

SAINT LUCIA

**EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE**

SLUHCV2003/0418

BETWEEN:

(1) JUSTIN SURAGE
(2) PAULA JOAN SURAGE
(3) DOREEN SURAGE

Claimants

and

CENDRA CHARLES

Defendant

Appearances:

Mr. Andre T.M. Arthur for the Claimants

Mrs. Petra Nelson for the Defendant

2003: September 18
September 19, 26

**INJUNCTION TO RESTRAIN DEFENDANT FROM CONTINUING TO BUILD
CONCRETE STRUCTURE ON CLAIMANTS' LANDS...DEFENDANT'S FAILURE OR
REFUSAL TO CEASE CONSTRUCTION DESPITE D.C.A. STOP NOTICE...ORDER
FOR DEMOLITION..ORDER GRANTED**

JUDGMENT

1. **HARIPRASHAD-CHARLES J:** On 19th September 2003, I gave an oral judgment in favour of the Claimants and indicated that the reasons for my decision would be reduced into writing subsequently. The following represents my reasoned judgment.

2. The Claimants are the absolute owners of a parcel of land situate at Belle Vue in the Registration Quarter of Micoud and shown on the Land Register as Block and Parcel No. 1224B 6. The Defendant, Cendra Charles, their cousin without permission or consent or approval of the Claimants proceeded to construct and/or extend a concrete dwelling house on the said parcel of land owned by the Claimants. As a result, the Claimants instituted these proceedings claiming:
 - (i) An injunction against Ms. Charles to restrain her, her servants and agents from trespassing on the Claimants' land and continuing the construction of the concrete dwelling house.
 - (j) That Ms. Charles demolishes that part of the concrete dwelling house which is erected on the Claimants' said parcel of land.
 - (k) Possession of the said parcel of land.
 - (l) Damages for trespass and
 - (m) Costs.
3. The facts as I found them are that Ms. Charles was advised by Justin Surage not to build any structure on the land (Exhibit "A"). On or about 18th February 2003 and during the construction of the dwelling house, the Development Control Authority (DCA) served a copy of a Stop Notice on Ms. Charles to discontinue the unauthorized development (Exhibits "B" and "C"). Ms. Charles failed to comply with the Stop Notice.
4. As a consequence, the Claimants applied, among other things, for an injunction to restrain Ms. Charles from entering or trespassing on their land and continuing any construction of the concrete dwelling house.
5. The application came before Shanks J. (Ag.) on 4th July 2003. On the said day, he ordered the following:
 - (1) "That Ms. Charles whether by herself, her servants, her workmen, her employees and her agents be restrained until 18th September 2003 from:
 - (a) trespassing on the Claimants' parcel of land at Belle Vue shown as Block & Parcel No. 1224B 6.

(b) continuing the construction of a dwelling house on the said parcel of land.

(c) That the matter should come back to Court on 18th September 2003.

(2) If this Order has been served by 25th July 2003 and no defence or witness statement is filed by 19th September 2003 the Court will deal with the substantive claim on 18th September 2003."

6. The Order of Injunction and Penal Notice was served on Ms. Charles on 24th July 2003. She failed to comply with the Order but showed up with Ms. Nelson, her Counsel on the adjourned date. I allowed both Ms. Nelson and Ms. Charles to speak even though Ms. Nelson is not on record as representing Ms. Charles. Ms. Charles denied being served with a Stop Notice by the DCA. When confronted with the affidavit of service of Nicole Antoine, Building Officer, Ms. Charles remained silent. Mrs. Nelson, quite diffidently argued that the Stop Notice is not exhibited so the Court is in quandary to come to a finding that the document that was served on Ms. Charles by DCA was indeed a Stop Notice.
7. Ms. Charles next alleged that she was not served with the Order of the Court. Mr. Gilbert Germaine swore to an affidavit, filed on 8th September 2003 that he served personally upon Ms. Charles an Order of Injunction and Penal Notice. Ms. Nelson then informed the Court that Ms. Charles was served with the Order of the Court but she (Ms. Nelson) was not furnished with a copy of the said Order.
8. The First and Second Claimants live in the United States of America. The second Claimant, Ms. Paula Joan Surage flew down specifically for the case. The only Claimant who lives on the land is Doreen Surage. She was present at court but from all accounts, is disabled and is unable to fend for herself. Ms. Surage is particularly concerned about her incapacitated sister. She feels that Ms. Charles outwits Doreen because of her disability. Ms. Surage feels betrayed by Ms. Charles because their father gave a contiguous parcel of land to Ms. Charles' father.

9. Having heard the evidence and the submissions of Counsel, I proceeded on the basis of the Order made by Shanks J. No defence having been filed, I made the following order:

That there be judgment for the Claimants as follows:

- (a) That Ms. Charles demolishes that part of the concrete building which she erected on the Claimants' lands situate at Belle Vue in the Quarter of Micoud and shown on the Land Register as Block and Parcel No. 1224 B 6 within six (6) months hereof.
- (b) That there be No Order as to Costs.

INDRA HARIPRASHAD-CAHRLES

High Court Judge