

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 9 OF 2007

BETWEEN:

BEATRICE ANTOINE (by her
Attorney-on-Record MILTON THOMAS)

Claimant

V

EDWARD DEWITT JOHN

Defendant

Appearances:

Mr. S. Raymond-Cadette for the Claimant
Mr. C. Williams for the Defendant

2008: May 2 and 16.

JUDGMENT

[1] **MATTHEW J. (Ag.):** On January 12, 2007 the Claimant filed a fixed date claim form asking for the following relief:

- (1) Vacant possession of property consisting of a parcel of land with the matrimonial home;
- (2) General and Special Damages;
- (3) Injunctive relief;
- (4) Further or other relief; and
- (5) Costs.

PLEADINGS

- [2] In her statement of claim the Claimant alleges that she is a retiree living in England and is part owner and Administratrix of her husband's Estate which consists of lands and buildings situated at Layou in the State of Saint Vincent and the Grenadines.
- [3] She said that by virtue of Grant No. 124 of 2005 Milton Thomas was granted Letters of Administration to the Estate of the Claimant's deceased husband, Arnold Antoine, on August 29, 2005.
- [4] She stated that the Defendant trespassed on the said buildings and land which formed the matrimonial home without her consent or the consent of her late husband. He completely destroyed the matrimonial home and erected a wall structure 40 feet by 20 feet to his own specifications.
- [5] The Defendant was issued with a Notice to Quit dated January 12, 2006 but he has failed to obey the said Notice.
- [6] The Claimant alleged that the Defendant tried unsuccessfully to obtain a Power of Attorney from the deceased Arnold Antoine but such request was denied.
- [7] Milton Thomas had again requested the Defendant to leave the land but he has failed to do so.
- [8] The Claimant alleged that the matrimonial home is of sentimental value to the Claimant and her husband and the Defendant has destroyed it without authority and is defying all efforts of the Claimant who is desirous of returning to her homeland to regain possession of her property.
- [9] The Defendant filed his defence on February 6, 2007 in which he said he does not know that the Claimant is part owner and Administratrix of her husband's Estate.

- [10] The Defendant denied that he trespassed on the said land and said he was given permission by his grandfather, the said Arnold Antoine deceased, to demolish the old uninhabitable wooden building and to erect a new 40 feet by 20 feet concrete structure before the sale to him was completed.
- [11] The Defendant averred that after he built the structure the Deceased told him that he had passed responsibility for the said land to his son, Errol Antoine, who resides in England and Errol told the Defendant to get a power of attorney, from the Deceased.
- [12] The Defendant stated that he had a power of attorney prepared and sent it to the Deceased but the latter did not respond.
- [13] The Defendant denied that he has destroyed the matrimonial home of the Claimant and her husband without authority and states that the home referred to was an abandoned, rotten, dilapidated and uninhabitable wooden building.
- [14] The Defendant averred that there is no matrimonial home on the said land and there could be no sentimental value to something that does not exist; and that he had constructed a building on the land which the Claimant's husband had agreed to sell to him.
- [15] The Defendant alleged that he has a licence protected by estoppel because he built the concrete structure on the reliance of Arnold Antoine's promise to sell him the land.
- [16] The Defendant counterclaimed and seeks the following relief:
- (1) An order that the Estate of Arnold Antoine sell the Defendant the said land on which he has built his electric store;
 - (2) Further or other relief; and
 - (3) Costs.
- [17] There was no reply or a defence to the counterclaim.

EVIDENCE

- [18] Milton Thomas gave evidence for the Claimant and the Defendant gave evidence. There were no other witnesses.

- [19] Milton Thomas filed a witness statement on June 5, 2007 in which he stated that he was relying on the facts as stated in the statement of claim attached. This is outrageous and ignores the difference between a pleading and evidence.

- [20] When he was cross-examined he said he did not know the deceased Arnold Antoine or the Claimant, Beatrice Antoine. He said the Deceased was the grandfather of the Defendant and he believed he died a few years ago.

- [21] He said he knew of other people who were occupying the property of the Deceased and the Defendant had written to those people on behalf of the Deceased for them to leave but they did not leave.

