

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SAINT LUCIA

Claim No. SLUHCV2010/0094

BETWEEN:

- 1. NICHOLAS CHARLES WELCH**
- 2. JASMINE KATHLEEN WELCH**
- 3. TROPICA LTD**

Applicant/Respondents

And

- 1. BANK OF SAINT LUCIA**
- 2. NATALIE AUGUSTIN**

Respondents/Applicant

Appearances:

Mr. Leevie Herelle for the Applicant/Respondents
Ms. Vanessa Williams for the Respondents/Applicant

2010 June 2
June 4

DECISION

- [1] **GEORGES AG J:** By notice of application filed 3rd March 2010 the second-named respondent/applicant applied to this Court for an order for an extension of time in which to file an application for the discharge of an order of the Court dated 10th February 2010 halting any action by her from attempting to evict the first and second-named respondents

from their property at Becune Point, Cap Estate, Gros Islet registered at the Land Registry as Block 1257B 91 without due process of law.

- [2] The said order also enjoined that the second-named respondent Receiver and or anyone acting on her behalf and or the Respondents be prevented from and restrained from dealing with, selling, advertising, visiting and or interfering in any manner whatsoever with the said property until further consideration of this Application and or further order of the Court.

- [3] Paragraph 3 of the order states that:

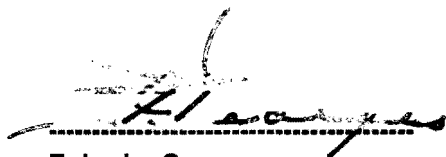
The Receiver is to discuss with the Applicants the property belonging to Tropica Ltd situated at Bonne Terre in the Quarter of Gros Islet and registered as Block 1454 Parcel 439 in accordance with the Civil Code of Saint Lucia.

- [4] Provision was made for variation or discharge of the order.

- [5] The grounds of the application are that the applicant the second-named respondent Natalie Augustin (also Receiver) of the third-named respondent (Tropica Ltd) alleges that she was not on island in time to file the application to discharge within the 14 day time period prescribed by the Civil Procedure Rules (CPR) after the order was entered. The order was incidentally entered on 12th February 2010. The applicant further states that she has a valid interest in having the order discharged in that she alleges that she is completely fettered by the order as regards her duties as Receiver and Manager but without any sufficient and cogent evidence to support her assertion.

- [6] The order of the Court prohibited the applicant from evicting the first and second respondents from their Cap Estate abode **without due process of law** or from dealing with the said property **until further order of the Court** which the Court felt was necessary having regard to all the circumstances.

- [7] It is noteworthy that the first ground given by the applicant for her failure to file her application to discharge the order within the 14 day period prescribed by the CPR was that she was not on island in time to do so. Yet Respondent Counsel drew the attention of the Court to the fact that on the 25th February 2010 the applicant in actual fact filed a notice of application for leave to appeal the said order.
- [8] The application which was initially set down for hearing before a single judge on 30th March 2010 and adjourned to 27th April 2010 came up before Her Ladyship the Honourable Madam Justice Ola Mae Edwards and was dismissed with costs because the applicant had invoked the wrong procedure.
- [9] That clearly was the reason for failure to apply to discharge the court order dated 10th February 2010 in the prescribed time a fact which was suppressed by the applicant who failed to make full and frank disclosure to the Court.
- [10] For that reason alone the application ought to be dismissed. And that decision is further fortified by the fact that the applicant has failed to adduce specific proof to demonstrate in what manner she has been fettered in the exercise of her powers qua Receiver.
- [11] The application as I see it is without merit and is accordingly dismissed with costs in the sum of \$500.00 to the respondents



Ephraim Georges
HIGH COURT JUDGE (AG)