

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
HIGH COURT CLAIM NO. 243 of 2006



COSMORE QUOW

Claimant

V

EUCHRIST BILLINGY

Defendant

Appearances:

Mr. C. Williams for the Claimant
Mr. J. Delves for the Defendant

2007: December 17;
2008: March 10;
May 2.

JUDGMENT

- [1] **MATTHEW J. (Ag.):** On June 1, 2006 the Claimant filed a statement of claim requesting among other things that an order be made canceling a deed of gift, No. 4225 of 2005, made by his deceased mother, Estelita Quow, to the Defendant who was at one time the Claimant's girlfriend.
- [2] Estelita Quow and the Defendant obtained certain property at Muller Village by deed 2195 of 1984 as tenants in common. Later by deed of gift No. 4225 dated October 14, 2005 Estelita conveyed her half share interest to the Defendant.
- [3] The Claimant alleged that his mother had given him another portion of land at Montrose by deed of gift, No. 2611 of 2003 and dated the 8th day of August 2003; but later by deed of gift, No. 4361 of 2005, dated the 14th day of October 2005, she purported to convey the same piece of land to the Defendant.

- [4] The Claimant contends that when his mother conveyed her half share interest in the land at Muller Village by way of deed 4225, she was of unsound mind.
- [5] He also contends that the deed of gift of the Montrose property to the Defendant by way of deed 4361 of 2005 is of no effect for that property had already been donated to him by virtue of deed 2611 of 2003.
- [6] On August 18, 2006 the Defendant filed a defence and counterclaim whereby she asked that deed of gift 2611 of 2003 made to the Claimant be cancelled and that the Defendant obtain damages for the Claimant's trespass to her property in deed 4225 of 2005, that is the property at Muller Village.
- [7] The Defendant alleged that when Estelita Quow signed the deed of gift to her in respect of the Muller Village land she was of sound mind, memory and understanding; and that the Deceased signed the said deed in the High Court Registrar's office and that the deed was read and explained to the Deceased by the Deputy Registrar of the High Court of Justice.
- [8] The Defendant maintained that the Claimant was not given the Montrose land purportedly made by virtue of deed 2611 of 2003 dated August 8, 2003 and alleged that the deed was not signed by the Deceased.
- [9] The Claimant filed a defence to the counterclaim on September 4, 2006. In his defence to the counterclaim the Claimant denied that he wrongfully broke off the locks placed on the Muller Village property by the Defendant and maintained that the house was owned by his mother.
- [10] The Claimant admitted however that he put one Raymond, nephew of Estelita Quow, in possession of the house at Muller Village. There was no issue of undue influence on the pleadings and I say no more under that head.

EVIDENCE:

- [11] Cosmore Quow gave evidence and called Luzette King and Raymond Jackson as his witnesses. Euchrist Billiny gave evidence and called Loreth Bartholemew, Agnes Peter, Ernestine Allen and Elizabeth Joseph as witnesses.

- [12] Cosmore Quow is a Vincentian born on August 10, 1950 to Estelita Quow but who has been living in Holland for a long time. Estelita Quow died on December 11, 2005. He admitted having an intimate relationship with the Defendant before he went to Holland in 1973.

- [13] He said his mother wanted the relationship to continue so she included the Defendant as co-owner of the Muller Village property. He said he visited St. Vincent in 2003 and that was when his mother decided to give him the property at Montrose.

- [14] He said in August 2005 he returned to St. Vincent to see his mother who was then very ill and mentally incapable of conducting her own affairs. After his mother's death he placed a notice in all the newspapers in St. Vincent and the Grenadines stating that she died without a Will and he, being her only son, was the Administrator of the Estate.

- [15] Under cross-examination he admitted not having a document from the Court appointing him as Administrator of his mother's estate. He said there is no sound reason why his mother would give the Defendant her half share of the property.

- [16] He said he came to St. Vincent from Holland after his mother's death and met the house locked. He said he did not seek the Defendant's permission to enter the house but broke the locks, went into the house and rested his things. He told the Court he was not able to come to his mother's funeral.

