

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

CLAIM NO.: 78 of 2002

BETWEEN:

ANNIS ANITA HORNE nee LEWIS

Petitioner

and

DALE SYLVESTER RUPERT HORNE

Respondent

Appearances:

Mrs. A.E. Cato for the Petitioner

Mr. S.E. Commissiong and Miss S. Commissiong for Respondent

2005: June 10

JUDGMENT

- [1] At the hearing of the application for ancillary relief both parties were present and represented by counsel. Both gave affidavit evidence and were cross-examined. I then required counsel to make written submissions with authorities in support by the 17th February 2005. I promised to deliver the judgment of the court during the week beginning 14th March 2005.
- [2] Counsel for the Petitioner duly filed her submissions. Unfortunately I have not been assisted by any submissions from counsel for the Respondent.
- [3] The parties were divorced in 2003 after almost 20 years of marriage. The Petitioner is now aged 43 and the Respondent is 47. The Petitioner now applies for ancillary relief.

[4] There are two children of the marriage – Dalanique, born on 19th September 1983 and Dalana born 1st July 1986. Dalanique is employed at the Bank of Nova Scotia. Dalana is a student at the Community College. She hopes to pursue higher education. The Respondent left the matrimonial home in 1998 when both children were still minors. The Petitioner says that since that time the Respondent has not maintained the children. The Respondent says he continued to maintain the children by buying groceries from time to time. He admits that he never gave any money to the Petitioner for the benefit of the children who remained residing with the Petitioner.

[5] In order to determine what relief, if any, is to be granted to the applicant for ancillary relief the court must take into account several factors. These are set out in the Matrimonial Causes Act Cap. 176 of the Revised Laws of Saint Vincent and the Grenadines 1990 edition. Section 34 requires the court to consider, inter alia the income, earning capacity, property or other financial resources which each party to the marriage has or is likely to have in the foreseeable future. The needs, obligations and responsibilities of the parties must be taken into account. I must also have regard to the standard of living enjoyed prior to the dissolution of the union.

THE ASSETS

[6] The wife earns a salary of \$48,972.00. She has annual expenses of about \$20,000.00. The husband used to pay the monthly mortgage installments of \$1,302.79 up to November 2001. His employment with Cable and Wireless was terminated and he received a lump sum payment of \$125,246.72. He applied none of this sum towards the outstanding mortgage debt which was then more than \$150,000.00. In fact since that time he has made no payments towards the mortgage. There is a valuation on the matrimonial home of approximately \$230,000. The mortgage balance is about \$167,500.00, leaving an equity of about \$62,500.00. The property is jointly owned. The wife wishes the property to be transferred to herself solely and for the Respondent to jointly service the mortgage balance.

[7] The Petitioner also wishes the Respondent to make a lump sum payment to her, representing one half of his total matrimonial assets. Mrs. Cato computes it thus:

Inheritance to the Respondent from his father's estate - \$206,807.33

Moneys received from Cable & Wireless - \$ 72,089.71

Pension fund received by Respondent - \$ 53,157.01

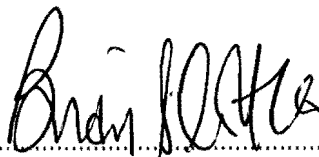
making approximately \$327,000.00 in assets of the Respondent. These funds I am urged to consider when making an order of a lump sum payment to the wife.

[8] In the circumstances of this case I consider it fit to make a property adjustment order. I do not consider that there is any merit in making financial provision for the Petitioner having regard to her financial resources and earning capacity as compared to the Respondent.

[9] I order that the matrimonial home be transferred to the wife absolutely. The Respondent is to pay to the Petitioner the amount of \$167,500.00 to be applied to liquidating the outstanding mortgage balance.

[10] This takes into account the fact that the Respondent has not maintained his daughter's since he left the matrimonial home. I also have taken into account the several factors laid out in the legislation referred to above. I make no order for maintenance of the daughter who is still at school as I have considered this in making my order to transfer the husband's interest in the matrimonial home to the wife.

[11] The Respondent is ordered to pay the costs of the Petitioner in the amount of \$7,000.00.


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Brian S. Cottle
MASTER