

IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
DIVORCE
NO. 64 OF 1997

IN THE MATTER OF THE PETITION OF GRACE NOREEN DELLIMORE NEE
SOLOMON FOR DISSOLUTION OF MARRIAGE
BETWEEN:

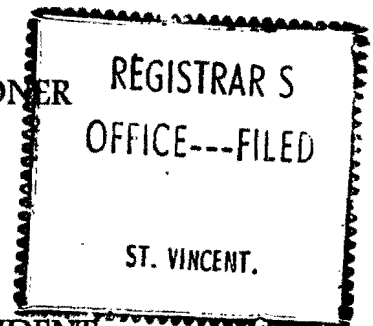
GRACE NOREEN DELLIMORE NEE SOLOMON

PETITIONER

AND

CLAUDIUS MATTHIAS DELLIMORE

RESPONDENT



Mr J. Delves for the Petitioner

Mrs A. Cato for the Respondent

[12,13,14,26 May, 1998]

[28, 29 July, 1998]

[Delivered September 1998]

DECISION

BAPTISTE J.

The parties were married on the 29th March, 1958 in England and lived their until 1984. While in England both parties were employed. The wife was a factory worker, while the husband worked with a corporation, his last job being with a telephone cable company. The husband appeared to be the more business minded of the two and during their long stay in England bought and sold several properties. The husband paid the mortgage on the properties. One of the properties was bought in cash. The wife purchased items for the home, did the shopping and also sent money to the children.

The association between the parties produced three children, all of whom are now adults. The husband's property transactions were not limited to England. He also bought and sold properties in Saint Vincent. Before the marriage the husband only owned one property. That was on Saint Vincent. Both parties are now pensioners, having achieved that status in 1984, the year they both returned to Saint Vincent.

Over the years, the relationship between the parties soured and on the 22nd December, 1997, a Decree Nisi was granted to the petitioner (wife).

The Court is now concerned with the question of ancillary relief. Sections 32 to 34 of the Matrimonial Causes Act Cap. 176 set out what the Court has to consider in coming to a decision. The Court has a wide discretion in the matter. The Court has to have regard to all the circumstances of the case including the matters set out in Section 34 (1)(a) to (g).

Each party is in receipt of income in the form of pension from their employment in England. The respondent has filed an affidavit of means and also gave oral testimony as to his income. From the evidence, his income from pensions and other sources is approximately \$1,809.00 a month. From this income he maintains the home paying all the utility and household bills. He pays house tax, vehicle licence, insurance and gas. His monthly expenses are approximately \$304.00.

The petitioner (wife) did not file an affidavit of means. She stated in her evidence that she gets L400.00 in pension every three months from England. This would be approximately \$533.00 a month, depending on the value of the pound. She deposed to no other source of income. She said that she has L2,000.00 in her sickness account in England and \$1,600.00 in Saint Vincent. She is due to get social security pension from England, but apart from saying that it will be a reduced pension as she left work at 46 and not 60, she claimed that she had no idea as to the amount she is due to get.

With respect to property the matrimonial assets comprise the matrimonial home valued at \$220,000.00, 2 acres, one rood, 24 poles of land at Mount Bentick valued at \$60,000.00 and the land with the shop at Belvedere valued at \$36,000.00. The husband also has three acres of land in the interior which he bought before the marriage.

In this case the parties have assets other than the matrimonial home. It is of primary concern however, that the parties should, if possible, have a roof over his or her head. At present both parties reside in the matrimonial home. The husband stated that he would like to move out of the matrimonial home but he would like some money. If the wife is prepared to pay his interest or share in the matrimonial home he is prepared to move out. The husband is not averse to sharing the matrimonial assets equally. The matrimonial home is valued at \$220,000.00. The age of the parties would however be a bar to their raising the sum required to buy the other out. The husband is 67 and the wife 59. The husband here has quite generously stated that if the wife gives him \$15,000.00 he would transfer the matrimonial home to her. He has gone further and

identified an alternative accommodation for himself. This being the shop. To use his words "I would do some tidying up to the shop because I need somewhere to live." There is however no evidence that the wife has alternative accommodation.

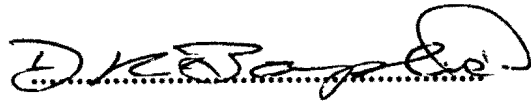
In his address counsel for the petitioner advocated two options. The first being transfer of the matrimonial home to the petitioner solely. The petitioner would then relinquish all rights, claims and interest in any and all realty held jointly by the respondent and the petitioner or by the respondent solely. The other option was to make a Martin Order whereby the sale is postponed until the wife dies, re-marries or co-habits with another man.

The critical need of the parties is housing. At present both parties live in the matrimonial home. The husband has stated his willingness to vacate the matrimonial home on being paid \$15,000.00 by the wife. That money would help him to re-house himself. The husband stated that if the property is to be sold it should go down the middle, meaning each party should receive half. The parties were married for thirty nine (39) years. I am satisfied that because of their age and income they do not have the ability to buy each other's interest. Although the husband has identified alternative accommodation, the wife has not the ability to re-house herself. I consider the husband's proposal to be quite generous. The question is the wife's ability to pay. She is in receipt of a pension of approximately \$533.00 a month and is due to receive her social security pension from England. She has however not disclosed to the Court the amount she is due to receive. The husband is of the view that it would not be difficult for her to raise the money. She has her savings and she could sell one of the two lots on which the matrimonial home is in order to raise the money. In my view the wife would be able to raise the money.

If the matrimonial home is transferred to the wife, on the wife paying to the husband \$15,000.00, the wife would be getting much more than her share of the matrimonial home. I would value her share at one half, that's \$110,000.00. She would be getting \$95,000.00 more. To achieve fairness, it would be reasonable to order that the two acres one rood and 24 poles of land at Mount Bentick, valued at \$60,000.00 be transferred to the husband solely, so also the land and shop at Belvedere valued at \$36,000.00. The three acres of land in the interior which the husband bought before the marriage should remain in his name.

In the circumstances, the following orders are made:

- (1) The matrimonial home at Belvedere is transferred to the wife on the wife paying to the husband the sum of \$15,000.00.
- (2) The two acres one rood and 24 poles of land at Mount Bentick is transferred to the husband.
- (3) The land (1,500 square feet) and shop at Belvedere to remain the property of the husband solely, so also the three acres of land in the interior the husband acquired before marriage.
- (4) The parties are to bear their own costs.

A handwritten signature in black ink, appearing to read 'D. K. Baptise', written over a dotted line.

DAVIDSON KELVIN BAPTISE

High Court Judge (Ag.)