- [17] Luzette King is from Mesopotamia but lives in Washington D.C. She is a trained and licensed registered nurse who specialized in mental health nursing. She knew Estelita

Quow from 2002 to 2005 and got to know her because she had met Cosmore Quow in 2001.

- [18] Luzette King was the person who identified Ernestine Allen of Mesopotamia as a person able to render assistance to Estelita Quow.
- [19] She said that during her stay in St. Vincent in 2005 she noticed a marked difference in Estelita's physical and mental state. She saw obvious signs of memory loss and short attention span.
- [20] She did not believe that Estelita was mentally competent to conduct any business by Will or deed during the months of October, November and December 2005.
- [21] Raymond Jackson lived at Muller Village in the downstairs of the property owned by Estelita Quow and the Defendant. He said Estelita who was his aunt invited him to live with her.
- [22] He said he went to live with her in 2004. He knew Cosmore to send money to his mother and to employ Ernestine Allen to look after Estelita three days per week.
- [23] He said in August 2005 Estelita was saying and doing things which indicated to him that her memory and mind were going.
- [24] He said that after his aunt died in December 2005 Cosmore put him in charge of the house at Muller Village.
- [25] Euchrist Billiny who was the lady friend of the Claimant at one time lived in the same house with Cosmore and his mother. There she became pregnant for the Claimant and while pregnant he developed other relationships and he left the home. She remained living with Estelita who was good to her.

- [26] She later got married to someone else and both she and her husband lived with Estelita. She said her relationship with Estelita was like mother and daughter. She eventually went to Trinidad in 1979 and from there supported Estelita in every way she could. She visited her regularly from Trinidad, and sent things to her.
- [27] She spoke of "Ma" and herself buying the property at Muller Village together. In later years she employed two persons to take care of "Ma" one in the day; the other at night.
- [28] She said in October 2005 "Ma" had a lawyer prepare two deeds of gift in her favour.
- [29] When she was cross-examined she stated that Estelita was in her real senses when she signed the deeds 4361 and 4225 of 2005. She said she sent money regularly to Estelita who had control of her bank account in St. Vincent.
- [30] Loreth Bartholomew is a legal secretary from 1974. She testified that deeds Nos. 4225 of 2005 and 4361 of 2005 were signed by the Deceased before the Deputy Registrar of the High Court of Justice. She said the Deceased seemed to be in complete control of all her mental faculties. She said the Deputy Registrar read the deeds to her and she said she did not want her son, Cosmore, to get anything.
- [31] Agnes Peters is the sister of the Defendant. She was paid by the Defendant to stay with the Deceased at nights in November and December of 2005. She was with the Deceased on the Saturday night before she passed away the following Sunday. Up to the Deceased's death she saw nothing to indicate that she was not in her sound mind.
- [32] Under cross-examination she said the Deceased once told her that she received money from her son, now and then.
- [33] Ernest Allen alias "Nancy" began to work looking after Miss Quow as a result of the intervention of Luzette King but it was not a sound working relationship. Before the end of

the first month Cosmore stopped her employment. She did not receive a full month's pay. The working relationship was casual and payments were irregular.

- [34] A more serious working relationship was created by Nancy's dealing with the Defendant who paid her \$600 a month to remain with Miss Quow during the day. She never got the impression that Miss Quow was feeble minded.
- [35] Elizabeth Joseph was the neighbour of Estelita Quow. She is a business woman who trades under the name "Beth's Seasoning". She and Miss Quow belonged to the same church, the New Testament Church of God.
- [36] Miss Joseph assisted Miss Quow during the latter's illness and on one occasion she gave her medication to rub on her shoulder. Miss Quow found the medication helpful and Miss Joseph suggested that she ask her son to get some for her. She replied, "No", but she would ask Euchrist.
- [37] In further conversation with the Deceased Miss Joseph gave very strong evidence against the Claimant as revealed to her by the Deceased. She reported that the Deceased said, "not even a glass of water he will get."
- [38] Miss Joseph stated that soon after Miss Quow died she learnt that the Claimant was in the house so she went to see him. In conversation with him she asked him how is it that he is Miss Quow's only son and his mother passed away and he did not come for the funeral. He simply stated: "You don't understand."
- [39] When she was cross-examined she stated that she never saw Cosmore Quow before his mother died and she met him for the first time after she had a conversation with Agnes Peters, also called Sybil Peters.
- [40] She further stated: "I did not notice anything different about the Deceased approximately two months before she died. Even to the hour of her death she was all right."

