

**EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT LUCIA**

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

Claim Number: SLUHCV2016/0788

Between

1. THERESA PROSPERE
2. KISHA PROSPERE

Claimants

and

1. GEEST INDUSTRIES (ESTATES) LTD.
2. LEAVING TODAY CARIBE LTD
3. MAXIMILUS JOHANES
4. MARIO MC DOOM
5. GREGORY CLAIMONT

Defendants

Before: Ms. Agnes Actie

Master

Appearances: Mr. Daniel Francis for the claimant
Mr. George Charlemagne with George K Charlemagne for the defendants

2018: June 25

RULING

1. **ACTIE A:** - Summary Judgment having been entered in favor of the claimants, the matter now comes on for assessment of damages.

Background

2. The claimants had been in occupation of a lot of land owned by Geest Industries for over thirty five (35) years. By letter dated 10th January 2001, Geest Industries offered to sell the lot of land to the claimants for the sum of \$6367.20, which the first claimant accepted. In 2008, Geest Industries filed a claim against the first claimant and obtained judgment on 11th April 2009 in the sum of

\$6,367.20. By Deed of Sale dated 7th June 2013, Geest Industries sold the said lot to the 1st defendant, Leaving Today Caribe Ltd. On 2nd May 2016, the 4th and 5th defendants acting as agents of the 1st, 2nd and 3rd defendants entered upon the property and removed the roof of the claimants' house. The claimants seek damages for the loss suffered.

Special Damages

3. The claimants abandoned most of the amounts pleaded and particularized as special damages in the statement of case and only pursue damages for the cost of the roof in the sum of \$12,784.00. The amount claimed is supported by a report from Junior Goodridge, Construction Manager.
4. Counsel for the defendants takes objection to the report and places much emphasis on the fact that the report is dated May 8, 2016, but the body of the report states that the assessment was conducted on May 23, 2016. Counsel for the claimant contends that the conflicting dates are obvious typographical errors which the court accepts.
5. Geest Industries, admits to the unlawful removal of the claimants' roof but has failed to provide an alternative assessment for the damaged caused. Counsel contends that the claimants should not receive any compensation under this head.
6. The court disagrees with the posture taken by counsel for the defendants. The defendants' have demolished the claimant's roof without lawful authority and is liable to pay any consequential loss suffered by the claimants. Having accepted the evidence, I award the sum of \$12,784.00 with interest at the rate of 3% from the 2nd May 2006 to the date of filing the claim and at the rate of 6% from the date of judgment until payment in full.

Damages for Trespass

7. The claimants seek damages for trespass in the sum of \$10,000.00. In **JA Pye (Oxford) Ltd v Graham**¹ Lord Browne-Wilkinson quoting Slade J in Powell's case stated:-

"Possession of land however is a concept which has long been familiar and of importance to English lawyers because (inter alia) it entitles the person in possession, whether rightfully or wrongfully to maintain an action of trespass against any other person who enters the land without his consent, unless such other person has himself a better right to possession." See also **Belevedere Holdings Ltd v Velthia Matthews**².

8. It is the evidence that the claimants had been in possession with the consent of Geest Industries and could have maintained an action in trespass. However, the claimants alleged that the destruction was conducted by the agents of Geest Industries, 2nd and 3rd defendants. The 3rd defendant is now the new registered owner who had by then obtained better right of possession than the claimants.

¹ [2002]3 AER p. 865 at p. 873e

² SVGHCV2005/0027 delivered 28 January 2008 at Paragraph 15

9. The court accepts that the claimants suffered embarrassment as a result of the highhandedness of the defendants. However, the court will only make a nominal award taking into consideration that title had already passed to the second defendant. Accordingly, a nominal award in the sum of \$1000.00 is made under this head. .

ORDER

10. In summary, it is ordered that Geest Industries shall pay the claimants the sum of \$12,784. 00 with interest at the rate of 3% from the 2nd May 2006 to the date of filing the claim and at the rate of 6% from the date of judgment till payment in full.
11. Damages for trespass in the sum of \$1000.00.
12. Prescribed Costs in the sum of \$1240.56 pursuant to CPR 65.5

AGNES ACTIE
MASTER, HIGH COURT

BY THE COURT

REGISTRAR