

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

SVGHCV2018/0104

BETWEEN

DAFFODIL HARRIS

CLAIMANT

AND

KENDALE MERCURY
BRENNETA DUBLIN

DEFENDANTS

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

Appearances: Mr. Matthew Ferrari of counsel for the claimant.
Ms. Kensha Theobalds of counsel for the first defendant.
Second defendant unrepresented, absent.

2020: Mar. 19
Mar. 20

REASONS FOR DECISION

BACKGROUND

- [1] **Henry, J.:** The parties in this case have made competing claims to ownership of a parcel of land located at Hamilton, Bequia. Ms. Daffodil Harris alleged that she purchased the property from Mr. Kendale Mercury and Ms. Brenneta Dublin on February 26th 2016 for the sum of \$160,000.00. She claimed that Mr. Mercury and Ms. Dublin have failed to honour the agreement and have not

vacated the premises, even though she has sent them notices to quit. She brought this suit¹ for an order of possession and an injunction to restrain them from trespassing.

[2] Mr. Mercury denied any recollection of being party to such agreement for sale. He countered that the property was mortgaged to the bank at the time of the alleged sale and could not have been legally sold. He contended further that Ms. Dublin obtained a loan to pursue studies which she was unable to repay. He averred that Ms. Harris made an agreement with Ms. Dublin to assist her with the repayment of the student loan; and he denied being party to that agreement or receiving any part of the \$160,000.00. He asserted that he intended to continue to remain in lawful and peaceful occupation of the subject property. Ms. Harris averred that she agreed to repay the mortgage in exchange for title to the property. She alleged that this was agreed between her, Mr. Mercury and Ms. Dublin and evidenced by letters the latter two sent to the bank to this effect. She maintained that she repaid the mortgage, received title to the property and is entitled to possess it.

[3] Mr. Mercury claimed that he has suffered loss and damage because Ms. Harris did not pay him for the property. He claimed damages for mental anguish. He also sought an order cancelling the Deed by which the property was registered in Ms. Harris' name. Ms. Dublin did not defend the claim. She took no part in the proceedings. Ms. Harris accepted that Mr. Mercury received none of the \$160,000.00 from her. She asserted that the entire sum was paid to the bank to discharge the loan for which Mr. Mercury and Ms. Dublin were indebted. I have found that the disputed property belongs to Ms. Harris. An oral decision was rendered on the trial date. The reasons for the decision are set out below. For completeness, the orders made on the trial date are included at the end of this decision.

ISSUES

[4] The issues are:

1. Whether the disputed property belongs to Daffodil Harris or Kendale Mercury and/or Brenneta Dublin?
2. Whether the issue of *non est factum* arises in this matter? and,

¹ Filed on 24th July 2018.

3. To what remedies are Daffodil Harris or Kendale Mercury and/or Brenneta Dublin entitled?

ANALYSIS

Issue 1 – Does the disputed property belong to Daffodil Harris or Kendale Mercury and/or Brenneta Dublin?

- [5] Ms. Harris and Mr. Mercury were the only witnesses. Ms. Harris testified that she grew up living at the disputed property and that the house on it was built by her stepfather Lycow Dublin. She indicated that she stopped living there in the 1980s. She recalled that her mother, siblings and stepfather were still living there when she left. She stated that her great uncle Alfred Osborne owned the property and her stepfather had no deed for the land although he built his house there.
- [6] She explained that in or about 2009, she and her siblings Kendale Mercury and Brenneta Dublin approached their uncle Alfred Osborne and negotiated a transfer of the land from him to them. She said that although the land was valued at \$4.00 per square foot, her uncle did not charge them for it. Her siblings paid the government fees, stamp duty and registration fees after which the property was transferred to them (Mr. Mercury and Ms. Dublin). Ms. Harris was not one of the transferees.
- [7] She migrated to Egypt in 2015. While there she learnt that the disputed property was being sold by the Bank of Saint Vincent and the Grenadines. She discovered that Ms. Dublin and Mr. Mercury had mortgaged the property to secure a student loan for Ms. Dublin's benefit. Ms. Harris said that after overcoming her shock regarding the bank's decision to foreclose and sell the property, she decided to try to buy it. She explained that by then her stepfather was ill and she wanted to ensure that he would have somewhere to live and not have any worries about accommodation during his illness.
- [8] She stated that she contacted an official at the Bank of Saint Vincent and the Grenadines and learnt that she would not be able to have first preference on purchasing the property because it was being sold by auction to the highest bidder. She testified that based on advice she received, she spoke with Mr. Mercury and Ms. Dublin and they agreed to transfer the property to her if she assumed the mortgage and purchased the house.