CONCLUSIONS:

- [41] At stake are two properties, one at Montrose and the other at Muller Village where Miss Estelita Quow lived immediately before her death on December 11, 2005.
- [42] The Claimant avers that the Montrose property was given to him by deed No. 2611 of 2003, dated August 8, 2003. Opposing contention is that he stole it from his mother. He submits that because of the earlier disposition to him, his mother could not later by deed of gift give the same property to the Defendant by virtue of deed 4361 of 2005 dated October 14, 2005.
- [43] I have seen a copy of deed 2611 of 2003 on file in relation to the Montrose property containing 3,481 square feet and the document appears to be properly executed before Mr. Cecil A. Williams. It seems to me that the deed 4361 of 2005 in respect of the Montrose property should be set aside.
- [44] As regards the Muller Village property, that was obtained by Estelita Quow and Euchrist Billiny by deed 2195 of 1984 containing 4,022 square feet on October 10, 1984. By deed of gift No. 4225 Estelita Quow seems to have donated her half-interest in that property to the Defendant.
- [45] The Claimant's challenge to that deed is that his mother was of unsound mind when she executed that deed. That challenge has not been supported by any medical or other proper evidence. In my judgment the burden of proof is in the Claimant to establish that Estelita was not of sound mind when she disposed of her half share in the property. But even if the burden was on the Defendant, as the Claimant contends, she would have easily discharged that burden. The overwhelming evidence is that Estelita was in sound mind up to the time of her death. I accept unhesitatingly the evidence of Elizabeth Joseph in this regard. Further the deed was executed before the Deputy Registrar of the High Court. It

appears that the donation to the Defendant in respect of the Muller Village property must stand.

[46] As in a similar case I was doing at the time, there are in this case many collateral issues that need not occupy the Court's time – for example, whether the Claimant sent money to his mother regularly or at all; or whether the Claimant sent money to pay for his mother's care in her old age and illness. As I said in the other case, honouring one's parents is required by the Holy Bible and our West Indian culture. That means not only respecting them and loving them, but also paying for their health care and their maintenance without expecting remuneration or compensation.

[47] I have no doubt that the Claimant did not behave according to the patterns described above. When one witness told him that the Defendant was paying for his mother's care he replied that she ought to pay for his mother had indicated that she intended to give what she has to Euchrist. There can be no stronger testimony of the Claimant's relationship with his mother than what was described by Elizabeth Joseph whom I have found to be a witness of truth. Her veracity was not at all challenged under cross-examination by learned Counsel for the Claimant.

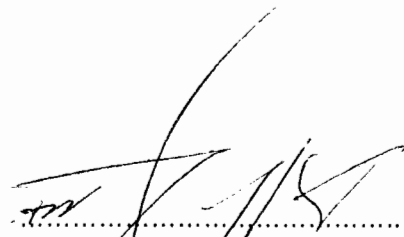
[48] It is so common these days for relatives to ignore their folk during the latter's lifetime but after their death to descend like vultures to prey upon the possessions of the deceased.

[49] On the statement of claim I refuse to order the deed 4225 of 2005 in respect of the Muller Village property be cancelled, but rather on the counterclaim I declare that the said deed be valid.

[50] On the counterclaim I refuse to order that deed 2611 of 2006 in respect of the Montrose property is void; but rather I would set aside deed 4361 of 2005 because at the time of its execution it was already the property of the Claimant.

[51] I have no doubt that when the Claimant broke the lock to the doors of the house his mother occupied before her death he committed a trespass to the Defendant's property by virtue of deed 4225 of 2005 dated October 14, 2005. For that trespass I order the Claimant to pay the Defendant \$1,000.00. After the death of Miss Quow Raymond Jackson was evicted from the dwelling house by the Defendant, but after his trespass the Claimant reinstated Jackson. Consequently, the Claimant is liable for mesne profits from January 2006 to be assessed.

[52] There shall be no order as to costs.



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