

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

IN THE HIGH COURT OF JUSTICE

SVGHCV2006/0414

BETWEEN

ANESTA CASS HUMPHREY

CLAIMANT

AND

TALFORD ROBERTS

DEFENDANT

Appearances:

Mrs. Kay Bacchus-Browne for the claimant.

Mr. Andreas Coombs for the defendant.

2016: May 11
May 25

JUDGMENT

BACKGROUND

[1] **Henry, J.:** This case involves a dispute between former romantic partners Anesta Cass Humphrey and Talford Roberts. It has had an extended life in the justice system. Ms. Humphrey brought action against Mr. Roberts in 2006¹ in which she alleged that she and Mr. Roberts had been common law husband and wife for over 16 years. She attested that she and Mr. Roberts built a house together on land at Glen ('collectively, the disputed property') from resources largely supplied by her. She claimed

¹ By Fixed Date Claim Form ('FDCF') filed on 4th October, 2006.

that Mr. Roberts has excluded her from the disputed property. She seeks an order for possession, for Mr. Roberts' eviction, an injunction and mesne profits.

- [2] Mr. Roberts resisted Ms. Humphrey's claim, contending that the house was built with funds equally contributed by them. He has counterclaimed for an order permitting him to continue occupying the disputed land and for an injunction restraining Ms. Humphrey from interfering with his peaceful enjoyment. The respective claims are strenuously resisted.
- [3] The main bone of contention is to what share in the disputed land is Ms. Humphrey and Mr. Roberts entitled. In the absence of cogent evidence regarding their respective contributions, I have accepted that they both contributed substantially to the acquisition of the property and I have found that they are each entitled to a 50% share in it. Ms. Humphrey is awarded mesne profits in respect of the land only. No injunctive relief is granted to either party.

ISSUES

- [4] The issues are:
1. To what interest in the disputed property are Ms. Humphrey and Mr. Roberts entitled?
 2. To what remedies are Ms. Humphrey and Mr. Roberts entitled?

ANALYSIS

Issue 1 – To what interest in the disputed property are Ms. Humphrey and Mr. Roberts entitled?

- [5] The only testimony before the court is that of Ms. Humphrey and Mr. Roberts. The disputed land comprises 5,565 sq. ft. of land. Title to it became vested in Ms. Humphrey on December 9, 2010, by Crown Grant.² Three structures were erected on it – a concrete house, a building used as a retail shop and another structure. Mr. Roberts has occupied the disputed property since 2003, to the exclusion of Ms. Humphrey. He has expressed a desire to purchase her interest. Ms. Humphrey attested that she and Mr. Roberts first built a little board house together which they occupied. She explained that they later constructed a large wall house. While she acknowledged that they already

² See Crown Grant 1591 of 2010 exhibited to the Amended Statement of Claim filed on 11th September, 2012.

had a small shop when the second house was being built, she did not say how the shop was acquired.

- [6] Ms. Humphrey exhibited the Crown Grant by which she became owner of the disputed land. She averred that she paid for the land from funds procured through a loan from a financial institution. The purchase price inclusive of tax amounted to \$5,948.25. Mr. Roberts did not deny this. Ms. Humphrey testified that Mr. Roberts did not contribute financially or equally to the construction of the big wall house. She stated that he was not working at the time, so she provided most of the funds. She indicated that Mr. Roberts' contribution to construction of the house was in the form of manual labour. She explained further that friends of theirs also assisted. She insisted that Mr. Roberts is entitled to only a 20% share in the property.
- [7] Mr. Roberts averred that when he and Ms. Humphrey started their relationship, he was living on the disputed land, in a board house which he built. He testified that they contributed equally to the construction of the concrete house using funds from their respective jobs and a small loan.
- [8] Neither Ms. Humphrey nor Mr. Roberts provided evidence of the cost of either material or labour expenses. They supplied no receipts in respect of the sums they claim to have spent. They were however equally adamant regarding their respective positions. I accept that they equally contributed to the construction and acquisition of the buildings on the disputed land and that Ms. Humphrey alone paid for the land. Ms. Humphrey concedes that Mr. Roberts is entitled to a share in the disputed property. The question is how much.
- [9] It is established law that where two or more persons contribute jointly to the acquisition of property, they are each entitled to an equitable interest in the property, commensurate with their contributions.³ In the absence of credible evidence of the value of their actual contributions, the court may infer from their conduct, that they had a common intention to share the property beneficially.³ Similarly, if the evidence supports a finding that both made substantial contributions which cannot be precisely quantified, the court may apportion their interests equally based on the maxim 'equality is equity'.³ In

³ Halsbury's Laws of England 4th. Ed. Vol. 48, para. 612.

such a case, if the property is registered to only one of those persons, he or she is deemed to hold it in trust for them in proportion to their respective interests.

