

SAINT VINCENT AND THE GRENADINES

CIVIL APPEAL NO. 8 OF 1997

BETWEEN:

DOROTHY R. REY

Appellant

and

ASHFORD COLE

First Respondent

and

ALBERTINA JOHN

Second Respondent

Before:

The Hon. Mr. Satrohan Singh

Justice of Appeal

The Hon. Mr. Albert Redhead

Justice of Appeal

The Hon. Mr. Odel Adams

Justice of Appeal [Ag.]

Appearances:

Mr. S. John for the Appellant

Mr. B. Commissiong for No.1 Respondent

Miss M. Commissiong with him

Mr. L. Lewis for Second Respondent

1999: March 22, 23.

RULING

This is an application by motion on behalf of the first-named respondent for this court to revisit its judgment delivered on the 28th July, 1998.

Learned Queen's Counsel, Mr. Commissiong submitted that this court has jurisdiction to do so under the inherent jurisdiction of the court or under the Slip Rule.

Page 9 of the judgment which reads in part as follows:

“It is declared that the first-named respondent is the fee simple owner of the land which he is in actual possession of, that is to say, the entire area of 25,594 square feet “less the small areas cultivated from time to time by the second-named respondent and the house

spot occupied by the chattel house owned by the second-name respondent”

Learned senior counsel urged that the quoted words in the above paragraph should be deleted from the judgment because the court could not have meant by that judgment that second-named respondent should be granted that relief having regard to Mitchell J’s Judgment which was varied by that paragraph. Mitchell J had ordered that \$18,750.00 which was paid by the second-named respondent to the appellant towards the purchase and conveyance of the said lot of land on which her house stands be refunded to the second-named respondent.

Mr. Commissiong therefore argued that the court could not have meant to have made that declaration because by doing, the second-named respondent would have gained a double benefit in respect of the same lot of land. He argued that it is inequitable and unjust to the first-named respondent, Ashford Cole.

At first blush Mr. Commissiong’s submission seemed very attractive and commended itself to this court as having jurisdiction to correct what was and seemed to be obvious injustice but on a careful analysis of the situation it would be revealed that when the appellant purported to sell and transfer the parcel of land to the second-named respondent for which she had no legal authority to do. When Mitchell J therefore ordered that the money be refunded to the second-named respondent the status quo ante was maintained. All parties to this action were placed in the same position as they were prior to the purported sale.

It is clear therefore that when this court made the declaration which gave the lot of land to the second respondent on which her house is standing, it gave her that land in her right of occupation of the land. In this regard the part of that paragraph [referred to above] which learned senior counsel sought to have deleted from the judgment is not inconsistent with the rest of the judgment. On that basis the application would be denied.

Mr. Commissiong also argued that the fact that the second-named respondent was willing to purchase the lot from the appellant is indicative of the fact that she recognised that she did own the land. The may be so but to grant the application on that basis would in my view to change the judgment. This I do not think we could do so on this application. The application is therefore refused.

Costs to the appellant, second-named respondent to be taxed, if not agreed.

A.J. REDHEAD
Justice of Appeal

I Concur

Signed:
SATROHAN SINGH
Justice of Appeal

I Concur

Signed:
ODEL ADAMS
Justice of Appeal