

ST VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.122A OF 1998

BETWEEN:

**GODFREY WESTFIELD
and
MARGARET WESTFIELD**

Plaintiffs

and

CATHERINE BROWN

Defendant

Appearances:

Arthur F Williams Esq for the Plaintiffs
Stanley K John Esq for the Defendant

2000: March 16, April 3

JUDGMENT

[1] **MITCHELL, J:** This is a family dispute over land. The Plaintiffs are husband and wife. The Defendant is the sister of the 2nd Plaintiff. The land in question is a house lot at Barrouallie in St Vincent.

[2] The facts as I find them are as follows. Archibald Francis is the father of the 2nd Plaintiff and of the Defendant. He had a possessory deed, which he had registered in the Registry of Deeds in 1996, to the lot of land in dispute in Barrouallie. The following year 1997 he had made a deed of gift of the lot of land to the Plaintiffs. His parents had previously owned the land, though they held no deed for it. Their ownership of the lot in dispute rested, it appeared from the

evidence, on some sort of possessory title. Archibald Francis had taken over the land after the death of his parents. None of his brothers and sisters had ever disputed his ownership of the lot of land after the death of the last of their parents in 1982. He had taken care of the old people before their deaths. He had paid the taxes on the land. After the death of the last of his parents, he had put another house on the site to replace the old chattel house of his parents when it became rotten. For some years he rented out a part of the chattel house to Mr Brown. He put his daughter the Defendant to live in the other part of the house when she got pregnant. He did not want the Defendant living with him when she began having babies. When he decided to give the lot to the Plaintiffs, he told the Defendant that she must vacate the lot and that she could move the house to a spot near to his own house. He gave the Defendant the chattel house. The Defendant was not happy. She was upset at being told she had to move from the lot where she had been living. She refused to move. She abused her father and threatened him. She was duly given notice by a lawyer's letter to quit and deliver up the premises. She refused to give up possession. She claimed that her grandmother had given her the house and the lot before the grandmother died. The result was this case.

[3] The Plaintiffs gave evidence of the gift to them from Archibald Francis. Archibald Francis gave evidence for them. The Defendant gave evidence on her own behalf. Supporting her were her sister Henrietta Francis and her uncle Festus Francis. Henrietta has lived away in Chateaubellaire since before her grandmother died in 1982. But she confirms that her father did put a Mr Brown to occupy a part of the house that the Defendant occupies. She confirms that prior to Mr Brown renting one half of the house, her father had put another sister, Victoria, to occupy it. Festus is not entirely happy that his brother Archibald has got title to the property of his parents. He believes he has some sort of right. He has never claimed any interest in the property since his mother died in 1982.

[4] The situation is confused by the possessory title document filed by Archibald Francis in 1996. He claimed both in the possessory title document and in

evidence that his parents had given him the land in 1951 for looking after them. He also claimed in his declaratory title that the land had “devolved” on him. This is a claim that he had acquired title by succession. His parents however had held no legal title to the lot of land in dispute. Nor had there been any administration of either of his parents’ estates. A claim of a gift from his parents is contradictory to a claim of ownership by a process of devolution. And both of these contradict a claim of title by adverse possession. All this is lawyer talk. The fact that is clearly established by all the witnesses is that for many years, many more than the necessary 12 years under the Limitation Act, Archibald Francis held the lot of land as his own to the exclusion of his brothers and sisters and any other person who might have had a claim to the land. His claim that he had possessed the land even during the lifetimes of his parents is uncontradicted. I find that he had good possessory title against all the world except someone who may one day appear with a better title.

- [5] The Defendant had never disputed her father’s title to the property until a year or two before the bringing of the case, when she learned that he had given the property to the Plaintiffs. She had moved to live in the house in question to have her first baby at the age of 14 years in 1986. She had shared the house with her sister Vic, placed there by her father, and later with her father’s tenant Mr Brown. The fact that the Defendant’s boyfriend helped with some of the improvements to the property gave the Defendant no ownership interest in the property. She was not in continuous exclusive possession for the requisite period. Even if she had intended to occupy adverse to her father, which I find did not occur until 1997, the year that the property was given to her sister and brother in law, and the year before the commencement of this suit, the requisite 12 years has not passed. The fact was that she went into occupation with the permission of her father at the age of 14. Even if she had an animus possidendi the age of majority under the Constitution which would allow the Defendant to hold ownership of a legal interest in land in St Vincent is 18 years.

[6] For all the above reasons I find that the Plaintiffs are entitled to the reliefs they claim. The Plaintiffs shall have a declaration that they are the fee simple owners of the parcel of land in dispute, and are entitled to possession of it. The Defendant is ordered to remove her chattel house from the land. She is ordered to pay the Plaintiffs the nominal amount of \$500.00 as damages for the trespass she has committed in remaining on their property. The Plaintiffs are entitled to their costs to be taxed if not agreed.

I D MITCHELL, QC
High Court Judge