- [9] Ms. Harris explained that arising from that agreement and following discussions and negotiations with the bank manager, the bank re-conveyed the property to her siblings by deed² and they executed a transfer to her (by Deed of Conveyance 711 of 2016). She exhibited certified copies of those Deeds. Ms. Harris stated that after her stepfather passed away in 2017, she decided to renovate the house and rent it. She said that she asked her siblings Mr. Mercury, Ms. Dublin, Annette McKree and Barrington Harris to vacate the house and they refused to do so. She had her lawyers send them two consecutive letters to seeking possession and requesting that they pay rent. They did not respond. She claimed that she had no choice but to take legal action to get them evicted.
- [10] Under cross-examination she stated that Kendale and Brenetta did not give her permission to pay off the mortgage on their behalf, nor did they ask her to do so. She accepted that during the period when she was 'contacting' the bank, Kendale Mercury did not tell her to pay off the mortgage in exchange for him transferring the property to her. She insisted however that he and Brenetta communicated with the bank their agreement to the transfer of the property to her. She insisted that before she paid off the mortgage and during the discussions with the bank, that Mr. Mercury gave his consent to the transfer. She explained that she did not purchase the property directly from the bank because she was told by the bank's manager that the house was being sold on auction and she would not have first preference in such a process.
- [11] Ms. Harris denied that her reason for paying off the mortgage was because she promised to do so if Brenetta defaulted on the loan. She stated that Deed No. 711 of 2016 was prepared by her attorney on her instructions and that it was subsequently signed by Mr. Mercury. She acknowledged that the date on Deed 800 of 2016 preceded the date on Deed No. 711 of 2016.
- [12] Mr. Mercury is the Head Coach of the Saint Vincent and the Grenadines' male football team. He testified that Ms. Harris telephoned him on 25th January 2010 and asked him 'why you do not want to sign the mortgage deed so Brenetta can get the loan to go and study?' He said that he told her that if Brenetta defaults he is not in a position to repay the loan to save the house, nor is his

² By Deed of Reconveyance 800 of 2016.

father, Lycow Dublin, or his siblings Annette McKree or Barrington Harris. He explained that they were the other persons living in the house at the time and who would have been directly affected.

[13] Mr. Mercury stated that he reminded Ms. Harris that his father is ill and he did not want to make him homeless. He said that he told her that her position was different because she has a home and would not be so affected, if the loan goes into default and the house is advertised for sale. He said he suggested to her that since she can afford to repay the loan and save the house if Brennetta defaults, and if she wanted him to sign the mortgage she would have to promise and guarantee him that if Brennetta defaults she would pay the loan on their behalf and give the house back to them 'to avoid the bank selling the house'. He claimed that she promised to give it back. He attested that he relied on her assurance because he knew that she was the only one among them who was in the financial position to repay the loan. These assertions were not put to Ms. Harris. I reject them.

[14] Mr. Mercury stated that relying on the assurance he received from Ms. Harris, he went to the bank the following day and signed the mortgage deed for Ms. Dublin to obtain the loan. He recalled that he was reading the newspaper in May 2015 when he saw the advertisement for the sale of the property. He immediately telephoned his sister Annette and reported what he had seen. He said that Ms. Harris contacted him the next day to ask if the house was really up for sale. He claimed that she told him to go to the bank and find out how much was owed and the date by which it was to be paid. He averred that when she called him back he told her that they had to pay \$50,000.00 to avert the sale. Mr. Mercury did not indicate that he questioned Ms. Harris about defaulting on the loan payments in contravention of the assurances she had allegedly made to him. This is more than passing strange in light of his assertions.

[15] He testified that Ms. Harris told him that she telephoned the bank to confirm the information but was not able to get any particulars about the loan because she was not party to it. He said that she instructed him to write a letter to the bank requesting that the bank disclose those details to her. He averred that he went and 'may have left the letter.' He asserted that he never intended by the letter to give consent to sell or give the property to Ms. Harris. Rather, he claimed that the letter was

intended only to grant the bank permission to disclose how much was owed on the loan. These statements by Mr. Mercury belie his claim that he had been given any assurances by Ms. Harris that she would service the loan. If such an arrangement was in place, she would have been expected to have those details long any default on the mortgage.

