

SAINT LUCIA

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 8 of 1979

BETWEEN:

NELLIE VITALIS - Appellant

and

W.D.S. SANCHEZ - Respondent

Before: The Honourable Sir Lascelles Robotham - Chief Justice
The Honourable Mr. Justice Moe
The Honourable Mr. Justice Byron (Acting)

Appearances: D. Theodore for the Appellant
M. Gordon for the Respondent

1990: Oct. 25

JUDGMENT

ROBOTHAM, C.J.

This is an application for leave to appeal to Her Majesty in Council, against a decision of this Court given on 28th May, 1990. The matter in dispute relates to land the prescribed value of which is in excess of \$1500 within the meaning of section 108(1)(a) of the St. Lucia Constitution Order 1978.

The application for leave to appeal was filed in the Registry on 18th June, 1990 within the 21 days as required by the West Indies Associated States - now Eastern Caribbean Supreme Court - (Appeals to Privy Council) Order 1967. Service on the respondent however was not effected until 20th June, 1990, which was outside of the 21 days from the date of the decision under appeal.

Rule 4 reads:-

"Applications to the Court for leave to appeal shall be made by notice or petition within 21 days of the date of the decision to be appealed from and the appellant shall give all other parties concerned, notice of his intended application.

Counsel submitted that the use of the word AND in Rule 4 followed by the requirement for service, must be treated as being disjunctive, and not conjunctive. This is the same submission which was rejected at the same session of the Court in Civil Appeal 17/1988, John Goddard v National Development Corporation.

See Robertson v Isaacs - (1982) - 30 W.I.R. 114

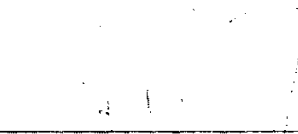
Roulstone v Panton - (1979) - 33 W.I.R. 238 - (P.C.)

/Counsel.....

Counsel for the appellant conceded that the facts of the case relating to service of the notice were the same as in the case of *Goddard v National Development Corporation*. In the circumstances the application for leave to appeal must also be refused with no order as to costs.



L.L. ROBOTHAM,
Chief Justice


G.C.R. MOE,
Justice of Appeal

C.M.D. BYRON,
Justice of Appeal, (Acting)