

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
HIGH COURT CLAIM NO. 343 OF 1995
BETWEEN:

Celestina Adams

Complaint

V
Coreen Franklyn

Defendant

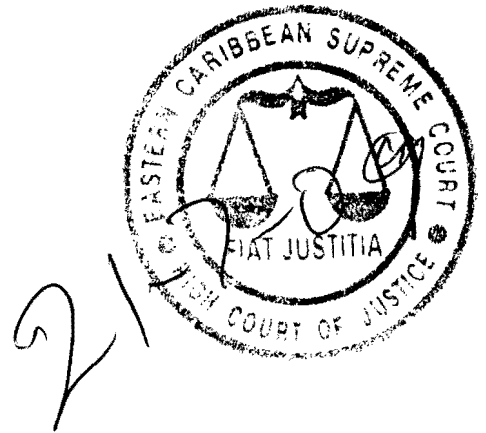
Appearances:

Mr. O. Dennie for the Complaint
Mr. S. Williams for the Defendant

2009: July 21st

ASSESSMENT OF DAMAGES

- [1] **Cottle J.** : This matter came on for trial before Mitchell on 11th April 2001. Judgment was given for the defendant. On appeal to the Court of Appeal the claimants appeal was allowed in part. The matter was remitted for assessment of damages. This was on 9th April 2002. It was not until 11th October 2005 that the defendant applied to the Court to have the damages assessed
- [2] The assessment came in before me on 14th June 2006. The defendant gave evidence and was cross examined. The claimant led no evidence. Counsel were invited to provide the court with written submissions along with authorities in support. It was here the matter languished.
- [3] Eventually on 8th May 2008 counsel for the defendant filed his submissions. To date counsel for the claimant has failed to file any submissions.



- [4] The claimant wrongly evicted the defendant from property which the court has found to be owned by them jointly. The evidence of valuation which has not been contested on cross examination is that the removal of the roof diminished the value of the structure by \$31,500. It is accepted by the defendant that she had been living rent free in the house for 10 years and that the claimant was an equal co-owner.
- [5] Items destroyed or damaged by the action of the claimant have been valued at \$7,860.80 by the defendant. The claimant did not challenge this. I thus accept this as special damages shown by the defendant.
- [6] The defendant averred that as a result of the actions of the claimant, she has had to rent alternative accommodation. I make no award for this item of damages given the admission by the defendant that she had paid no rent during here 10 years of occupation and the entitlement of the claimant to an equal share of the property.
- [7] Looking at this matter in the round, I am content to make a global award to the defendant in the sum of \$50,000. This sum includes the \$7,860.80 for destroyed items, the cost of the destroyed roof and an amount to cover the unlawful eviction. I pause to add that the high handed actions of the claimant might have merited the award of exemplary damages, so reprehensible was her conduct.
- [8] As this matter was filed before the coming into force of the **Civil Procedure Rules 2000**, I depart from the scale of prescribed costs I fix the cost payable to the claimant in the sum of \$5,000.00


Brian Cottle
High Court Judge