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SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)
A.D. 1996

Suit No. 95 of 1993

BETWEEN:

COREEN GREGG

Plaintiff

and

BRUNO LAMONTAGNE

Defendant

Mr. D. Theodore for Plaintiff
Mr. O. Edgar for Defendant

1995: November 13 and December 8;
1996: January 12 and 16.

J U D G M E N T

MATTHEW J.

The Plaintiff and the Defendant lived together as wife and husband from 1982 to 1990 and during that time the Plaintiff bore two children for the Defendant, Lance aged 11 years and Rudolph aged 9 years. They parted company in November 1990 and over twenty-six months later on February 26, 1993 the Plaintiff instituted this suit. At the trial the Plaintiff called two witnesses, Mr. Norman Francis, a barrister, who is secretary to the National Commercial Bank, and her son Lance. The Defendant gave evidence but called not witnesses.

The Plaintiff's claims against the Defendant are as follows:

1. a loan from the Plaintiff to the Defendant of \$2,000 in August 1985 to repair his car.
2. a debt of \$1,000 owing by Defendant to the Plaintiff which occurred in February 1989 when instead of depositing \$1,000 in Defendant's bank account due to him

the Plaintiff through Albertina Phillips deposited \$2,000.

3. a loan of \$10,000 in 1990 from the Plaintiff to the Defendant to enable him to pay a debt of \$10,000 owed to one Adolph Edward.
4. a loan of \$21,000 from the Plaintiff to the Defendant to enable him to purchase a car registered as number 387.
5. a claim for chattels in the sum of \$3,325.00 which the Plaintiff alleges that the Defendant took away from her home by unlawfully entering therein at a time when she was absent from the home.

I shall set out to deal with each of these claims in the order mentioned above.

Loan of \$2,000

This transaction took place in August 1985 and the work was instituted on February 26, 1993. It appears to me that the debt is statute barred by virtue of Article 2121 of the Civil Code and in his final address learned Counsel for the Plaintiff did not refer to this claim. Notwithstanding this the Plaintiff alleges that the Defendant collected that money from Albertina Phillips of Cable and Wireless Ltd. Albertina was not brought to support the Plaintiff's claim. The Defendant has denied that he received any such loan from the Plaintiff through Albertina. I believe the Defendant and I will give my reasons below. I therefore reject this claim of the Plaintiff.

Loan of \$1,000

This transaction took place in February 1989 and may not be statute barred. The Plaintiff's evidence here again revolves around the ever present Albertina whom she said deposited the \$2,000 in the Defendant's account. This is so unlikely; and yet Albertina is not able to support it. The Defendant denies the loan and I believe him. I therefore reject this claim of the Plaintiff.

Loan of \$10,000

This transaction is stated to have taken place in 1990. The Plaintiff states that she gave the Defendant a cheque of \$8,000 which he was supposed to have placed in his account at the National Commercial Bank. It was in support of this claim that the Plaintiff subpoenaed Norman Francis. Francis must have disappointed her. He said in evidence with reference to a document he produced in Court the following:

"The document is a statement of accounts of Mr. Bruno Lamontagne for the period 3/5/1990 to 31/12/1990. The document states the Account Number 1037410000. That is a savings account. For that period there was no deposit for \$8,000.00".

She said in addition to the cheque she gave the Defendant \$2,000 cash in hand from "soosoo" money. The Defendant has denied the loan. I do not believe the Plaintiff and this claim is likewise rejected.

Loan of \$21,000 to purchase car No. 387

The Plaintiff stated that she gave the Defendant withdrawal slips from her account and a banker's cheque in support of that loan. She did not produce any withdrawal slips. The Defendant in evidence stated that the Plaintiff did not lend him \$18,000 or any other sum to purchase a motorcar and in fact purchased the car with his own funds and a loan from N.C.B. He denied Plaintiff making withdrawal slips in his favour.

The Defendant explained a sum of \$13,000 which the Plaintiff paid him. He said the Plaintiff was the one who offered to pay him \$19,000 for his old mazda car which the Plaintiff's brother had damaged while he was in England and she agreed that when the old car was repaired and sold she would get her money back.

I believe the Defendant's account and I reject the Plaintiff's

claim.

It needs to be observed here that when the Court questioned the Plaintiff in respect of the debt of \$21,000 she said:

"As far as the debt of \$21,000 is concerned I got back \$10,000".

Now in examination in chief the Plaintiff had stated that she received the damaged car after it was repaired on July 1, 1990 and she sold it to a guy, Andrew Gabriel of Cable and Wireless for \$12,000, \$10,000 of which she kept.

Yet her claim from the Defendant is unalterable and remains at \$21,000. This is an example of the extent of the deceit in the Plaintiff's claim.

CLAIM FOR CHATTELS REMOVED FROM PLAINTIFF'S HOME

This Plaintiff will clutch at any straw to extract money from the Defendant. Her claim is based on the fact that while she was absent from her home the Defendant by the use of the key to her house which he obtained from Lance entered her house and took things to the extent of \$3,325.00.

In support of her claim she brings the 11 year old to testify against his father because on one occasion when the father was driving the child to school he took the key from him and gave it back to the child in the afternoon when he was dropping him from school.

I do not believe the Defendant entered the Plaintiff's home and carried away goods belonging to the Plaintiff.

The Plaintiff under cross-examination admitted that while the Defendant lived at the Morne she took a bus and brought up certain articles to him. This was at a time when she wanted the Defendant

to have the children. In her evidence in chief she said she brought the 4 chairs to his house but that is included in her statement of claim as part of the things he took from her house. In his evidence the Defendant stated "I know the Plaintiff took things to my home in my absence. It included 4 living room chairs, beds for the children, a foam mattress." I believe the Defendant. The Plaintiff is not a witness of truth.

I find also that the Defendant was the one who paid for most of the things mentioned in the statement of claim and I reject the contention of the Plaintiff that they were gifts to her.

In coming to my conclusions in this case I have had regard to the demeanour of the Parties to the suit. The Plaintiff was hesitant and unsure of herself and I have already pointed out certain inconsistencies in her evidence. The Defendant on the other hand was calm, cool and collected and despite a rather lengthy cross-examination he was totally unruffled. I regard him as a witness of truth notwithstanding the fact that he did not describe himself as a "born again believer" as the Plaintiff was quick to point out.

The Plaintiff's claim is a trumped up charge founded upon deceit and lies designed to extract money from the Defendant as a result of the break up of their affair.

This suit is dismissed with costs to the Defendant to be taxed, if not agreed.

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A.N.J. Matthew
Puisne Judge