

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.757 OF 1996

BETWEEN

**LUCIA EDWARD
EDWIGE CHARLES**

Both qua joint Administrators of the succession
of the late IGNATIUS CHARLES

Plaintiffs

And

**ST OMER CHARLES
INVESTMENTS AND AGENCIES (ST. LUCIA) LIMITED**

Defendants

Appearances:

Mrs Veronica Barnard for Plaintiffs

Mr Maraj for the Defendants

1999: September 28
November 2

JUDGMENT

- [1] **d'AUVERGNE, J.:** Edmise Charles had two sons namely Ignatius Charles and St Omer Charles. Edmise died and St Omer was granted Letters of Administration of her estate and succession. At the time of her death Edmise was the registered owner and entitled to a piece of land dismembered from the Beausejour Estate in the quarter of Gros-Islet later registered as 1454B 7.

- [2] From the viva voce evidence led in Court it became apparent that there was an agreement between the brothers Ignatius and St Omer with Romain Augustus a tax and business consultant “to look into the affairs of the land got from their grandfather through their mother.” The promise according to Romain Augustus was that land would be divided into three and he would receive 1/3 for his services. St Omer however said that the portion promised to Romain Augustus was to be “less than a carre.”
- [3] The letters of Administration referred to was granted to St Omer on the 14th day of December 1989 and three days later namely the 17th December 1989 Ignatius died leaving a lawful wife and six children including the two Plaintiffs.
- [4] On the 10th day of December 1990 St Omer Charles qua Administrator of the Estate of Edmise Charles, his mother and on his own behalf sold an undivided one third (1/3) share into one carre of land to Romain Augustus for \$10,000.00.
- [5] On the 10th day of July 1992 Licensed Land Surveyor Orman Monplaisir lodged at the Survey Office as Drawing Number G1 2949 R and recorded as 305/92 a plan of partition between St Omer Charles and Romain Augustus of 2.79 hectares consisting of five contiguous pieces. There was no dispute that the said survey was conducted without the consent of the Plaintiffs.
- [6] Consequent on the partition survey a deed of partition dated 17th August 1992 was executed and the five contiguous pieces cut up from 1454 B7 were numbered and registered as 1454 B 371, 1454 B 372, 1454 B 373, 1454 B 374, 1454 B 375. St Omer Charles was allocated parcels 1454 B 371, 1454 B 372, 1454 B 375 and parcels 1454 B 373 and 1454 B 374 were allocated to Romain Augustus.

- [7] On the 21st October 1992 St Omer Charles qua Administrator of the estate of Edmise Charles sold 1454 B 372 to Investment and Agencies (St Lucia) Ltd, a company of which Romain Augustus was and is still Managing Director. This piece of land was registered on the 2nd day of November 1992.
- [8] Eight days later on the 10th day of November 1992 a Vesting Deed dated the 21st day of October 1992 (the same day with the sale) was registered. The said Vesting Deed reads. “Vesting Deed by St Omer Charles in favour of himself of the unmovable property passing under the succession of the late Edmise Charles.”
- [9] At the trial St Omer admitted to the Plaintiffs as the children of his brother Ignatius but he said he was unaware that his brother was married. He however denied putting his mark to the affidavit dated the 15th of November 1996 and filed on the 26th day of November 1996. He categorically stated that he sold only one piece of land and that it was still his intention to transfer lands to the Plaintiffs.
- [10] The Plaintiffs adhered to their requests and urged the Court to make an order declaring them to be the owners of Parcel 1454 B 371 the only remaining parcel in the hands of St Omer Charles and that he be ordered to pay to them, half of the payment of the lands sold.
- [11] Romain Augustus said that he became aware that Ignatius Charles had children on the day of his death but he was unaware that he was married and had any other lawful issue apart from his brother St Omer Charles
- [12] He assured the Court that St Omer Charles received payment for the lands purchased by him and the second named Defendant.

Conclusion

- [13] Paragraphs 5 and 7 of the St Omer Charles' affidavit dated the 15th November 1996 and registered on the 26th day of November 1996 reads as follows.

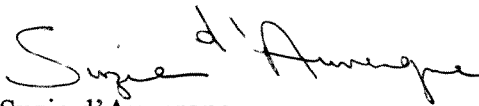
Paragraph 5

- [14] As a result of this agreement and other debts and obligations I sold two portions of the land. One to Romain Augustus exhibited herein and marked SC-3 and the other to Investments and Agencies exhibited and marked SC-4.

Paragraph 7

- [15] I vested the third portion Parcel No 1454 B 371 in myself since my brother Ignatius to my knowledge and belief died without leaving any lawful issue but only myself as his only heir at law.
- [16] I have no doubt in my mind despite the fact that the first defendant St Omer Charles is illiterate that he was fully aware that he sold the various parcels of land for the consideration stated in the exhibited deeds of sale. He told the Court that he still intends to give his brother's children some of the land. The fact is he has not done so and moreover is fully aware of their rightful claim from at least three years ago when the matter was filed. He must do so. A perusal of the deeds mentioned show that he received \$30,000.00 as consideration.
- [17] It is my view that St Omer Charles incurred expenses so I should not order him to pay half but one third of the monies received.

- [18] The second Defendant's documents are in order. Therefore the case against him should be dismissed.
- My order is as follows
- [19] The case against the second defendant is dismissed.
- [20] The First Defendant is to transfer Parcel 1454 B 371 to the Plaintiffs save the spot on which his house is situated and a reasonable portion around the said house to be determined by the Plaintiffs on or before the 31st day of March 2000.
- [21] That the First Defendant do pay the sum of \$10,000.00 to the Plaintiffs.
- [22] That the First Defendant do pay Costs to the Plaintiffs to be agreed or otherwise taxed.


Suzie d'Auvergne
High Court Judge