- [22] He said the property which the Defendant demolished was not rotten, and he agreed that the concrete structure erected by the Defendant was done in 2002.

- [23] He said he had spoken to the Deceased once and the Deceased told him to go to the Defendant to collect rent from him for his occupation of the land.

- [24] He said he has never seen Mrs. Antoine on the property and he did not know if the Defendant got permission to erect the new structure.

- [25] The Defendant filed his witness statement on June 21, 2007. He said he is the grandson of Arnold Antoine who was the husband of the Claimant in this matter.

- [26] He said in 2001 when he was in England his grandfather agreed to sell him a parcel of land at Layou and on the land was an old dilapidated building. He said his grandfather

gave him permission to demolish the old building and to construct a 40 feet by 20 feet wall structure in its place. He said the Claimant was present during the discussion between his grandfather and himself.

[27] He said he demolished the old building in January 2002 and after he did this he spoke to his grandfather who told him to go ahead and construct his electric store.

[28] He said in September 2002 he returned to England to finalize payment with his grandfather for the land and his grandfather told him he had turned over the property to his uncle Errol, his grandfather's son, and it was then Errol told him to obtain the power of attorney from the Deceased.

[29] He said he had lived in Layou all his life, and had never seen the Claimant there and he met her for the first time when he went to England.

[30] He said he believes the land should be sold to him since he acted on the reliance of his grandfather's promise to sell him the land.

[31] Under cross-examination he said he did not know his grandfather before he went to England in 2001. He said his grandfather returned to Saint Vincent after that for a funeral but he had never seen the Claimant in Saint Vincent and the Grenadines.

[32] He reiterated that the Claimant was present when he sought the said possession from his grandfather. He said further: "She was sitting there between my grandfather and myself."

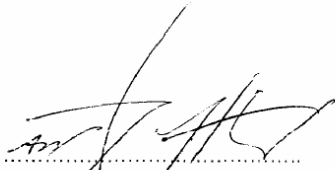
[33] He said he began construction of the store in January 2002 soon after he demolished the old structure.

[34] In answer to the Court he said he was born in 1962 and he would assume that the Claimant was in England before he was born.

CONCLUSIONS

- [35] I do not believe the Defendant would be so daring to enter upon the Claimant's land or her husband's land and demolish the old building on the land and use his resources to build a permanent structure if he was not given the go-ahead.
- [36] The old building was demolished and the new structure began in January 2002. As far as is known no action was taken against the Defendant in 2002, 2003 and from January to July 2004 before the Deceased died on August 28, 2004.
- [37] That suggests to me that the Deceased and his wife did not believe that any wrong doing was going on. And if they did believe a wrongful act had taken place, they slept on their rights to protect their property.
- [38] According to Milton Thomas the Deceased only asked him to collect rent from the Defendant so it seems he was not bent on evicting the Defendant from the property.
- [39] I am not persuaded that the building was of any sentimental value to the Claimant and her husband. It cannot be so to him now and the Claimant has not shown any particular attachment to Saint Vincent. Unlike so many others, she would not even visit her homeland from time to time.
- [40] I believe the Defendant that the Claimant was a party to, or privy to, the discussions between himself and his grandfather to sell the property to him. I further believe there was such an arrangement; parole evidence followed by performance.
- [41] The Claimant waited the five years after the alleged trespass and close to two and a half years after her husband's death to initiate these proceedings in this matter.

- [42] I accept the law as enunciated in **Ramsden v Dyson** (1865) 1 L.R. H.L. 129 at page 170; on proprietary estoppel. See also **Pascoe v Turner** (1979) 2 ALL E.R. 945 C.A.; and **Taylor's Fashions v Liverpool Victoria Trustees Company** 1982 1 Q.B. 133.
- [43] My order is that the land on which the Defendant's store is located be sold to him, the price to be determined as at January 2002, by a competent land valuer to be appointed by the Parties and in default to be appointed by the Registrar of the High Court.
- [44] The Defendant is to bear the costs of the valuer and all other costs associated with the sale. No other costs awarded.



Albert N.J. Matthew
HIGH COURT JUDGE (Ag.)