

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

SAINT LUCIA

CLAIM NO. SLUHCV1998/0633

BETWEEN:

(1) **STEPHEN CHARLES**
(2) **PETRUS EDWARDS**

Claimants

and

THERESA VALTON

Defendant

Appearances :

Ms. C. Gedeon-Clovis for Claimants

Mr. D. Theodore for Defendant

2007: May 7;
May 31, 2007.

JUDGMENT

[1] **COTTLE J.:** The Claimants brought an action seeking an account from the Defendant. The Claimants averred that they owned an undivided 1/8 share of certain hereditaments the Defendant owned ½ share. They sought to have the Defendant account for rental earned from a warehouse and apartments erected on the parcel. The Defendant averred that the warehouse and apartments were built on an adjoining parcel of land and built by the Defendant out of her own separate funds.

- [2] A survey carried out has confirmed that the warehouse structure is in fact located on an adjoining parcel formerly owned by the Dennergy Farm Company and subsequently purchased by the daughter of the Defendant.
- [3] At the case management conference the parties agreed that the sole issue which remained to be tried was whether the warehouse structure was built by the Defendant out of her own separate funds or whether the building was constructed from the earnings of a company Valton Enterprises Ltd which had been incorporated by the Defendant and her deceased husband who was also the father of both Claimants.
- [4] The Claimants case is that the warehouse was built using the proceeds of sales by Valton Enterprises Ltd. The Defendant says she utilized her own funds to build the warehouse. It forms no part of the estate of her late husband and the Claimants are not entitled to have her account.

The evidence

- [5] Stephen Charles filed a witness statement. He was not able to give any direct evidence about the financing of the construction of the warehouse. He testified about a conversation he had with Sir John Compton but could not assist the Court to decide the issue in question. He was born in 1968 and would have been about 13 years old when the warehouse was built in 1983. When cross examined he admitted that he was one of the executors of his father's estate. He gave a power of attorney to the Defendant. He admitted that he had no reason to doubt the Defendant's position that she utilized all monies from the business to clear the debts of the business. He also admitted that he was part of the business when the warehouse was being built but could supply no documents concerning its construction.

- [6] Petrus Edwards also filed a witness statements. He says that he worked with his father in the business of Valton Enterprises from the age of 12. He also swore that it was his father who constructed the warehouse along with the contractor Mr. Ford. He admits that the Defendant carried out improvements to the warehouse but contends that this was done with the proceeds of the business. When he was cross examined he also admitted that he had no documents to show that the improvements were done with the proceeds of the business. In fact he agrees that, at the death of his father, the business was in debt. There were two witnesses for the defence, the Defendant herself, and her daughter Katra Matorah.
- [7] I found the evidence of the Defendant to be clear and convincing. She was able to show how she utilized the assets of her late husband's estate to liquidate the debts owned by him. It is significant that neither Claimant sought to say that she had misused the assets of the estate. Rather they say, she carried on in business after the death of her husband and earned income in which they should share.
- [8] On the sole issue to be determined in this case, I find that the Claimants have failed to adduce evidence which would satisfy a Court on a balance of probabilities that the funds which paid for the warehouse, came from the business of Valton's Enterprises Ltd.
- [9] Consequently, I must dismiss the claim and find for the Defendant. As the Defendant has succeeded, I award her prescribed costs in the sum of \$ 14,000.00.

BRIAN S. COTTLE
HIGH COURT JUDGE