

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES**

IN THE HIGH COURT OF JUSTICE

SVGHCV2015/0089

BETWEEN

PATRICIA WILLIAMS-MORRIS

CLAIMANT

AND

EVAN WILLIAMS

DEFENDANT

Appearances:

Mr. Stephen Williams and Ms. Sheena Williams for the claimant/judgment creditor.

Mr. Ronald Marks for the defendant/judgment debtor.

2019: Jun. 27

DECISION

BACKGROUND

- [1] **Henry, J.:** The parties in this matter are father and daughter. They were before the court in 2016 embroiled in a dispute over which of them owned certain land at Belle Isle on the Walliabou Estate, St. Patrick's Parish in the State of Saint Vincent and the Grenadines. After a hotly contested trial, it was determined that they both were the beneficial owners of the disputed property in unequal shares based on their respective contributions towards the purchase price.
- [2] The subject land comprised 3.11 acres. Due to the paucity of information presented at the trial, their respective interests was not quantified but was to be arrived at by them jointly based on a valuation of property after judgment. Mrs. Williams-Morris was directed to obtain a valuation of the subject

property from a licensed valuer on or before 12th May 2017. It was ordered further that she either pay to Mr. Williams a sum of money representing his share of the beneficial interest in the land; or arrange for him to receive such interest by way of a fair and equitable partition of the land based on a survey to be commissioned from a licensed land surveyor.

[3] On 24th September 2018 Mrs. Williams-Morris filed an application in which she sought orders that judgment be enforced subject to fulfillment of conditions; that the court gives permission for judgment to be enforced and that she pays into court the sum of \$1891.00 which represents 'Mr. Williams' beneficial interest' in the subject land. She has averred that the entire parcel of land is agricultural land and was valued at \$31,000.00.

[4] Mrs. Williams-Morris attested¹ that since the delivery of the judgment, Mr. Williams has entered the land and harvested golden apples and has threatened her with bodily injury. She submitted that the referenced land is the subject of a restrictive covenant which prohibits sub-division. This is new material which was not presented at the trial. It is therefore ignored for present purposes Mr. Williams submitted that he is interested in having the judgment enforced and maintained that he wished to have his interest in the subject land determined and partitioned. I agree that Mr. Williams may elect to have the subject land partitioned in accordance with paragraph 70 (3) (b) of the judgment dated April 6, 2017. Mrs. Williams-Morris' application is dismissed.

ISSUE

[5] The issue is whether Mrs. Williams-Morris' application should be granted?

ANALYSIS

Issue – Should Mrs. Williams-Morris' application be granted?

[6] It is trite law that once a judgment is made by the court determining liability and declaring or ordering relief to the respective parties, the 'trial' Court's function may be invoked only with respect to enforcement of that order or correction of accidental slips. An appeal is necessary to obtain a variation of the judgment. It appears from the assertions made by Mrs. Williams-Morris that the

¹ In an affidavit filed on 24th September 2018.

parties have not yet engaged each other in giving effect to the Orders contained in paragraph 70 of the referenced judgment. Her legal practitioner submitted that they have tried but have been unsuccessful. Implicit in paragraph 70 (3) is a requirement for agreement between the parties on the option selected.

[7] The present application seeks practically to involve the Court in making an election which the parties are charged with pursuant to paragraph 70 (3) of the referenced order. The Court makes the observation that both parties have throughout the trial and the instant proceedings been represented by experienced lawyers of many years call (except the final hearing when junior counsel Ms. Sheena Williams appeared alone as counsel for Mrs. Williams-Morris). They have advanced no legal submissions why the Court should depart from its usual inherent and statutory practice and mandate, to make an election for the parties regarding how to give effect to the judgment. It seems to me that there is no compelling reason why the court should do so.

[8] I make the observation that the parties' respective allegations regarding trespass are not matters which the court can entertain in this manner. I refrain from doing so. It is also observed that the perceived hurdle of a restrictive covenant can be addressed in the appropriate manner by one or the other or both parties, by an appropriate application to vary or not. The parties have demonstrated by their submissions that they recognize this. I make no order regarding that issue. Finally, I note that Mrs. Williams-Morris by her application, appears to desire to make an election for Mr. Williams as to which of the two mentioned options they should apply. She has advanced no compelling and/or insurmountable reasons why his option cannot be pursued to its logical conclusion.

[9] Mrs. Williams-Morris submitted that her application is made pursuant to CPR 43.3 which 'allows the claimant to make an application to enforce a judgment where a condition has not been fulfilled.' She added that the outstanding condition is that the claimant has not paid the defendant the amount payable to him based on his interest in the property as ascribed by the valuation. I hasten to add that the sub-paragraph in the judgment which is referred to, does not contain a condition. It is the order to be given effect to, on election by the parties jointly.

[10] It states:

‘2. Mrs. Williams-Morris shall on or before 12th May 2017:

(3) after deducting the expenses associated with the valuation report and any related survey, either

(a) pay to Mr. Williams a sum of money representing his share of the beneficial interest in the subject land based on the value ascribed in the valuation report; or

(b) arrange with Mr. Williams for a fair and equitable partition of the land representative of their respective interest in it, based on a survey to be commissioned from a licensed land surveyor, agreed by the parties.’

[11] Mrs. Williams-Morris submitted that there has been no equitable partition of the parcel of land. Learned counsel Mr. Marks, argued that the Court has to decide what is just and equitable in the circumstances. He submitted that the disagreement should have been settled amicably. The judgment delivered after trial is the court’s pronouncement on what is just and equitable.

[12] Neither side made any submissions which suggest that they have exhausted attempts to arrive at a collaborative division of the subject property and the equitable interest that both parties have acquired in it; or that it is an exercise that the parties are ill-equipped to carry out. I entertain no doubt that the parties can arrive at a mutually agreeable outcome through discussion. The Court does not need to grant permission for enforcement of the Orders in the judgment. It is expected that the parties will comply. The law requires nothing less.

[13] There is nothing before the Court which leads me to conclude that Mr. Williams does not wish to or has refused to give effect to the judgment. I therefore make no order that the referenced judgment be enforced subject to fulfillment of conditions; that the court gives permission for judgment to be enforced and that Mrs. Williams-Morris pays into court the sum of \$1891.00 which purportedly represents Mr. Williams’ beneficial interest in the land.

[14] The parties were ordered to file and serve written submissions on or before 13th June 2019. Mrs. Williams-Morris filed a skeleton argument on 17th June 2019. She submitted that based on the purchase price paid to the government by her, the initial deposit paid by Mr. Williams and the

valuation of \$31,000.00 she has a 93.9% beneficial interest while he has a 6.1% beneficial interest. The details about the purchase price introduced at the trial were not complete. It is not clear how Mrs. Williams-Morris wishes to supplement those details at this stage outside of a trial and in the absence of agreement by the parties regarding those details. They are therefore disregarded.

Costs

[15] Neither party made substantial or substantive submissions in writing or at the hearing. I therefore make no order as to costs. Each party is to bear his or her own costs.

ORDER

[16] It is ordered and declared:

1. Patricia Williams-Morris' Notice of Application filed on September 24th 2018 for orders that judgment be enforced subject to fulfillment of conditions; that the court gives permission for judgment to be enforced and that she pays into court the sum of \$1891.00 is dismissed.
2. Each party shall bear his or her own costs.

Esco L. Henry
HIGH COURT JUDGE

By the Court

Registrar