



SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)
A.D. 1995

Suit No. 98 of 1995

BETWEEN:

AUGUSTIN JOSEPH

Petitioner

and

DAVID REGIS

Respondent

Miss F. Byron-Cox for Petitioner

David Regis in Person.

1995: April 5 and 12.

J U D G M E N T

MATTHEW J. (In Chambers).

On February 6, 1995 the Petitioner filed a petition for the issue of a writ of injunction restraining the Respondent from remaining or entering on premises belonging to the Petitioner and restraining the said Respondent from threatening the Petitioner with bodily harm or injury.

The petition was supported by an affidavit of the Petitioner filed

JOSEPH, AUGUSTIN V DAVID REGIS

on the same day.

In the affidavit the Petitioner stated that he bought an unfinished two-storey wall house from the Respondent for \$6,000 and had paid him in full. In support of that he produced as exhibit a copy of a deed of deposit which indicated that there was a contract of sale of the building for a consideration of \$6,000 which was witnessed at Dennery on August 23, 1994 by Justice of the Peace, Michael Gedeon.

The contract also states that the building is located on land belonging to the Government and it is also stated that the Respondent would thereafter be not responsible for the property.

The deed of deposit also indicates that the Petitioner paid the full amount in five instalments and that he obtained five receipts signed by the Respondent.

The Petitioner in his affidavit alleges that when he made the first payment on August 23, 1994 the Vendor gave him in the presence of Justice of the Peace, Michael Gedeon, the front door key to the said house together with several receipts for the purchase of materials for the building.

The Petitioner said he took immediate possession of the building and put his brother, Timothy Joseph, to live in the building. He

said that about one week after he took possession he changed the lock to the building.

The Petitioner stated further that in or about the month of October 1994 the Respondent left St. Lucia and travelled to the United Kingdom but he returned to St. Lucia soon afterwards and took up residence with his mother at Victoria Street in the village of Dennery.

The Petitioner alleged that on December 2, 1994 the Respondent broke and entered the dwelling house and has resumed occupation of the building. He further alleged that on the 4th day of December the Respondent threatened to cut him with a cutlass and to shoot him.

The Petitioner stated that on December 20, 1994 he sent a solicitor's letter to the Respondent requesting him to desist from wrongfully entering the house and he tendered a copy of that letter as an exhibit.

In his affidavit the Petitioner undertook to pay for any damages that may result to David Regis as a result of the grant of the Order.

The records show that on the said February 6, 1995 a notice of hearing of the matter for March 1, 1995 was sent to the Respondent.

According to an affidavit of service by P.C. 370 Julian Peters the petition and accompanying documents were served on the Respondent on February 15, 1995.

The records show also that the Respondent entered appearance in person on February 28, 1995.

On March 1, 1995 a Judge of the High Court adjourned this matter to April 5, 1995. No reasons were given for the adjournment.

Learned Counsel for the Petitioner on the date of hearing informed the Court in the presence of the Respondent that the matter was adjourned for the Respondent to obtain legal representation. The Respondent did not deny that and in fact submitted a letter written by a secretary on April 5, 1995, the hearing date, to the effect that Mr. Kenneth A.H. Foster was the legal representative for the Respondent and he was out of the island on urgent Court matters and would request an adjournment to a later date convenient to the Court.

The date that would be convenient to me is today and Mr. Kenneth Foster is still not here. I told the Respondent just that last Wednesday.

I do not think that it is right and proper that an itinerant Counsel should be able to hamper the administration of justice in

that manner. The poor secretary may never know when Mr. Kenneth Foster is expected in St. Lucia and she could not even suggest a date when he was expected to be here. In any case a litigant's rights could not be subject to that kind of uncertainty.

I have no objections to Mr. Foster taking up the Respondent's case when and if he returns to Saint Lucia but in the mean time the Petitioner ought not to suffer such hardship.

I have regard to the principles upon which interlocutory injunctions are granted and although this is not an interlocutory injunction I think the same principles should apply.

I have regard to the learning in the United Kingdom Supreme Court Practice 1979, Vol. 1 and to paragraphs 29/1/11, 29/1/11A and 29/1/11B.

In my judgment the balance of convenience rests with the Petitioner. I have regard to the strength of the Petitioner's claim and I have no idea of ascertaining the strength of the defence.

My order is that -

Upon the Petitioner's undertaking to pay the damages in case the Court shall hereafter be of the opinion that the Respondent shall have sustained any by reason of this Order which the Petitioner

ought to pay:

1. IT IS HEREBY ORDERED that the Respondent be restrained and an injunction is granted restraining the Respondent from -
 - (a) remaining or entering on the premises of the two-storey wall house, the subject matter of this action until the further order; and
 - (b) threatening the Petitioner with bodily harm and injury.
2. The Respondent shall have liberty to apply.
3. Costs in this matter shall be reserved.

A.N.J. MATTHEW

Puisne Judge