

**IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES**

CLAIM NO. SVGHCV2016/0138

**IN THE MATTER OF THE ADMINISTRATION OF ESTATES ACT CHAPTER 486 OF THE LAWS OF
SAINT VINCENT AND THE GRENADINES REVISED EDITION 2009**

AND

IN THE MATTER OF THE CIVIL PROCEDURE RULES 2000 PART 68

AND

IN THE MATTER OF THE ESTATE OF LEONARD REGISFORD, DECEASED

AND

**IN THE MATTER OF AN APPLICATION FOR REVOCATION OF GRANT OF LETTERS OF
ADMINISTRATION NO: 87 OF 1995 IN THE ESTATE OF LEONARD REGISFORD, DECEASED**

AND

**IN THE MATTER OF THE CANCELLATION OF DEED OF ASSENT NO: 2932 OF 1995 AND DEED OF
ASSENT NO: 2777 OF 1995**

BETWEEN:

VIOLA REGISFORD

CLAIMANT

AND

PHILLIE JOSEPH SAM

DEFENDANT

**15th February 2022
17th March 2022**

Oral Decision

Appearances:

Ms. Rochelle Forde Counsel for the Claimant and with her Ms. Patina Knights

Mr. Ronald Marks Counsel for the Defendant

Claimant present

Defendant present

Byer, J.:

- [1] In coming to this decision I wish to identify the submissions which this court took into consideration. These were the skeleton submissions of the Claimant filed on 7 June 2019, the skeleton submissions of the Claimant filed on 25 February 2022 and the closing submissions of the Defendant filed on 25 February 2022.
- [2] Upon reading these submissions and hearing the evidence that was elicited in cross examination and what was contained in the witness statements of the four witnesses that appeared in court at trial, it is clear to this court that this case was a simple one.
- [3] The Claimant's case was that she sought the cancellation of three documents which she said were created by way of forgery perpetuating a fraud on the estate of Leonard Regisford deceased (the Deceased).
- [4] These three documents were:
a) the Grant of Letters of Administration in the estate of the Deceased Number 87/1995 dated 8 June 1995,
b) Deed of Assent number 2932 of 1995 dated 23 day of September 1995 and made between the Claimant as administratrix of the estate of the deceased and the Defendant;
c) and a Deed of Assent number 2777 of 1995 made between the Claimant as administratrix of the estate of the deceased to the Claimant (herself), Earl Regisford, Susan Regisford Smith and Cherise Regisford as beneficiaries (the children of the Claimant and the deceased). (I will collectively refer to these three documents as the Disputed Documents).
- [5] The Claimant also sought damages for trespass as against the Defendant who she claimed had wrongfully taken possession of a portion of the land belonging to the estate of the deceased.
- [6] The case of the Claimant was largely reliant on the evidence of a handwriting expert, one Nola Murphy. It is this expert that found categorically that the signature attached to the two Deeds of Assent and the documents leading to the application for the Grant of Letters of Administration could not be attributed to the Claimant and in effect amounted to forgeries.
- [7] The Defendant having not brought an expert to dispute those findings however defended the action brought against him on two bases; 1) that he never gave any instructions for the preparation of the disputed documents but rather 2) that he bought a portion of land described as 1¼ lot from the said Deceased while the Deceased was alive, facilitated by his mother, the sister of the Deceased.
- [8] It is on the basis of this transaction, that the Defendant defends the claim for possession of the lot of land the subject matter of this action.

- [9] It is therefore clear that the determination of this matter rests more so on which version of events that the court accepts and less so on legal concepts or constructs.