[16] Mr. Mercury asserted that Ms. Harris could have purchased the property directly from the bank because it was being offered for sale. He contended that she did not need letters from him or Brennetta to do so. He contended that her intention was never to buy the property but to repay the loan. He claimed that the agreement was always that Ms. Harris would repay the loan to prevent the property from being sold and the occupants from being homeless, if Ms. Dublin defaulted on repayment of the loan.

[17] He testified that after she repaid the loan, Ms. Harris telephoned him and told him to go to Hughes & Company to sign a deed so that they could get the property back from the bank. He claimed that he promised to do so the following week, that he went but did not meet Mrs. Ferrari and the person who was present did not have the document. He recalled that Ms. Harris telephoned him, was very impolite, accused him of delaying and threatened to request that the bank give her back her money.

[18] He recalled that Ms. Harris called him sometime in 2016 and told him that a Mr. McDowall had travelled to Bequia in a speedboat and had the deed with him. He claimed that he was alone at home with his 1 year 10 month old son and was unable to go and sign the deed and he told his sister words to that effect. He said that she called him again and suggested that he leave the child with the neighbour which he refused to do. He explained that it was raining and his child was sleeping. He stated that Ms. Harris cursed him and he eventually went to meet Mr. McDowall, when the rain subsided. He averred that he left his son sleeping and ran to where Mr. McDowall was.

[19] He testified that Mr. McDowall asked him if he knew what the deed was about and he replied yes, it was for him and Brennetta to get the deed from the bank. He averred that he told Mr. McDowall

that he had to hurry back to his sleeping son and did not have the time to read the document. He claimed as a result he signed it without reading it. He asserted that he never read it until he was served with the documents in this claim. He averred that he was surprised that Ms. Harris had sent him a deed of conveyance to sign and not a re-conveyance. Mr. Mercury noted that the re-conveyance is dated 23rd March 2016 while the transfer is dated 26th February 2019. He explained that he understands that after a mortgage is paid off in full the bank gives the property back to the mortgagors by re-conveyance and that was why he thought he was signing such a document. He provided no explanation as to why he considered it necessary to sign a re-conveyance in February and again in March 2016.

[20] On cross-examination, he stated that Brenneta Dublin was supposed to pay back the mortgage but did not. He accepted that it has been repaid by Daffodil Harris. Mr. Mercury claimed that before Ms. Harris did so, he was not aware that the payments were not being made to the bank. He testified that he became aware that sometime in 2016 an advertisement appeared in the newspaper for the sale of the house at the instance of the bank. He averred that he was not in a position then to pay off the mortgage to save the house and no one else living in the house at the time was able to do so.

[21] He indicated that he did not recall writing a letter to the bank requesting that his name be taken off the mortgage so that Ms. Harris could purchase the house. On being shown a letter dated June 8th 2015³, he acknowledged that he penned that letter to the bank granting permission for his name to be removed. He claimed that he wrote the letter on instructions from Ms. Harris who telephoned him and told him that it was 'just procedure' so that she could pay the mortgage loan 'as per (their) agreement'. He acknowledged that from since 2016 when the Deed was signed he has not paid any rent for staying at the house.

[22] Sadly, this case pits sister against brother. The issues are not complicated. Resolution depends largely on credibility. I found Ms. Harris to be a witness of truth. At times, she was obviously mistaken about what she was being asked. She stated that she had obtained one CXC pass in

³ Pg. 73 of the trial bundle.

English after completing Form 5. At times, some questions had to be repeated or re-phrased before she grasped what she was being asked. However, once she understood, her responses were firm and convincing. She corrected herself as her testimony progressed and presented a credible and consistent narrative. Her account was not discredited. I believe her.

[23] Mr. Mercury delivered his testimony in a very guarded manner. His denial about writing a letter to the bank to grant permission for transfer of the mortgage to Ms. Harris was astounding in the face of a letter under his hand to that effect. He was unable to proffer a reasonable explanation for that apparent memory lapse. This is particularly disconcerting and inexplicable since it was a central part of Ms. Harris' case as pleaded in her Reply to Defence and Counterclaim⁴.

[24] Equally puzzling and incredible is Mr. Mercury's claim that he did not know what he was signing when he signed Deed No. 711 of 2016. He made no such assertion when he filed his defence and counterclaim. Moreover, his 'haziness' as to whether he 'left a letter at the bank' and he averment that if he did so, he never intended by it to consent to sale of the property to Ms. Harris appears contrived and disingenuous. I have already highlighted other areas where one would have reasonably expected some clarification or explanation from him regarding his actions. His account is not credible. I prefer Ms. Harris' and reject his where there are differences in their recollection. I accept that he and Ms. Dublin agreed to transfer the referenced property to Ms. Harris to enable her to assume responsibility for the mortgage and ownership of the house. This makes sense. I so find.

