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SAINT LUCIA



**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

Suit No. 646 of 1992

Between:

JOSEPH DAHER

- Plaintiff

vs

PETER CELESTIN

- Defendant

Mr. V. John for Plaintiff
Mr. W. Hinkinson for the Defendant

1996:	January	24th
	February	2nd
1997:	March	12th
	April	7th

JUDGMENT

d'Auvergne, J

The Plaintiff brought an action against the Defendant claiming *inter alia* arrears of rent, rescision of the lease and immediate possession of his portion of land known as 'Corbin Estate' situate at Grace, Vieux Fort.

After many adjournments the matter was part heard and finally heard on the 12th March, 1997.

At the trial the Plaintiff gave evidence on his behalf and called Joseph Noel better known as Leonard Noel, the man who sold the land to him as a witness.

The Defendant on the other hand gave evidence on his own behalf and called Arline Noel better known as Priscilla Noel, sister of

DAHER,
JOSEPH
✓
PETER
CELESTIN

Leonard Noel, the witness of the Plaintiff as a witness.

At the trial the Plaintiff said that the piece of land in question was community property owned by his wife and him and exhibited the register to the land - Block 1025B Parcel 28.

He said that he bought the land from Joseph Noel also called Leonard Noel in the year 1984 and soon after, "personally rented the land to Mr. Celestin (the Defendant) for \$1,000.00 per year."

He further said that he never received any rental from the Defendant, that he sent him several Notices to Quit the land since he wanted the land for his own use, but to date the Defendant remains in occupation of the land.

Under Cross Examination the Plaintiff stated most emphatically that he leased the portion of land in question to the Defendant in 1984 and that the latter was his tenant and not that of Gregorie Evanus Noel nor the latter's daughter Arline Priscilla Noel.

He said that he knew the land in question for he was then an adjoining owner, but after the sale, Joseph Leonard Noel took him to the land and showed him the boundaries; that he rented the exact portion of land bought, to the Defendant in the presence of a witness named Levi.

He said that he owns one and a half (1 1/2) carres or 3.00 hectares as can be verified by the exhibited land register.

Joseph Noel, better known as Leonard Noel told the Court that he sold one and a half (1 1/2) carres of land to the Plaintiff (by virtue of two Deeds of Sale).

He said that he was the owner of that portion of land which he sold, that the land formerly belonged to his brother Emmanuel who

rented to the Defendant; that after the said brother's death he told the Defendant that he was the new owner of the piece of land he was then renting and that he should leave the land which he did, but his son who lived with him continued to occupy the land.

He further told the Court that after the sale of land to the Plaintiff he went to the Defendant, reminded him of his arrears of rental and that he should leave the land whereupon Defendant told him that he (Joseph Noel) did not own any land.

He said after the Defendant said these words to him he informed him that he had sold the land to the Plaintiff but the Defendant did not reply.

Under Cross Examination Joseph Noel told the Court that he inherited his brother's portion of the land (14 acres 1 rood 7 perches) owned by his father who had four children, that he sold out of his inheritance, which is half of 14 acres 1 rood 7 perches, to his nephew Lawrence Isidore and the Plaintiff. This witness, however, strenuously denied that he sold more land than he owned.

The Defendant told the Court that he knew the Plaintiff and the land in question since he was lessee in possession of the land. He denied however, that he was a tenant of the Plaintiff, but said that he was the tenant of Antoine Noel, the brother of Joseph Noel; that he was in occupation of the land from 1973 at an annual rental of \$1,000.00.

He further said that he knew Arline Priscilla Noel who also plants on part of the land; that he received the various Notices to Quit from the Plaintiff but paid no heed to them since he was not a tenant of the Plaintiff.

Under Cross Examination he reiterated his denial of being a tenant of the Plaintiff.

Arline Noel, better known as Priscilla Noel, said that her father owned four and a half (4 1/2) carres of land at Woodlands also called 'Corbin Estate', and who, during his lifetime, sold one and a half (1 1/2) carres out of the four and a half (4 1/2) carres.

