

IN THE COURT OF APPEAL

ANTIGUA

Magistrate's Civil Appeal
No. 6 of 1970

Between:

MAVIS CHRISTIAN

Plaintiff/Appellant

and

CHARLES MARTIN

Defendant/Respondent

Before: The Honourable the Chief Justice
The Honourable Mr. Justice Gordon
The Honourable Mr. Justice P. Cecil Lewis

Miss F.M. Lake for Appellant
F.A. Clarke for Respondent

1970, October 23

JUDGMENT

GORDON, J.A.

In these two appeals which were heard together, the plaintiff/appellant has appealed from two judgments entered in favour of the defendant/respondent by the learned magistrate, District A.

The appeals arise out of the following circumstances: the appellant was engaged by the respondent as a domestic servant some time in the first week of September, 1969, at \$15.00 per week according to her, and according to him at \$12.00 per week for a four-day week. According to the appellant she was dismissed at the end of the second week. She was not paid her wages for that week, nor was she allowed to take certain belongings of hers which comprised -

a bag valued at.....	8.50
a dress " "10.00
1 pair shoes " " 5.50
1 watch " "25.00
	<u>\$49.00</u>

and a title deed.

The respondent admitted having dismissed the appellant because, as he said, she had not been performing her duties satisfactorily. He however denied owing her any wages, and alleged that he had been given the title deed as security for a loan of \$100.00 which he had made to the appellant.

In the two separate claims which the appellant brought against the respondent, the first being a claim for \$15.00 being

/one week's

one week's wages and costs, and the second for the return of certain goods and a title deed or their value and costs. judgment was entered for the respondent by the trial magistrate.

In his reasons for his judgment the learned trial magistrate in dealing with the contract of employment stated thus - "I am satisfied that neither party is disclosing the real nature of the arrangement", and he went on to comment on what, in his view, the nature of that arrangement was. In the course of his speculation he however failed to make any finding on the important issue as to what was the agreed amount of wages per week, and whether the appellant was or was not paid such wages by the respondent. The result of this failure of the trial magistrate to make any proper finding on this aspect of the case must be that the appeal in so far as the claim for wages is concerned is allowed and the case remitted to the court below for the issue to be tried by another magistrate.

Regarding the claim for the return of goods, the finding by the magistrate that the appellant did not leave the goods behind admits of no argument. In so far, however, as the title deed is concerned the respondent on his own admission was handed the title deed by the Manager of a Bank whom he interviewed with the appellant when she tried unsuccessfully to obtain a loan from the bank on the security of the deed. Having got possession of the title deed the respondent then decided to hold on to it as security for some previous transaction which he apparently had with the respondent. He obviously was not entitled to do this. The deed must therefore be returned to the appellant within 8 days as from today.

For the above reasons these appeals are allowed with costs agreed at \$35.00

(K.L. Gordon)
Justice of Appeal

LEWIS, C.J.

I agree.

(Allen Lewis)
Chief Justice

CECIL LEWIS, J.A.

I agree.

(P. Cecil Lewis)
Justice of Appeal