

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

**COMMONWEALTH OF DOMINICA
DOMHMT2004/0026**

BETWEEN:

ELIZABETH E JOSPEH

Petitioner

and

MAYNARD JOSPEH

Respondent

Before: The Hon. Justice Brian Cottle

JUDGMENT

[May 10th 2010]

- [1] **COTTLE J:** The parties were married on 26th December 1988. The union was dissolved in Dominica 1998. The respondent now applies for ancillary relief. By his notice filed in 1st July 2005 the respondent seeks a property adjustment order in relation to the matrimonial property. The petitioner also sought ancillary relief in the sum of a property adjustment order.
- [2] The parties agree that the respondent owned the land on which the matrimonial home was built before the marriage. Shortly after the nuptials the respondent transferred the property into the names of the parties as joint tenants. The parties secured a loan to construct the matrimonial home.
- [3] Between 1989 and 1995 the parties contributed towards repaying the loan. The respondent says that during this period he was first a senior teacher then

a Minister of Government. His income was greater than the petitioners. He contributed the lion's share of the loan payments. After 1995 the respondent was a senator and farmer. His income was then substantially less than before. He avers that he contributed to the living expenses, primarily the petitioner's income to be applied to the loan repayment.

- [4] The petitioner's position is that since 1995 she has been solely responsible for the repayment of the mortgage loan. The parties were cross-examined. At the close of the evidence I have concluded that both parties have contributed to the cost of acquisition of the matrimonial home. It is unclear which party has contributed more but this is in my view not determinative of the issue.
- [5] In determining whether to make an adjustment order, I am to have regard to all of the circumstances of this case. The question of contributions both direct and indirect to the acquisition of the matrimonial home is merely one factor to be taken into account.
- [6] In this case the parties decided to vest the property (on which the matrimonial home was to be built) in their joint names. They both contributed to the cost of repaying the mortgage. I consider that by these actions they displayed an intention that the property be jointly owned by them equally. I do not consider this to be a case for any adjustment to be made in the legal ownership of the matrimonial home.
- [7] I therefore decline to make any property adjustment order as prayed by either party. I declare that the land (and matrimonial home which stands on it) is owned by both parties jointly in equal shares subject to the subsisting mortgage for which both parties are now equally responsible to repay. I make no order as to costs.

Brian Cottle
High Court Judge