant would need to have been reasonable in all the circumstances; and the detriment would need to have been sufficiently substantial to justify the intervention of equity.”

[55] The first element which the claimant must establish is the existence of a representation or assurance made to her by the deceased. The claimant is not compos mentis due to her diagnosis with severe dementia, and the guardians are unable to satisfy that a promise or assurance was made to the claimant. Accordingly, the court having ruled on the constructive trust principle in favour of the claimant is of the view that a claim in proprietary estoppel is redundant.

Conclusion

²⁶ [2001] 1 AC 596

²⁷ [2009] 3 All ER 945

²⁸ SLUHCVP2018/0002

- [56] The court having considered the pleadings, evidence and applying the applicable principles of law, finds that the claimant has established on a balance of probabilities, a 50% beneficial share interest in Lot #84 by operation of the constructive trust principles.
- [57] The claimant seeks an order for her return to the matrimonial home. The claimant has a right of occupation of the matrimonial home by virtue of a beneficial estate and spousal right. There is no evidence that the claimant was evicted from the property or there existed any acrimonious relationship before she left her home for medical treatment. The evidence is to the contrary. The parties had a long cordial marital relationship. It would be unconscionable that the claimant, being the wife of the deceased for 38 years, would be denied returning to her matrimonial home where she left all her personal items inclusive of jewellery and other personal effects. The court is of the view that Desir Charles is a mere licensee which licence would have expired on the death of Henry Scoon. Further, it would be against justice and good conscience considering the circumstances in which the claimant left the matrimonial home to now return to occupy her home with a total stranger.
- [58] Desir Charles' inchoate interest as a beneficiary in the estate of the deceased vests in the Personal Representative until the administration of the estate. Accordingly, the court allows the return of the claimant through her guardians to the matrimonial home until the completion of the administration of the deceased's estate.
- [59] As mentioned previously, the deceased's Will is not being challenged in this case. What is being challenged is the share entitlement of the deceased capable of being devised under the Will. Counsel for the claimant relies on the Matrimonial Causes Act. **The Matrimonial Causes Act** enables the court to make property adjustment orders in divorce cases and financial provision orders for maintenance without a divorce. The legislative framework in Grenada has not expanded to provide full protection for property adjustments cases outside of divorce proceedings and does not contain any comparable statutory provisions as in the UK **Inheritance (Provision for Family and Dependents) Act 1975**. This Act

provides protection in cases where a spouse or civil partner, who has equally contributed for a significant number of years, has been excluded from a will or denied an inheritance. This case before the court highlights the need for legislative intervention and for the enactment of statutory provisions to protect the rights of spouses to remain in the matrimonial home during the existence of such prolonged marriages, and inheritance of a share of the matrimonial home outside of the common law equitable principles of constructive trust or proprietary estoppel.

[60] Further, the court notes that the second defendant is the residuary beneficiary of the deceased estate and entitled in priority to apply to be appointed as Personal Representative of the estate with will annexed. However, the court taking into consideration the nature of the claimant's physical and mental incapacity is of the considered view that in the interest of fairness to the Guardians appointed to care for the claimant and also to save time and further expense that Mrs. Allison Miller, the court appointed representative in place of the executors shall act as administratrix of the estate with will annexed for the purpose of the administration of the estate of the deceased, in accordance with the devises in the will.

[61] Further, the court is of the view that it will be in the best interest of the claimant and Desir Charles that the property be valued by an agreed valuator, with either party purchasing the other's interest with first option given to the claimant, or in the alternative that the property be sold by private treaty and the net proceeds equally shared.

ORDER

[62] In summary, it is ordered and declared as follows:

- (1) The claimant's claim in constructive trust is allowed.
- (2) It is declared that the claimant is entitled to a 50% share interest in the property, and that the deceased, Henry Scoon, held legal title to the property Lot # 84 at Tempe, St. George subject to the claimant's interest.

- (3) The second defendant, Desir Charles, shall give vacant possession of the matrimonial home to the claimant through the court appointed guardians Maria Bell and Maurice Audain Williams, on or before 15th February 2026.
- (4) The court appointed representative, Mrs. Allison Miller, is appointed as Administratrix with Will annexed for the purpose of the administration of the estate of the deceased, and shall within ninety (90) days of the making of this order engage the service of an agreed valuation surveyor to value the property.
- (5) Each party has the option to purchase the other party's interest in the property with the claimant having the first option to purchase for the amount stated in the valuation unless otherwise agreed, or in the alternative that the property be sold by private treaty and the proceeds less expenses be shared equally.
- (6) The court appointed Administratrix, Mrs. Allison Miller, shall provide the beneficiaries with a proper written account of her dealings with the estate of the deceased.
- (7) The second defendant, Desir Charles, shall pay prescribed costs to the claimant in the sum of \$10,000.00 within thirty (30) days of today's date.

Agnes Actie
High Court Judge

By the Court

Registrar