ST VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.202 OF 1998

BETWEEN:

MARGARET GLASGOW

Plaintiff

and

MAXINE GLASGOW

Defendant

Appearances:

A Williams Esq for the Plaintiff
Ms Z Horne for the Defendant

2000: April 3, 6

JUDGMENT

[1] MITCHELL, J: This is a family dispute over a house and land in Georgetown in St Vincent. The Plaintiff is a 79 year old retired woman. The Defendant is her niece. The facts as I find them are as follows.

[2] The property in dispute is a very small lot of land measuring 1,590 sq ft with a small concrete house on it. The house consists of two bedrooms, a bathroom a kitchen and a small living room and dining room. The entire house measures about 20 X 25, or 500 sq ft. It is common ground that the property was originally owned by Georgiana Glasgow, the grandmother of the Plaintiff and great grandmother of the Defendant. No deed for Georgiana Glasgow was produced, so it is not clear what sort of title Georgiana Glasgow held. After the death of Georgiana, her daughter Ruth Glasgow possessed the property. Ruth Glasgow

was the mother of the Plaintiff and of the Defendant's father Dodridge Glasgow. Ruth does not appear to have held any legal title to the property. Ruth left a will dated 22 June 1950 leaving the property to her son Dodridge. Ruth died in 1952. Dodridge took out a Grant of Probate to her will in 1965. The will described the property at that time as a house spot with a house situate on it. The Description of Property endorsed on the Grant further described the property as a ¼ acre of land valued at $710.00 and a chattel house valued at $75.00. On 30 December 1965 Dodridge executed a deed of assent, No 2/1966 vesting the property in himself. Dodridge himself died in 1992, and his daughter and only child, the Defendant, on 13 February 1996 obtained a grant of Letters of Administration to his estate. At that time the property was valued at $33,140.00. Dodridge had accepted paternity of the Defendant. His name had been entered on her birth certificate at the time of the registration of her birth. The Defendant was thus entitled under the laws of St Vincent to apply for a grant to his estate and to inherit his property. The Defendant on 1st March 1996 executed a deed of assent in her favour.

[3] The Plaintiff and Dodridge lived all their lives in their mother's property in question. The Plaintiff was born on 13 April 1920. Dodridge was born in 1927 and died in 1992. The Plaintiff never moved away from her mother's property. Dodridge worked first as a postman and then as a messenger at the Georgetown Post Office. During this time, he shared the house and property with the Plaintiff. He worked later as a customs guard at the Port in Kingstown for a few years, living during this period in rented accommodation in Kingstown. After that, he was appointed the Bailiff for District 2, the Georgetown area. From that time, he lived on the family property in Georgetown. He remained in the post of Bailiff for District 2 for the balance of his civil service career until he retired in 1982. Also living in the home in the 1950s and 1960s were several of the Plaintiff's nephews and nieces including, Stilson, Hyacinth, and Carl Glasgow. Their mother had died in 1951. Carl Glasgow is now a barrister. He gave evidence for his aunt, the Plaintiff, and I accept his evidence as truthful. I also accept the evidence of Janet Bacchus, Eunice Bobb, and Anna Brackin as truthful.

[4] The Plaintiff claimed that Dodridge had gone behind her back and taken out his deed to the property in the year 1965 without telling her. She claimed to have discovered what Dodridge had done only shortly before the case commenced. She claimed she never knew Dodridge had the deed for the property. I find however that she had been the one attending at the tax office for years before the death of Dodridge paying the annual rates for him. The receipts that she put in evidence clearly read that she was paying the rates on behalf of Dodridge. She also confirmed that Dodridge had sold the original chattel house. He could only have sold the house in which they both lived if she had accepted that he owned it. Clearly, she must have known that Dodridge owned the property that had been left to him by their mother in her will.

