

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
HIGH COURT CLAIM NO. 10 OF 2007



BETWEEN:

JANET RALPH
(by her attorney **BERNADETTE RALPH**)

Claimant

V

GEORGINA DAVID

Defendant

Appearances:

Mr. B.A. Stapleton for the Claimant
Mr. J.H.B. Frederick for the Defendant

2007: June 29;
September 21

JUDGMENT

- [1] **MATTHEW J (Ag.):** On January 15, 2007 the Claimant filed a claim form against the Defendant seeking the following relief.
- (a) A declaration that the parcel of land in dispute is the property of the Claimant;
 - (b) That the Defendant ceases her trespass and discontinue her unlawful occupation of the Claimant's land; and
 - (c) Costs.
- [2] In her attached statement of claim the Claimant alleged that she is the fee simple owner of a parcel of land at Choppins by virtue of a deed, No. 3114 of 1999, which was conveyed to her by her father, Gladstone David, also known as Charles Quammie now deceased.

- [3] She alleged that the parcel of land belonged to her father's grandmother who had put her father in possession of it and at the time of her father's death he had been in uninterrupted occupation of the land for a period in excess of 30 years.
- [4] She stated that her father obtained a grant of Letters of Administration of the Estate of his grandmother, No. 8 of 1997 and he later obtained a deed of assent No. 3077, in his own favour. Neither of these documents were tendered in evidence.
- [5] She stated that instrument 3114 of 1999 was a deed of gift from her father in 1999 and since that time she has remained in possession of the parcel of land and was paying the taxes and also renting part of the premises to a tenant for a number of years.
- [6] She stated that in December 2006 the Defendant and her agents unlawfully entered the land and began to construct a wooden building on the said land.
- [7] On January 16, 2007 the Claimant obtained an ex parte order of injunction against the Defendant restraining her and her agents from erecting any structure on the Claimant's land.
- [8] On February 12, 2007 the Defendant filed her defence and is essentially saying that the land belonged to Agatha David also known as Agatha Ryan and all seven of her children, including the Claimant's father and the Defendant, are entitled to a share of the ownership of the land.
- [9] She also alleged that since the year 1960 she has been in sole and undisturbed possession of the said parcel of land and will rely on the provisions of the Limitation Act, Chapter 90, Section 17 of the Revised Laws of Saint Vincent and the Grenadines.

EVIDENCE:

- [10] At the trial Bernadette Ralph, Leon Grant and Raphael Sutherland gave evidence for the Claimant. The Defendant gave evidence and called St. Elmo John as her only witness.
- [11] Bernadette Ralph stated that the Claimant, her sister, resides in the United Kingdom and she is her sister's attorney. She spoke of deed Number 3114 of 1999 by which her sister became owner of the land.
- [12] She stated that her father, who was also the Claimant's father, lived on the land for many years before his death in August 2002.
- [13] She also spoke of the acts of trespass by the Defendant on December 3 and 15, 2006. When she was cross-examined she stated that the events she spoke of are from her personal knowledge. She admitted that her father had several siblings including the Defendant.
- [14] Leon Grant testified that from 1991 he rented one of the rooms of the house on the land from the Claimant's father, Gladstone David, paying him \$40.00 a month. He said this lasted till Gladstone's death in 2002.
- [15] He stated that it was since November 2006 that the Defendant and her children had been coming to the premises and hurling insults at him.
- [16] Under cross-examination he said he lived on the premises for 16 years. He said he knows the Defendant and she and himself have never had any contention.
- [17] Raphael Sutherland aged 24 stated that he knows the Claimant and the Claimant's attorney since he was a child and he was a friend of their brother, Stevenson Moses

- [18] He said from childhood he knew the Claimant's father to be living on the portion of land which is the subject matter of the dispute and he used to visit the house very often.
- [19] When he was cross-examined he stated that he used to be around Mr. Quammie when he was growing up and knew him on the said land.
- [20] On re-examination he said Quammie always lived on the premises from the time he knew him.
- [21] Georgina David filed her witness statement on June 1, 2007. She stated that Gladstone Leon David grew up in the same house with her mother and father and their seven children.
- [22] She stated that all the children except herself left the family house and migrated or went on their own.
- [23] She said in February 1989 her mother fell ill and all the children came to see her and they told her to give the Defendant the land. A deed of gift was made by a lawyer in her favour and the deed was registered as No. 892 of 1990. No evidence of such an instrument was tendered.
- [24] She stated that during a Christmas season, about December 28, Quammie came home drunk and her mother quarreled with him and chased him from the house and the mother told her to take possession of the land. She thereafter paid the taxes.
- [25] During her examination in chief she said the parcel of land was given to her grandmother, Mary Jones, by her brother, Jonathan King, when he was leaving St. Vincent to go to Trinidad. She said Mr. Browne made a possessory title for her. That too has not been exhibited.