[25] It would address their concern that the patriarch Lycow Dublin would not be rendered homeless in his last days and provide shelter for the extended family as long as Ms. Harris permitted them to stay there. That would be preferable to having the entire family evicted by another owner who would have purchased the property at the scheduled auction. I also find that Mr. Mercury knew what he was signing when he signed the Deed of Reconveyance and that he did so freely and voluntarily.

⁴ Filed on 22nd January 2019 at para. 2.

Capable of conveyance

[26] Mr. Mercury contended that at the time of the purported conveyance to Ms. Harris the property was not his to convey. He challenged the validity of the conveyance on the basis that it was executed before the property was re-conveyed to him and Ms. Dublin by the bank. He argued⁵ that when the conveyance was made the bank was still the legal owner of the property and he did not have the right to make such a conveyance. Ms. Harris made no submissions on this point.

[27] The re-conveyance was made to Ms. Dublin and Mr. Mercury by Deed No. 800 of 2016 dated 23rd March 2016 and registered⁶ on even date. Deed 711 of 2016 was dated 26th February 2016 and registered on 15th March 2016. The law provides that registration of title to land constitutes due notice to all persons and operates at law and equity to establish the right, title and interest of the registered interest set out in the register. It also stipulates that each registration assumes priority of time ahead of any subsequent registration in respect of that property. Legally therefore, Deed 711 of 2016 takes priority over Deed No. 800 of 2016. The interests recorded in the earlier deed therefore supersede those in the latter.

[28] It is however immediately apparent that on its face, when Deed No. 711 of 2016 was executed and registered, the re-conveyance to Mr. Mercury and Ms. Dublin had not been formalized by the bank by way of registration of their legal ownership to the subject property. This is an irregularity. Does it invalidate the transfer to Ms. Harris? It is worth noting that Mr. Mercury and Ms. Dublin would have been entitled to enforce their equitable interests to the property immediately after the mortgage was repaid, even in the absence of the registration. Moreover, the bank could not have denied those equitable interests. Neither party specified the date when the mortgage was discharged by repayment by Ms. Harris.

[29] Ms. Harris testified:

‘8. I spoke with Brenetta and Kendale and they agreed that I would pay the mortgage and

⁵ In his pre-trial memorandum filed on 11th November 2019.

⁶ Pursuant to the Registration of Documents Act, Cap. 132 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009, section 5.

they would transfer the deed to me. The bank agreed and the mortgage was transferred to me and I agreed to pay the \$160,000.00 to clear the mortgage and purchase the house.

9. The bank informed me that they would have to reconvey the property to Kendale and Brenetta and they could in turn convey the property to my name. This was done and the property was reconveyed to Brenetta and Kendale in a Deed of Reconveyance number 800 of 2016 and transferred to me in a Deed of Conveyance number 711 of 2016. Both previously exhibited in these proceedings.⁷

[30] While theoretically Ms. Dublin and Mr. Mercury were not in a position to convey legal title of the subject property to Ms. Harris until March 23rd 2016 when Deed 800 of 2016 was registered, there was nothing preventing them from transferring their equitable interests to her, as they purported to do by that conveyance.

[31] In his letter dated June 8th 2015 to the bank Mr. Mercury wrote:

‘... I Kendale Mercury of Hamilton, Bequia, St. Vincent and the Grenadines, do give the Bank of St. Vincent and the Grenadines the authority to have my name remove from the said Deed and to have my name replace by Miss Daffodil Harris, as the person who will now be repaying the loan for Miss Brenetta Dublin.’⁸

[32] By signing this letter, Mr. Mercury evinced a clear intention to have Ms. Harris repay the loan on his behalf. This is irrefutable evidence of the agreement he had with her. This could only be accomplished if she became seised of the property or provided other suitable security to the bank. Such considerations did not feature in the case.

[33] By executing the Deed of Conveyance, Mr. Mercury took steps to divest himself of his interests in the property and have them transferred to Ms. Harris. I infer from all of the surrounding circumstances that he did so in furtherance of their agreement for her to repay the mortgage. I

⁷ Paragraphs 8 and 9 of Daffodil Harris’ Amended witness statement 19th September 2019.