The Claimant's Contentions

- [10] Bearing that in mind, the Claimant contends, that in light of how events unfolded and the glaring forgeries, the Defendant cannot be trusted. The Claimant has asked the court to consider that the entirety of the Defendant's evidence as to the purchase of the property as claimed by him in his defence is just an elaborate ruse to deprive the estate of her late husband of the only asset which he left her and the children of the family. The Claimant contends that the evidence is clear and undisputed that she was not the author of the documents from which the Defendant claims his entitlement. That having been undisputed, results in the Defendant only being able to rely on receipts he alleges were given to his mother on his behalf from the said deceased. The Claimant however states it was more than passing strange that while the purported sale took place during the lifetime of the deceased, as his wife she knew nothing of the sale and further that the Defendant in any event waited some five years after the death of the deceased to claim the land by way of having a title deed executed in his favour. The Claimant therefore contends that the actions of the Defendant are more than just merely suspicious and must be taken in the context, of the manner in which the entire forgery and fraud was perpetrated and viewed as worthless as the other documents which are of no moment.
- [11] Additionally, the Claimant further contended that in any event, beyond the fact of the clear forgery and fraud perpetrated on the estate, it is clear, that a deed of assent was not the appropriate document which would have conveyed the land to the Defendant. The Defendant did not claim to be entitled as a beneficiary or a creditor of the estate and as such any conveyance to him had to have been by way of a deed of conveyance. That document would therefore have fallen outside of the provisions of the Stamp Act which allows for the payment of \$0.12 on a deed of assent as opposed to 10% of the purchase price on a conveyance. Therefore, beyond considering the fraud created by the forgeries, the Claimant further contended that the Defendant having run afoul of those provisions provided further evidence that the Defendant was an integral part of the entire matrix of impugned acts and as such he should not be entitled to any assistance by the court and the court should find for the Claimant including on the claim for trespass and make an order appropriate in all the circumstances.

The Defendant's Contentions

- [12] The Defendant on the other hand has not made any attempt to contend that the disputed documents were not in fact forgeries. He admitted that he had not brought any contradictory expert evidence and as such the court was entitled to act on the expert evidence. What the Defendant does however contend is that having produced his receipts for purchase, which remained unimpeached, save by the unsubstantiated say-so of the Claimant, that they should be a clear

indication to the court that the estate held the property as purchased, on trust for him. The Defendant therefore contended that once the court accepted the receipts evidencing payment as authentic, then the court should make an order that the Defendant is entitled to fee simple absolute in the property, pursuant to a constructive trust in his favour.

Findings of the Court

[13] Bearing all that has been said in mind the court finds the following:

- i) The evidence of the expert Nola Murphy stands undisputed and is conclusive that the Claimant was not the author of the signatures affixed to the disputed documents; the same therefore cannot convey any interest in the estate of the deceased. **Boursat v Savage [1866] LR 2 Eq.134; Mayor etc & Co of Merchants Staple of England v Governor & Co. of Bank of England 1887 21 QBD 160 CA; Brocklesby v Temperance Building Society 1895 AC 173 at 184**
- ii) That the purported Deed of Assent to the Defendant dated 23 September 1994 (numbered 2932/1995) made reference to the Claimant having obtained a Grant of Letters of Administration on 8 June 1995, a date subsequent to the date of the said deed and therefore the Deed of Assent to the Defendant could not have been executed pursuant to the Grant of Letters of Administration although the Claimant is referred to therein as the Administratrix of the estate of the deceased and purports to convey to the Defendant pursuant to the purported sale by the deceased to the Defendant. Additionally, when the court considers Deed of Assent No 2777/1995, this is a deed that is numerically prior to the Defendant's deed but is dated after the date on the Defendant's deed of 1994 and purports to transfer property to the Claimant and her children referable to the land of the Defendant whose deed had not, at that point been registered.
- iii) That the Grant of Letters of Administration in 1995 was made at a time when the estate of the deceased had minority interests in that two of his children were still minors but that the Grant was made to the Claimant in her sole name contrary to Section 14 **Administration of Estates Act Cap 486.**
- iv) That the lack of authenticity of the receipts of the Defendant evidencing payments to his uncle was not something that was vigorously pursued by the Claimant. She neither brought an expert to refute the signature or a credible unbiased witness. The only witness who was brought by the Claimant, the sister of the Defendant, sought inferentially to impugn the receipts of her brother, by claiming that the Defendant and the deceased were not on good terms due to a family dispute. A dispute, I may add which took place in 1969, some 16 years before the purported sale. However, it is this same sister who admitted that she resided out of St Vincent the Grenadines since 1973, had not visited her uncle during his lifetime and knew little to nothing

about parties who had contact with the land and when. This evidence was therefore of limited assistance to the court.

