

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO.: 38 OF 2002

BETWEEN:

SINDY VANLOO

Petitioner

V

AUBERY DARWIN VANLOO

Respondent

Appearances:

Mrs. A.E. Cato for Petitioner

Mr. Stephen Williams for Respondent

2006: July 14

DECISION

- [1] The parties were married in 1995. The marriage was dissolved in 2002. There are three children of the family. The eldest is aged 17 while the younger two are 11 and 5 respectively.
- [2] The Respondent holds the legal title to a parcel of land which was given to him by his father. On that parcel is constructed the matrimonial home. The old building which stood on the land has now been completely expanded and rebuilt. It is now a two-storey building with three separate apartments on the lower storey. Two of these are rented out. The rental from these amounts to \$700.00 monthly. The father of the Respondent resides in the other. There is also a fourth apartment which is at present unfinished. The Respondent utilizes this as a workshop for his part-time work. The upper storey comprises a three-bedroom, two-bathroom

apartment. The Petitioner lives there with the children. The Respondent also lives there.

- [3] The Petitioner is a caterer. She says she earns \$1,000.00 per month. The Respondent is employed at St. Vincent Electricity Services Limited. He also does some private work as an electrician. He earns about \$3,200.00 monthly from his employment and his part-time efforts combined.
- [4] There is an outstanding mortgage on the matrimonial home. The outstanding balance is about \$166,000.00. The matrimonial home has been valued at \$260,000.00. The Respondent pays the monthly mortgage installments in the sum of \$1,478.00. The Petitioner collects the rental income from the apartments. She applies this to the household expenses. In his application for ancillary relief the Respondent seeks a property adjustment order. He proposes that the matrimonial home be sold and the proceeds after satisfying the outstanding mortgage be divided equally between the parties.
- [5] The Petitioner agrees that the disposition of the matrimonial home is the sole issue which the court needs to determine. She suggests that the property be sold and the proceeds be equally shared but that such sale be postponed until the youngest child attains majority. She also proposes that the Respondent continue to make the full monthly payment on the mortgage. By my reckoning the mortgage would have been completely paid off before then.
- [6] It must be kept in mind that the court must consider all of the circumstances. There is a unique factor in this case which I also take into account. The father of the Respondent resides in one of the apartments. He pays no rent. This is because the property, which was originally his, he gave to the Respondent by deed of gift. I do not consider that in his declining years he should be turned out of a home. This would be the effect of an order for immediate sale. The equity in the matrimonial home, when divided between the parties, will not be sufficient to

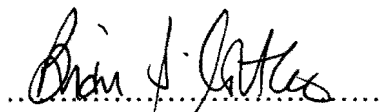
secure alternative accommodation for them, far less so for the father of the Respondent.

[7] I consider that the sale of the property must thus be postponed. I now turn to consider the contributions made by the parties to the acquisition of the home. Clearly, the Respondent has made the lion's share of the financial contribution. The land itself was a gift to him. The Petitioner played no part in its acquisition. Yet, the Petitioner too has contributed. Though the marriage only lasted seven years, the parties cohabited from long before then. The Petitioner conceived while still a student at secondary school. She has not only worked and contributed financially but she has also been responsible for looking after the home and the children.

[8] Having considered all of the circumstances of this case, I conclude that justice requires that I award the Petitioner a one-third interest in the matrimonial home. The Respondent will continue to make the full mortgage payments. The property will be sold when the youngest child attains 18. The Petitioner will receive one-third of the proceeds of sale and the Respondent will get two-thirds. The Petitioner will continue to receive the income from the two apartments which are now rented out.

[9] Should the fourth apartment be completed the Respondent will receive any rental income from this. It is not unlikely that at some point the apartment now occupied by the father of the Respondent will become vacant. The Respondent will also be entitled to receive any income from this apartment until the property is sold.

[10] I make no order as to costs.


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Brian S. Cottle
MASTER