⁸ Paragraph 3 of the letter.

harbor no doubt that Mr. Mercury intended this outcome. He affirmed it by accepting Ms. Harris' offer to repay the loan, a loan which he voluntarily contracted, and one which he no longer has any obligation to service. There is no credible evidence of any coercion or inducement to cause him to do so. Moreover, there is no pleading to such effect. This bolsters my finding that he signed the Deed of Conveyance freely and voluntarily.

[34] Ms. Harris' averment that the bank has extended to her credit facilities which she is servicing by way of a separate mortgage has not been controverted. I accept that this has taken place. By extension, I infer that the bank has taken no objection to any irregularity in the ill-timed execution and/or registration of the Deed of Conveyance; on the ground that Mr. Mercury and Ms. Dublin owned the relevant interest and/or title at the date of registration and execution. The court takes judicial notice that it is open to the bank to conclude an agreement with Ms. Harris to remedy any deficiency in the sequence of registrations, if they consider it necessary. They have taken no objection to it before this court. That is not an issue which needs to detain the court. I accept Ms. Harris' testimony that the bank agreed to proceed based on their negotiations with her and cognizant of the agreement she concluded with her siblings for the transfer of the property to her.

[35] At the same time, Mr. Mercury is bound by the terms of the impugned Conveyance by virtue of the provisions of the Statute of Frauds 1677⁹ as articulated in **Maddison v. Alderson**.¹⁰ The principle which emerges from those authorities is that a memorandum in writing which is referable to a specific agreement between parties will be given effect by the court, if the memorandum adequately identifies the parties, the subject matter, the consideration and any other term the parties consider to be material. The court may do so if the agreement is signed by the party to be charged, and has been partially performed by the party relying on it. The acts of part performance must be necessarily referable to the agreement.

[36] In the instant case, the Deed of Conveyance supplies 'the written memorandum' by way of Deed.

⁹ Section 2 (imported into the domestic law of Saint Vincent and the Grenadines by section 5 of the Application of English Law Act, Cap. 12).

¹⁰ [1883] 3 App. Cas 467

The parties are Ms. Harris, Mr. Mercury and Ms. Dublin as set out in the Deed. The Schedule identifies the property and indicates that the consideration is \$160,000.00. Mr. Mercury and Ms. Dublin are the parties to be charged. They are caught by the doctrine and cannot be heard to complain that the Deed is defective. The decision in **Walsh v Lonsdale**¹¹ is also apt. It is authority for the proposition that equity regards as done that which was to be done.

[37] In view of the foregoing, I find that Mr. Mercury and Ms. Dublin were entitled to the legal and equitable interests, right and title to the disputed land at the time of execution of the Deed of Conveyance 711 of 2016, even though strictly speaking they did not have the physical paper title. I find that it was a valid conveyance. By then, the bank had no legal basis to exert any legal claim to the title against Mr. Mercury and Ms. Dublin because their mortgage obligations would have been discharged by Ms. Harris. The lack of a formal Deed to such effect did not vitiate their (Mercury's and Dublin's) right, title and interest. The title and interests having been transferred to Ms. Harris, vest in her subject to any subsisting mortgage. I so hold.

Non est factum - It was not his deed

[38] Mr. Mercury argued that he did not know what he was signing at the time he executed the conveyance. He submitted that it should therefore be set aside. He made no such assertions in his pleadings¹². They appeared for the first time in his witness statement¹³. He did not state what attempts he took to ascertain the contents of the deed before he signed it. He did not appear to have asked Mr. McDowall what the document was, according to him. He did not even take a few seconds to peruse it. I do not believe that this is what happened. I reject his account about not having had time to read it then or before being served with the claim form. It is does not make sense and is not credible.

[39] It is now settled law that the plea of *non est factum* – it is not my deed – is not available to anyone

¹¹ (1882) 21 Ch D 9; see also *May v Belleville* [1905] 2 Ch. 605.

¹² See Defence and Counterclaim filed on 4th December 2018.

¹³ Filed on 12th September 2019.

who was 'content to sign without taking the trouble to try to find out at least the general effect of the document.'¹⁴ Mr. Mercury is in that category. He cannot avail himself of this defence because he did not plead it; it is implausible and is not made out. I infer and find therefore that he knew the nature and content of the deed when he signed it and that he did so voluntarily.

Benefit to Mr. Mercury

[40] Mr. Mercury asserted that he did not benefit from the transaction. He has not advanced any legal basis for insisting that he must benefit from the transfer in order for it to be valid. Ms. Harris contended that she paid \$160,000.00 to the bank to discharge the mortgage between Ms. Mercury and Ms. Dublin on the one hand and the bank on the other.