- [10] In the absence of documentary proof regarding Ms. Humphrey's and Mr. Roberts' respective contributions to the construction of the buildings, the court is not at liberty to speculate. Ms. Humphrey has failed to prove that she contributed more than Mr. Roberts towards the construction of the buildings. She provided no receipts, invoices or other documentation to support her assertions. I am satisfied from the evidence that while Ms. Humphrey's contributions seemed to have been largely financial, Mr. Roberts supplied most of the labour. I also accept Mr. Roberts' testimony that part of those funds were raised from the shop which they both owned. I find therefore that both made substantial contributions to acquisition of the houses on the land. In respect of the buildings, equality will be the governing principle. I accept and find that Ms. Humphrey was the sole purchaser of the land on which the buildings were constructed. For this reason, her interest in the property would be greater than Mr. Roberts'. It is just that she be credited with the full value of the land. I find accordingly, that Ms. Humphrey is the owner of the disputed land and she and Mr. Roberts are entitled to an equal share in the buildings constructed on it.

Issue 2 – To what remedies are Ms. Humphrey and Mr. Roberts entitled?

Shares in the land and buildings

- [11] Neither party submitted a recent valuation of the disputed property. It is imperative that one be obtained. It is accordingly ordered that Mr. Roberts shall arrange for a valuation of the subject property (including a separate value of the land) to be conducted within 30 days by a licensed property valuator. Mr. Roberts shall on or before July 31, 2016, pay to Ms. Humphrey 50% of the value of the three buildings on the land and the full value of the land. Within 24 hours of receipt from Mr. Roberts of full payment in respect of the buildings and land, Ms. Humphrey shall execute a Deed of Conveyance transferring the property to Mr. Roberts. Mr. Roberts shall be responsible for payment of all expenses associated with such transfer. The parties are at liberty to apply for an extension of time to conclude such payment and land transfer.

Mesne profits

- [12] Ms. Humphrey testified that she was chased from the premises by Mr. Roberts. She recalled that she had been occupying the smaller building when he threatened her life and personal safety whereupon she decided to leave out of fear. He denies this and said that Ms. Humphrey left after the relationship became tense and fractured. Ms. Humphrey testified that she has been paying rent of \$400.00 per month from the date she left the disputed property up to present. She claimed mesne profits at the rate of \$400.00 and presented receipts evidencing rent payments for that amount. I found Ms. Humphrey to be the more credible witness and accept her account that Mr. Roberts threatened her as a result of which she had to leave the premises and find alternative accommodation. It is not clear when in 2003 this separation took place. Neither party indicated when they separated.
- [13] Mr. Roberts concedes that Ms. Humphrey is entitled to compensation and he proposed a figure of \$350.00 as the amount which reflects the rental value of the property. I consider that the mean of both amounts - \$375.00 – would have been a fair assessment of her monthly loss, in respect of occupation of the dwelling house. However, I am mindful that it was owned jointly by Ms. Humphrey and Mr. Roberts at all material times. Accordingly, I make no order for payment of mesne profits on this basis. However, Ms. Humphrey became the legal owner of the land in December 2010. She is entitled to recover compensation from Mr. Roberts for his use of her land during that time. I consider that a nominal figure of \$50.00 per month would be fair and just. I therefore order that Mr. Talford Roberts pay to Ms. Humphrey the sum of \$3,300.00 representing mesne profits in respect of the land only, at the nominal rate of \$50.00 per month from 10th December, 2010.

Possession, eviction, injunction

- [14] During the trial, Ms. Humphrey indicated that she no longer wished to pursue her claim for possession of the disputed property. I therefore make no order of possession, eviction or injunction in her favour. Mr. Roberts is entitled to remain in possession of the disputed property on condition that he pays to Ms. Humphrey the sums ordered. Mr. Roberts failed to establish any basis on which to grant an injunction restraining Ms. Humphrey from interfering with his peaceful enjoyment of the disputed property. While he alleged that Ms. Humphrey came to the property and removed items at some time, he testified that he has since changed the locks to deny her access. He implied that this

course of action has been successful and I accept that. I therefore make no order granting him an injunction.

Cancellation of Deed

[15] In light of the foregoing orders, it is unnecessary and would be premature at this juncture to make an order cancelling the Crown Deed No. 1591 of 2010 as requested by Mr. Roberts. No such order is made.

ORDER

[16] It is accordingly declared and ordered:

1. Anesta Cass Humphrey is the owner of the disputed land registered by Crown Deed No. 1591 of 2010.
2. Anesta Cass Humphrey and Talford Roberts are entitled to equal shares in the buildings constructed on the said land.
3. (1) Talford Roberts shall arrange for a valuation of the subject property (including a separate value of the land) to be conducted within 30 days of today's date, by a licensed property valuator.

(2) Talford Roberts shall on or before July 31, 2016, pay to Anesta Cass Humphrey 50% of the value of the three buildings on the land and the full value of the land, based on the valuation ascribed in the valuation report.

(3) (a) Within 24 hours of receipt from Mr. Roberts of full payment in respect of the buildings and land, Anesta Cass Humphrey shall execute a Deed of Conveyance transferring the property to Talford Roberts.

(b) Talford Roberts shall be responsible for payment of all expenses associated with such transfer.

4. Talford Roberts shall pay to Ms. Humphrey the sum of \$3,300.00 representing mesne profits from 10th December, 2010 to present, in respect of the land only.
5. Anesta Cass Humphrey and Talford Roberts shall bear their own costs.

.....
Esco L. Henry
HIGH COURT JUDGE