She said that the Defendant was the tenant of both her brother and herself, but that only her brother knew the amount of rental paid by the Defendant.

She exhibited a copy of a Declaration of Succession on behalf of her mother who was married in Community of property with her father, Gregoire Evanus Noel.

She confirmed that the Plaintiff owns part of the land since her brother Leonard sold to both the Plaintiff and Lawrence Isidore.

She said that the problem being experienced by the remainder of the Noel family and the Plaintiff was because Leonard Noel sold more land than he owned, and that at the hearing of a dispute before the Land Tribunal, the Plaintiff was informed that Leonard Noel should refund him the purchase price of the land sold to him.

She concluded her evidence by saying that every six (6) months her brother Antoine gave her \$50.00 or more as her share in the rental paid by the Defendant.

ARGUMENTS

Learned Counsel for the Defendant argued that Gregoire Evanus Noel, father of Joseph Leonard Noel, Emmanuel Noel, Antoine Noel and Arline Priscilla Noel, upon his death, owned an undivided 1/2 share of land containing 14 acres 1 rood and 7 perches which had been reduced by the sale of one and a half (1 1/2) carres, therefore he owned half share in approximately 10 acres to be divided amongst his four above mentioned children.

Based on the above, he said that Joseph Leonard Noel sold more land than he owned and quoted the author **Marler Carswell** on **Joint Ownership** and urged the Court to dismiss the matter.

Learned Counsel for the Plaintiff commenced his argument by stating that Learned Counsel for the Defendant argued the case as if he was representing the other co-owners of the land in question.

He argued that the Defendant as tenant should not be allowed to question the title of the Plaintiff, his landlord. He contended that the Plaintiff bought the land in question from Joseph Noel by virtue of two Deeds of Sale. Subsequent to the purchase of the land, there was a dispute between the Noels and the Plaintiff and referred to **Land Adjudication Tribunal Dispute** dated 1st April 1987 exhibited.

He said that there was no dispute between ownership of land between Plaintiff and Defendant, the latter was a tenant of the former and must pay the amount of rental owed and all other relief sought.

CONCLUSION

This is a simple case of Landlord and Tenant. The Plaintiff is registered as the provisional owner of the land in question, namely: Block & Parcel 1025 B 28 in the registration quarter of Vieux Fort. I do not believe neither the Defendant who denies that he is the tenant of Plaintiff but of Antoine Noel, nor do I believe Arline Noel his witness who said that *"My brother and I Mr. Antoine Noel, placed Celestin the Defendant on the land to be in charge" and "that every six (6) months my brother Antoine gives me \$50.00 odd when Defendant pays."*

I find as a fact that Defendant is the tenant of the Plaintiff since the Plaintiff found him on the land but contracted with him to lease the land to him at \$1,000.00 per annum which he never paid.

It is significant to note that Defendant states that he pays \$1,000.00 per annum to Antoine Noel, yet Arline only receives \$50.00 odd every six (6) months.

It is trite law that "If a landlord lets a tenant into possession under a lease, then so long as the tenant remains in possession undisturbed by any adverse claim - then the tenant cannot dispute the landlord's title."

Industrial Properties (Barton Hill) Ltd vs Associated Electrical Industries Ltd (1977) Q B 580 at 596.

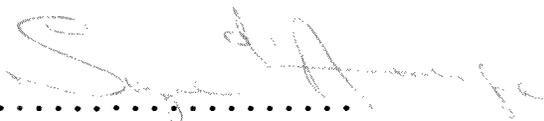
As I see it, Arline Noel is using the Defendant to iron out the Noels' land dispute with the Plaintiff. The exhibit, **Land Adjudication Tribunal Dispute** decision of 1st April 1987 clearly states what has to be done.

Based on the above my order is as follows:

Defendant do pay to the Plaintiff twelve (12) years arrears of rental at \$1,000, total \$12,000.

That the Defendant do quit the land on or before 31st July, 1997.

That Defendant do pay Costs to the Plaintiff to be agreed or otherwise taxed.


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SUZIE d'AUVERGNE
HIGH COURT JUDGE