[41] Mr. Mercury does not dispute that he was one of the mortgagors; that he defaulted on repayment; or that Ms. Harris repaid the loan partly on his behalf as a result of which the 'bad debt' on his account was erased. Moreover, he admitted that he has lived in the disputed property rent free from 2016 to present. It seems to me that he thereby realized substantial benefit as evidenced by Deed No. 711 of 2016 which he voluntarily signed. I find that he did.

Brennetta Dublin

[42] Ms. Dublin was served with the Fixed Date Claim Form in this matter.¹⁵ She filed no Acknowledgement of Service, and no Defence. Her absence from these proceedings as an active defendant or even as a witness does not go unremarked. It speaks volumes. I construe it to be an acknowledgment by her that the assertions made by Ms. Harris against her are factual and further that she admits liability.

[43] For the foregoing reasons, I am satisfied that Ms. Harris is the lawful owner of the subject property and that Mr. Mercury and Ms. Dublin has no right or title to or interest in it. Mr. Mercury's claim is dismissed.

¹⁴ Gallie v Lee [1971] AC 1004 (Lord Reid).

¹⁵ See Affidavit of Service filed on 3rd December 2018.

Issue 2 – To what remedies are Ms. Harris or Ms. Mercury and/or Ms. Dublin entitled?

Title to the disputed Property

[44] The Registration of Documents Act¹⁶ provides that each document registered pursuant to its provisions has the effect of conveying or transferring to the named transferee, the right, title and interest of the transferor at law and in equity. Every transfer is deemed to take effect on the date and at the time of registration. It follows that Daffodil Harris became wholly seised of the legal and equitable interests in Deed No. 711 of 2016 on 15th March 2016, the date it was registered. She is therefore recognized by the law as the fee simple owner of the disputed land. In view of the prolonged conflict between Ms. Harris and her siblings around this issue it is desirable and just to issue a declaratory order to such effect. Mr. Mercury's prayer that Deed No. 711 of 2016 be set aside is refused.

[45] Ms. Harris is entitled to possession of the subject property. It is appropriate to make an order directing the present occupants to vacate it. Accordingly, Kendale Mercury and Brenetta Dublin shall by quit and deliver up vacant possession of the subject property 1.30 p.m. on 19th April 2020, and arrange for their servants and/or agents to do likewise. They are to leave it in substantially the same condition as it is currently; deliver the keys to Ms. Harris' legal practitioner.

Injunctive relief

[46] Ms. Harris has had to engage in a hotly contested legal battle to secure free and unmolested access and occupation of her property. It strikes me that unless he is restrained Mr. Mercury is unlikely to desist from his unlawful occupation of Ms. Harris' home. In those circumstances, injunctive relief is the appropriate redress to compel him to refrain from trespassing or otherwise molesting her in free and peaceful enjoyment of the disputed property. It takes effect from April 20th 2020.

Costs

[47] Ms. Harris and Mr. Mercury indicated that neither was seeking costs in this matter. They requested that an order to such effect be made. Each party shall therefore bear his or her own costs.

¹⁶ Cap. 132 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009, section 5.

ORDER

[48] It is accordingly declared and ordered:

1. Judgment is entered for Daffodil Harris.
2. Daffodil Harris owns and is entitled to the legal and equitable interests, rights and title to the subject property located at Hamilton, Bequia and registered by Deed of Indenture 711 of 2016, subject to any mortgage secured by it.
3. Kendale Mercury and Brenneta Dublin shall by 1.30 p.m. on 19th April 2020:
 - (a) quit and deliver up to Daffodil Harris vacant possession of the subject property, situated at Hamilton, Bequia and described in the Schedule to Deed No. 711 of 2016; arrange for their servants and/or agents to do likewise; and ensure that the said building is substantially in the same structural and physical condition as at today's date; and
 - (b) deliver the keys to the referenced property to the Daffodil Harris' legal practitioner.
4. Kendale Mercury and Brenneta Dublin are restrained from April 20th 2020, whether by themselves, their servants or agents from remaining on, trespassing on, or interfering with Daffodil Harris' enjoyment of the referenced property at Hamilton, Bequia described in the Schedule to Deed No. 711 of 2016.
5. Kendale Mercury's ancillary claim is dismissed.
6. As agreed between them, each party shall bear his or her own costs,.

[49] I am grateful to counsel for their oral submissions.

Esco L. Henry
HIGH COURT JUDGE

By the Court

Registrar