- v) The Defendant was clearly not resident in the country at the time of the payment or the creation of the disputed documents. This court therefore does not consider that he can be considered complicit in acts to which there is very little evidence save an inference that he was involved in the genesis of the same solely on the basis that the documents benefit only him while depriving the estate of the deceased.
- vi) The Claimant did not lead any evidence to counter the evidence that the mother of the Defendant and the deceased were close as brother and sister and in fact her very witness, the sister of the Defendant, also established that, by admitting, that the deceased had sent money home to the Defendant's mother to build his home. There was no evidence by the Claimant to show that it was the Defendant and not his mother who authorized the disputed documents after the death of the deceased and in fact no evidence was led as to the time of the death of the Defendant's mother to establish any connection between the Defendant and the disputed documents. On a balance of probabilities, the court does not accept that there is any such nexus. The court therefore is satisfied on a balance of probabilities that the receipts of the Defendant are sufficient evidence to substantiate the transaction that the Defendant alleges took place between himself and the deceased and I so find that this indeed did occur and should be honoured.
- vii) The Defendant however having not made a claim by way of his own claim for relief the court is empowered by Section 20 **Eastern Caribbean Supreme Court (Saint Vincent and the Grenadines) Act Cap 24** to make any necessary orders that appear warranted on the facts

[14] Therefore after considering all the facts and the submissions of counsel for the parties and the mandate of the court to ensure finality to all matters before the court once the evidence lends itself to such a determination.

IT IS HEREBY ORDERED THAT:

1. That claim of the Claimant is granted in part and in particular the following:
 - a) The Grant of Letters of Administration No 87/1995 issued out of the Eastern Supreme Court on 8 June 1995 is cancelled.
 - b) The Deed of Assent No 2932/1995 dated 23 September 1994 is cancelled and the Registrar of the High Court is directed to make the requisite notation on the said document.
 - c) The Deed of Assent No 2777/1995 dated 14 August 1995 is cancelled and the Registrar of the High Court is directed to make the requisite notation on the said document.

2. The claim for damages is dismissed as the court finds that the Defendant is entitled to a declaration of ownership for a portion of land in his possession. The said size of the lot is to be determined by survey to be carried out by the Defendant the costs of which the Defendant is to solely bear. This is so since the survey plan referred to and relied on by the Defendant G19/132 was not produced to the court. Any questions regarding the survey are to be determined by the court upon application of either party. There being no valid Grant of Letters of Administration the Registrar is directed to execute a Deed of conveyance to the Defendant upon the size of the parcel being settled as between the parties.¹
3. Costs to the Claimant having been largely successful on her claim reduced by 25% to be paid by the Defendant calculated on an unvalued claim pursuant to Part 65.5 CPR 2000. The court makes this order as in this court's mind this matter was not one that required trial however the same was undertaken and the Claimant is entitled to her costs on the claim as indicated.

Nicola Byer
HIGH COURT JUDGE

By the Court

Registrar

¹ Just to be clear, the court accepts that the Defendant paid for a lot of land from the Deceased measuring 1 ¼ lots of land in the area as identified on the receipts at Calder bounded by lands of both the Defendant and the deceased and the main road towards Calder. This court accepts that the information contained in the receipts is sufficiently clear to identify the parcel sold and to be identified for the purposes of the survey and subsequent conveyance.