- [26] When she was cross-examined she said her mother died on another property about three lots away from the disputed parcel and could not remember the year her mother left the disputed land. She said when her mother gave her the land they were living on the disputed land.
- [27] She said she is presently living on another piece of land which her mother left her. She admitted that nowhere in her defence she said the disputed land was given to her.
- [28] She said she could not remember the year she left the disputed land but her last child was born in 1964 on the piece of land on which she resides presently.
- [29] Elmo St. John who has been living at Choppins all his life grew up with the children of Agatha David. He clearly remembers the Christmas season when Agatha put Gladstone out of the house and then called the Defendant and told her to take the house and the piece of land.
- [30] When he was cross-examined he stated that the year Agatha chased Gladstone away was in 1970. He said that event did not take place on the disputed land.

LEGAL SUBMISSIONS

- [31] The main plank of the defence is that Charles Quammie, the Claimant's father, in obtaining a grant of letters of administration falsely stated that he was the only person entitled to benefit from the estate of his mother, Agatha David. This grant of letters of administration was not tendered in evidence.
- [32] In the circumstances the provisions of Section 21 of the Administration of Estates Act Chapter 37 cannot apply. The same would apply to the assent which also was not tendered in evidence. The provisions of Section 51 (9) of the Act could not apply.

- [33] Learned Counsel for the Defendant contended that according to the provisions of the Administration of Estates Act the land should be shared equally between the Claimant's father, the Defendant and their other siblings.
- [34] Learned Counsel for the Claimant relies on the fact Gladstone David alias Charles Quammie was put in occupation of the land by his grandmother and he enjoyed peaceful, continuous and undisturbed possession of the land up to his death in 2002 and during that period donated it to his daughter; the Claimant.
- [35] Counsel did refer to a grant of letters of administration of the estate of David's grandmother in his favour followed by an assent to himself and a deed from himself to his daughter. None of these documents were produced in evidence.

CONCLUSIONS

- [36] The conduct of this case is very unsatisfactory and was more fitted to a hearing by the Magistrate. Several documents were mentioned by the Parties and none was available in evidence i.e. deeds; letters of administration; deed of assent and statutory declaration.
- [37] The dispute relates to a portion of land and nowhere in the pleadings or in the witness statements or in oral evidence is there any mention of the extent of the land, never mind a plan of survey. Only in the order of injunction is there an indication of the measurement being 3,750 square feet.
- [38] The facts touching on a dispute between niece and aunt are unduly simple and the Defendant seems to have given evidence in support of the Claimant. The evidence she tendered does not support her defence that she has been on the disputed land for 46 years and upwards.
- [39] The claim is based on a documentary title and long possession. One aspect of the defence was based on all the children of Agatha David having an equal share in the land.

- [40] The Defendant departed from her pleadings and presented a claim on her own behalf. At one point she said there was a deed of gift made to her and yet at another stage she said her mother chased her brother away and told her to take the land. The inconsistencies are too great for her testimony to be credible or reliable.
- [41] She and her witness are at variance over the circumstances when the gift was made to her. She said it was on the disputed premises. Elmo St. John is sure it was somewhere else, the place where she presently lives.
- [42] But land cannot be conveyed by word of mouth. Further, the Defendant did not and therefore in my view cannot produce deed 892 of 1990 allegedly made by lawyer Dougan.
- [43] Georgina agrees that the land originally belonged to her grandmother. If Claimant could produce the letters of administration of the estate of her grandmother, the deed of assent made in favour of her father and the deed of gift made to her then she might have been able to trace a proper documentary title. In their absence I cannot make such order in her favour.
- [44] But quite apart from inheritance from Mary Jones the Defendant in her own testimony left the disputed property since 1964 and her siblings, save Gladstone, some time before that. There is evidence that Gladstone remained on the property after the Defendant left and in fact died there in 2002.
- [45] Gladstone rented part of the premises to at least one tenant and he kept the proceeds for himself. It seems he would easily qualify for title under the Limitation Act, Chapter 90 and his daughter with him.

[46] I give judgment for the Claimant and I declare that the disputed property is her sole property. I order the Defendant not to trespass or enter or construct anything on the Claimant's land. I make no order as to costs in this family dispute.



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