

SAINT LUCIA:

IN THE HIGH COURT OF JUSTICE
(Civil)

No: 07 of 1994

Between:

HERMAN FRERE

Plaintiff

.v.

JANE TIPSON

Defendant

Appearances:

Mr. Dexter Theodore for the Plaintiff

Mr. Winston Hinkson for the Defendant

1999: Feb.25;
March 4.

JUDGMENT

Allen J.

The Plaintiff's claim is for the cost of a concrete and steel bridge valued at \$10,000.00 which he owned and which, according to him, was destroyed and removed by the Defendant.

The statement of claim consists of three very short paragraphs; they read:

1. The Plaintiff is and was at all material times the owner of a concrete and steel bridge which he erected to gain access to his land across the Monchy River.
2. The Defendant was at all material times a neighbour and user of the bridge.
3. Since the year 1992 the Defendant caused a tractor to remove and destroy the Plaintiff's bridge which was built at a cost of \$10,000.00. As a result of the matters aforesaid the Plaintiff has suffered loss and damage.

What is immediately remarkable is that the Plaintiff in his pleadings claims no interest in the land on which the bridge is built, save that he built it to gain access to his land across the Monchy River.

His evidence is that he built the bridge because in times of heavy rain it was difficult for him to get to his home and for the children of the village to get to and from school. The road on either side of the bridge belonged to Government and people living on both sides of the river used the bridge. He does not know the Defendant very well, but has seen her. He did not see her destroy the

bridge; instead, he saw a man driving a tractor lift the bridge and put it to one side.

Under cross-examination he accepted that the Defendant built a bridge near to his, but that there are not now two crossings because his bridge cannot be used. He ended his evidence under cross-examination by saying, *"up to now my bridge is good, it is the Defendant's slab that is no good"*

THE DEFENCE

The Defendant opened her evidence by saying that she knew the Plaintiff by name only. From this it is clear that even now, six years after the bridge saga, the Plaintiff and the Defendant have never spoken to each other. In fact, they have never even met.

The Defendant went on to say that she owns land on one side of the Monchy River and that the lands on the other side directly opposite to her lands are owned by a friend. The so-called bridge was built from her lands on one side to the lands of her friend on the other side. She removed the slab and put it aside and replaced it by a stronger well-supported structure.

She did not know who had built it but it was there when she purchased the lands; there is no evidence that she purchased from the Plaintiff, neither is the Plaintiff contending that this was the case. According to her, she walked across the bridge when she was surveying the lands with a view to purchasing, but had never driven across. Hurricane Debbie had damaged the bridge causing it to sag in the middle rendering it generally unsafe. Immediately on becoming the legal owner therefore, she built a new bridge which everyone uses and is allowed to use without let or hindrance. When she received the writ from the Plaintiff, she immediately took pictures (photographs). These photographs were exhibited by consent and as far as the Court is concerned reveal:

1. That what have been called bridges throughout the evidence are really raised concrete slabs erected in such a way as to allow the free passage of water underneath them in times of heavy rains.
2. That the new slab built by the Defendant has footings and is a sturdy, durable structure.
3. That the Plaintiff's slab has been removed from its original position, but not destroyed.

The Plaintiff's bridge building was indeed a magnanimous community effort. After it was damaged by hurricane and rendered unsafe, it was replaced by a more formidable structure built by the Defendant as soon as she came into possession, and she adopted the same community spirit by allowing the children going to and from school and all of the villagers to use the bridge.

There is no doubt that this action brought by the Plaintiff is misguided and cannot succeed.

Despite his misconception, there will be some small reward for the community effort he pioneered.

The Plaintiff's claim is dismissed there will be no order as to costs.

KENNETH ALLEN Q.C. OBE
High Court Judge (Ag.)