

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL) A.D. 1999

SUIT NO. 504 OF 97

BETWEEN

CHRISTINA ROSEMAN

PLAINTIFF

and

GLEN ERMAY

DEFENDANT

Appearances

Mrs Petra Jeffery Nelson for the Plaintiff
Mr Edgar for the Defendant

FEBRUARY, 1999: 23rd & 25th

JUDGMENT

Allen J in Court

In this action the Plaintiff is claiming one half share in a chattel house which according to her, the Defendant and herself built together when they lived in a common law relationship. There are two children born to them from this union which started in 1986. They built the house in 1994 and planned to marry in 1995 but just when the house which took over a year to build was nearing completion unhappy differences arose between them, and in April 1996, the Plaintiff left the home for the last time. When the decision to build a home and settle down was taken she was employed as a waitress at a hotel earning \$550.00 per fortnight and the Defendant was a self employed welder; she is now a Receptionist.

The Defendant borrowed \$6000.00 from his mother and the Plaintiff borrowed \$8,889.00 from Canadian Imperial Bank of Commerce (CIBC). These two large sums purchased most of the materials and the Defendant's brother who is a carpenter took care of labour, assisted from time to time by other members of their family. They all gave their time free and the Defendant's mother and the Plaintiff provided and prepared food for them on the days when there was a coup-de-main.

When the Plaintiff worked an early shift (9 a.m. - 3 p.m.) she went straight to the site and helped in any way she could. I digress here to say that her role here could not have been very significant until the house was nearing completion because the Plaintiff's brother who was the main contractor was only available on Saturdays.

However I believe her evidence that she did some sanding and attended the defendant when he was painting.

From her fortnightly wages she gave money to the defendant for purchasing materials whenever he asked for it and in particular she herself purchased tiles, a kitchen sink and steel for making the balcony, all from her wages.

There are two relevant documents put in evidence by the Plaintiff. One is a letter from CIBC confirming that she borrowed \$8,889.25 expressed to be "to assist with the completion of a dwelling house" and the other is a valuation certificate from a quantity surveyor putting the value of the property in issue at \$33,800.00. This valuation is dated the 18th October 1995.

The Plaintiff continued by stating that when, based on this valuation she claimed from the Defendant \$13,000.00 for her share in the house he agreed at first then changed his mind and offered \$11,000.00 but wanted to pay it in installments and eventually offered less every time they spoke about it.

The Defendant's evidence is that he started the house with a loan from his mother, two small monetary gifts and a gift of some paint. His evidence on the Plaintiff's contribution is this: "as far as I know her loan from the bank was \$7,000.00 but she gave me \$5,000.00, she never gave me any other money, she never sandpapered anything, she never gave me money for tiles or steel for the rails." He produced a valuation of \$31,428.00 and said "I think the Plaintiff is entitled to \$5,000.00." He then volunteered the evidence that the money the Plaintiff gave to him was on her account and according as he needed it he had authority to withdraw.

There is clearly not much difference between the two valuations, and while I agree that the Defendant's valuation does not appear to be as professionally presented as that of the Plaintiff, I have learned from it that cupboards and sundry joinery and painting together make up only 10% of the works; from this it would not be unfair to regard the Plaintiff's contribution to these phases of the works as negligible. I will not however use the same language to describe her efforts in preparing food for workmen and helpers since their efforts were voluntary.

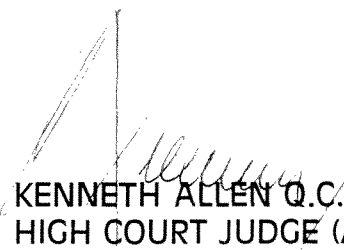
I find as a fact that the Plaintiff contributed the entire bank loan towards construction of the house. Again I accept that in addition she contributed towards materials whenever necessary, and in particular

that she purchased tiles, a kitchen sink and steel.

I consider \$32,500.00 to be a fair value of the house. Of this sum I hold that the Plaintiff's contribution is $\frac{2}{5}$ that is \$13,000.00 and giving the premises which have been occupied by the Defendant alone rent fee for 33 months a non-commercial rental values of \$300.00 per month, I allow the Plaintiff $\frac{2}{5}$ of this sum that is \$3,960.00

There will be judgment for the Plaintiff in the sum of \$16,960.00.

The Plaintiff will have her costs to be taxed if not agreed.



KENNETH ALLEN Q.C. OBE
HIGH COURT JUDGE (Ag)