

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

SVGHCV2018/0188

BETWEEN

GEITHA NADIA ROBERTS NÉE THOMAS

CLAIMANTS

AND

ROHAN HENRY ROBERTS

AND

THE ATTORNEY GENERAL

DEFENDANT

Before: The Hon. Mde. Justice Esco L. Henry High Court Judge

Appearances:

Mr. Steve Stewart for the claimant.

Mrs. Cerepha Harper-Joseph for the defendant.

2020: Jun. 17
Jun. 24

JUDGMENT

BACKGROUND

- [1] **Henry, J.:** The claimants Geitha Nadia Roberts née Thomas ('Mrs. Roberts') and Rohan Roberts have applied for an order approving the late registration of their marriage. They alleged that they were married on December 22nd 2001. They claimed that due to circumstances beyond their

control the marriage has not been registered. They brought this claim¹ in 2018. They have amended their pleadings several times since then. They relied on affidavits filed in 2018 and May 2020.

- [2] In 2019, the Honourable Attorney General was joined as a defendant. He does not oppose the claim. Mr. and Mrs. Roberts have established that there is reasonable justification to permit the late registration of their marriage.

ISSUE

- [3] The only issue is whether the purported marriage between Geitha Nadia Thomas and Rohan Henry Roberts should be registered?

ANALYSIS

Issue – Should the purported marriage between Geitha Nadia Thomas and Rohan Henry Roberts be registered?

- [4] Where the Court is satisfied that a marriage has been solemnized but remains unregistered through no fault of the spouses, it may make an order directing the Registrar to specially register the details of the marriage². Either the husband or wife may apply for such an order. He or she must first give notice of this in two publications of the *Official Gazette*. The claimants made publications in the *Gazette*³ after filing their claim. Originals of the *Gazette* publications were filed belatedly on May 18th 2020. Although the notices were issued after the filing of the claim, I am of the view that they would have provided sufficient notice of the hearing. In this case, the irregularity is not fatal. The judge is authorized to direct that notice be given to such person as he thinks expedient². This was considered unnecessary.

- [5] Mrs. Roberts testified that she married to Rohan Henry Roberts on December 22nd 2001. She indicated that she learnt subsequently that no record of their marriage was made in the Registry or

¹ Initiated by Summons filed on 21st November 2018; supplemented by Fixed Date Claim (Supplemental), Further Amended Application, and Fixed Date Claim filed respectively on 30th January 2019, 1st February 2019, 1st July 2019 and 7th November 2019.

² Section 42 of the Marriage Act, Cap. 236 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

³ On March 3rd and 10th 2020 respectively in Vol. 153 issue No. 33 and 37 respectively.

at the High Court Office. The parties did not produce an authenticated copy or any copy of the duplicate marriage record which Mrs. Roberts claimed was provided to her by the Pastor who performed the wedding ceremony. Mr. Hansby Berthon Lewis gave supporting evidence. He stated that he was Pastor of the New Testament Church of God in Mesopotamia at the time and performed the marriage ceremony as Marriage Officer. He stated that he was a marriage officer at the time. He produced no proof of such certification. He undertook to provide evidence of this and a certified copy of the record of the referenced marriage to the Registrar at the Registry Office the following day.

- [6] Mr. Lewis testified that as was his customary practice and to the best of his knowledge, information and belief he took a copy of the duplicate certificate from the Church's Marriage Register to the Civil Registry Department, to be registered. He averred that he subsequently discovered that the registration was never effected. I believe him.
- [7] The Marriage Act⁴ ('the Act') provides that marriages solemnized in the State of Saint Vincent and the Grenadines must be registered immediately by the marriage officer, in a book kept by him for such purpose ('the marriage register book') and on a prescribed form.⁵ He is required to transmit to the Registrar-General a duplicate of the marriage register entry. The Act stipulates that the Registrar-General must enter the particulars of such marriage into the General Marriage Register Book kept in the general register office.⁴ I am satisfied that the Roberts' marriage was not registered in this manner. Mr. Lewis brought the Marriage Register in court and pointed to the relevant entry in it.
- [8] The Court must ascertain in cases of this nature whether the person who purported to perform the marriage was duly authorized to do so by law. After the hearing on June 17, 2020, the claimants filed a further affidavit of Geitha Roberts. They also submitted further documents to support Mr. Lewis' claim that he is registered as a marriage officer. I accept that Mr. Lewis performed the Roberts' marriage ceremony in 2001. I therefore make an order to that effect and certify this to the Registrar-General. The Registrar-General is accordingly directed to specially register the marriage

⁴ Section 39.

⁵ Sections 39, 40 and 41 of the Marriage Act.

in the register office in accordance with the relevant statutory provisions, provided that Mr. Lewis presents a certified copy or original of his appointment as marriage officer or other proof. This is an appropriate case in which no costs order is necessary.

ORDER

[9] It is declared and ordered:

1. A marriage was solemnized between Geitha Nadia Thomas and Rohan Henry Roberts at the New Testament Church of God, Mesopotamia, Saint Vincent and the Grenadines on December 22nd 2001.
2. The Marriage Officer Mr. Hansby Berthon Lewis shall on or before June 24th 2020:
 - a) authenticate as true and accurate, a copy of the record of the entry in the Marriage Register Book kept at the referenced church relating to the marriage between Geitha Nadia Thomas and Rohan Henry Roberts; and
 - b) deliver or cause that authenticated record to be delivered to the Registrar-General.
3. On receipt of the authenticated record, the Registrar-General is directed to specially register the said marriage in the Register Book kept for that purpose.
4. No order as to costs.

[10] I am grateful to counsel for their written and oral submissions.

Esco L. Henry
HIGH COURT JUDGE

By the Court

Registrar

