

IN OPEN COURT

Friday, 29th July 2011

HEARING (SAINT LUCIA)

Coram: The Hon. Mde. Ola Mae Edwards, Justice of Appeal
The Hon. Mde. Janice Pereira, Justice of Appeal
The Hon. Mr. Davidson Baptiste, Justice of Appeal

Case Name: Gregory Fevrier v Luciana Fevrier
[High Court Civil Appeal No. 31 of 2010]

Appearances:

Appellant:	Mr. Horace Fraser
Respondent:	Mr. Mark Maragh

Issues: Divorce proceedings – Whether the learned trial judge erred in finding that the matrimonial home was community property – Whether the learned trial judge erred in ordering that the appellant make a lump sum payment in the amount of \$150,000.00 by way of maintenance to the respondent

Result / Order: [Oral delivery]
The matter is stood down.

Reason: To allow counsel on both sides to clarify some issues with each other.

Case Name: Gregory Fevrier v Luciana Fevrier
[High Court Civil Appeal No. 31 of 2010]

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Mr. Mark Maragh

Issues:

Divorce proceedings – Whether the learned trial judge erred in finding that the matrimonial home was community property – Whether the learned trial judge erred in ordering that the appellant make a lump sum payment in the amount of \$150,000.00 by way of maintenance to the respondent

Result / Order:

[Oral delivery]

1. The appeal is allowed.
2. The order made on 28th September 2010 is set aside on agreement of the parties.
3. The appellant is to pay the respondent the sum of \$195,189.87, representing a half share in the matrimonial home at Trouya (known as Block 1054B Parcel 140) less \$53,351.81, being the outstanding student loan amount.
4. No order is made as to costs.

Reason:

Section 28(2) of the Eastern Caribbean Supreme Court (Saint Lucia) Act, Chap. 2.01, Revised Laws of Saint Lucia 2006, gives the Court the power to canvas grounds of appeal in a way which would allow it to address the real question in controversy between the parties. The Court observed that in the court below, the respondent had made no application and in her affidavit had asserted that she was entitled to a half share of the separate property of the appellant where the matrimonial home was and other payments. The respondent was therefore not entitled to a lump sum payment under section 22 of the Divorce Act, Cap. 4.03, Revised Laws of Saint Lucia 2006, which was awarded to her without any application. The parties were afforded an opportunity to address this issue. The respondent did not make any application under section 45 of the Divorce Act in relation to the separate property. The application for ancillary relief was made by the appellant who had agreed to pay the respondent a sum

representing a half share of the value of the building which was the matrimonial home; and the respondent having not made any application for ancillary relief would only be entitled to what the appellant had offered her upon the learned judge finding that the matrimonial home was on the separate property of the appellant.