

GRENADA

IN THE COURT OF APPEAL

MAGISTERIAL CIVIL APPEAL NO.1 OF 1996

BETWEEN:

HILMAN GRIMES

Appellant

and

HARRY WORME

Respondent

Before:

The Hon. Mr. C.M. Dennis Byron Chief Justice [Ag.]
The Hon. Mr. Albert Redhead Justice of Appeal
The Hon. Mr. Albert N.J. Matthew Justice of Appeal [Ag.]

Appearances:

Ms. R. Joseph for the Appellant
Mr. R. Anthony for the Respondent

1997: November 28;
 December 8.

Landlord & Tenant Law - Order for possession & for payment of arrears of rent, as well as for mesne profits - Whether the provisions of the Rent Restriction Act could be invoked - Validity of the Notice to Quit - Determination of whether there was a monthly tenancy or one for one year and thereafter from year to year - Whether the magistrate has jurisdiction to adjudicate upon a claim for arrears of rent in excess of \$10,000. Appeal dismissed.

JUDGMENT

MATTHEW, J.A. [AG.]

The Appellant was tenant of premises situated at La Borie in St. Georges of which the Respondent was owner. Towards the end of 1993 the Respondent brought a claim before the learned Magistrate of the Southern District asking for recovery of possession and arrears of rent which after certain deductions were made amounted to \$18,770.70.

The matter was heard on April 14, 1994 and adjourned to April 21, 1994 when the learned Magistrate decided as follows:

“It is ordered that the Defendant give up possession of the premises situated at La Borie on or before 30th June, 1994. Arrears of rent amounting to \$22,400.00. Mesne profit at the rate of \$800.00 per month from 10th August, 1993 until possession delivered up. Costs \$500.00.”

The Appellant was dissatisfied with the decision and on May 4, 1994 gave Notice of Appeal containing the same two reasons which were the only ones argued before the Court. The reasons were as follows:

- [1] The learned Magistrate erred in law when he held that section 30 of the Rent Restrict Act Cap.286 of the Revised Laws of Grenada 1990 edition gave him jurisdiction to adjudicate upon claims for arrears of rent in excess of \$10,000.00 and ordered the Defendant to pay the Plaintiff the sum of \$18,170.70 arrears of rent and mesne profit at \$800 a month from 10th August, 1993 until possession is given up on 30th June, 1994.
- [2] The learned Magistrate erred in law when he failed to consider the validity of the notice to quit having regard to the Plaintiff's evidence that the tenancy was for one year in the first instance and then two years.

Validity of Notice

I shall begin with the validity of the notice to quit. Under this head learned Counsel for the Appellant urged that the finding of the learned Magistrate that there was a monthly tenancy cannot be supported having regard to the evidence.

I think one has to look at the evidence in totality. While it is correct that the Parties at one time spoke concerning a one year lease it appears to have been conditional upon rent being paid and the evidence reveals that rent has never been paid by the Appellant. But apart from the Respondent saying the Appellant verbally agreed to pay \$1,000.00 per month from the 8th May, 1991, the Respondent admitted that under cross-examination.

I am of the view that the Magistrate had sufficient evidence to support his finding that the tenancy was a monthly one and that it was validly determined by the notice to quit dated May 18, 1993 and served on the Appellant on the same day.

The learned Magistrate, in his reasons for decision held that he had jurisdiction to make the order for possession pursuant to section 30 of the Rent Restriction Act Cap.286 and he was satisfied that the tenancy agreement had been determined by a notice to quit or otherwise. I agree.

This ground of appeal fails.

Jurisdiction

Under this head learned Counsel for the Appellant has challenged the jurisdiction of the learned Magistrate to collect arrears of rent in excess of \$10,000.00. Counsel submits that this is a claim in contract and the Magistrates' jurisdiction as stated in Cap. 177 as amended by Act 21 of 1993 is limited to \$10,000.00 so that the section would read:

“30[1] Subject as hereinafter provided, all actions –

[a] of contract or tort where the amount claimed or value of the thing claimed whether as a debt, balance of account, or damages or otherwise, is not in the case of actions of contract more than ten thousand dollars, and in the case of actions of tort more than seven thousand five hundred dollars;

[b] in all other matters in which jurisdiction is by any law expressly given to Magistrates or Justices of the Peace,

may be commenced in the Court, and all such actions shall be heard and determined in a summary manner according to the provisions of this Act.”

Learned Counsel for the Respondent submits that the issue is not one of contract but it is a statutory tenancy. Counsel cited the authority of **Wolfe v Clarkson** [1950] 2 AER 529:

Section 30 of the Rent Restriction Act is as follows:

“The jurisdiction of Magistrates under the Magistrates Act shall during the continuance of this Act, extend to all premises to which this Act for the time being applies irrespective of the nature of any tenancy or the length of the term or the amount of the rent thereunder.”

I agree that the purpose of the Act as set out in its long title is to restrict increases of rent of leased property and the right to recovery of possession thereof.

But there are certain sections of the Act which are neither specifically concerned with restriction of increases of rent nor restriction to recovery of possession, for example sections 24, 26 and 27.

One has to attempt to interpret section 30 quite apart from its long title and in the context of the provisions of the other sections. The section delimits jurisdiction of the Magistrates when they are dealing with premises to which the Act applies and that jurisdiction it seems to me cannot be questioned because of the quantum of rent that arises for determination. I am of the opinion that section 30 of the Rent Restriction Act is an illustration of a matter in which jurisdiction is by law expressly given to the Magistrate as contemplated by section 30[1][b] of the Magistrates Act, Cap.177.

For this reason I am of the view that the Magistrate had jurisdiction to adjudicate upon the claims for arrears of rent in excess of \$10,000.00.

I would therefore dismiss the appeal with costs to the Respondent to be agreed or otherwise taxed.

A.N.J. MATTHEW
Justice of Appeal [Ag.]

I Concur.

C.M. DENNIS BYRON
Chief Justice [Ag.]

I Concur.

A.J. REDHEAD
Justice of Appeal