[5] Sometime during the period around 1967, the Plaintiff and her brother Dodridge agreed to get rid of their mother's old chattel house in which they had been living, and to replace it with a concrete house. They did so out of their separate earnings and with help from siblings and neighbours. That is the house that is presently on the property which is the subject of this dispute. The Plaintiff would have it that she built the entire house with her own money derived from her farming and selling of tarts and sugar cakes. Although Dodridge lived most of his life in the house in dispute, except for the short period described above in Kingstown, and for another short period in Georgetown when he lived with his sister the Plaintiff in rented accommodation while the concrete house was being built, the Plaintiff would have it that Dodridge contributed nothing to the building of the concrete house. The evidence that I accept is that Dodridge worked all his life until a few years before his death. He attended to his family responsibilities. He, not the Plaintiff, helped to educate the children of his deceased sister. He vested the property in himself y deed just a year before he and the Plaintiff replaced the old house with the new one. The Defendant, and her mother who gave evidence for her, claimed on the contrary that the Plaintiff never worked a stroke in her life. Their evidence was that Dodridge was the mainstay of the Plaintiff and supported her all her life. Their

story is that the house was built entirely by Dodridge. I do not believe the Plaintiff that Dodridge contributed nothing to the building of the house on the property. Neither do I believe the Defendant and her mother that the Plaintiff contributed nothing to the construction of the house. The truth is that both the Plaintiff and Dodridge were industrious, decent, hard working persons who built the little concrete house together from their earnings and with financial help from their siblings who had gone away and with self help from friends and neighbours. The evidence of the independent witnesses confirms this.

[6] The question then that must be asked is, why did the Plaintiff help financially and otherwise in the year 1967 to build the concrete house on the land that Dodridge then owned? The Plaintiff gave her reason, but I do not believe her. Dodridge has died and could not speak to the intention of the parties at the time. The answer must be that she had no husband or children, and she had income and could afford to pay her share of the cost of building the house that she would occupy and enjoy. Neither she nor her brother Dodridge ever married. It must have been convenient for them both to build up the old family home and to occupy it together. I accept the evidence that Dodridge always lived at his home in Georgetown, and that he did not live at Chili Village with the mother of the Defendant as claimed by the Plaintiff. He died in 1992, still living at the disputed home in Georgetown.

[7] Counsel for the Defendant relied on the case of Cupid v Thomas (1985) 36 WIR 182. This was a case from St Vincent. It dealt with a man and a woman who had shared an intimate relationship over a period of 11 years during which time they had 4 children and accumulated property through their enterprise and thrift. In the judgment of the Court of Appeal delivered by Bishop JA it was held that if a party to an informal relationship is unable to establish an express declaration of trust, or an agreement, as to property held in the name of the other party to the relationship, or a resulting trust arising by reason of payment of part of the purchase price for the property, she can only claim an interest in the property if she can show that the parties had a common intention that they should share the

beneficial interest in it. The case dealt with the acquisition of property in a commonlaw relationship, but counsel submitted it could be applied by analogy to a brother and a sister. Counsel for the Plaintiff concurred that this case was the appropriate guide for the court in this case. No other relevant law was brought to the attention of the court.

[8] In this case, there was no evidence of an express trust. Nor was there any credible evidence of an agreement as claimed by the Plaintiff. There was no credible evidence that would lead the court to find a resulting trust of the entire property in favour of the Plaintiff. Evidence as to the intention of the parties at the time of the construction of the concrete house in 1967, other than the completely unreliable evidence of the Plaintiff, was non-existent. The receipts produced by the Plaintiff for the repairs to the house in 1991 and the years following did not help us. I entirely accept the evidence of Carl Glasgow that the money for purchasing new windows came from the Plaintiff. The evidence of the Plaintiff as to the repairs she did to the house in the 1990s shows only that the Plaintiff was maintaining the house in which she lived, which was her responsibility. The witnesses brought by the Plaintiff as to her income and activities after the construction of the house in the year 1967 similarly do not help. Their evidence did not go to the intention of the Plaintiff and her brother while the brother was alive, far less at the time when the house was being built in 1967. This evidence related to the period around and after the death of Dodridge. I do not accept the evidence of the Defendant that the money for the repairs came from Dodridge. There was no evidence as to the amount contributed by either Dodridge or the Plaintiff in the construction of the house in the year 1967. There are no construction receipts from the period when Dodridge was alive in evidence. I do not accept the evidence of the Plaintiff that her brother Dodridge agreed that the Plaintiff should construct the house on the land out of her own funds. The sense of Carl Glasgow, as to what was the proper thing for his cousin the Defendant to have done when he tried to persuade her sign the necessary documents to turn the property over to her aunt the Plaintiff, is not helpful. In sum, there was no

reliable evidence before the court as to the common intention of Dodridge and his sister the Plaintiff at the time of the construction of the house as to the legal interest the Plaintiff should have in the house and property. The intention had to be inferred. It seems more likely that, during the lifetime of Dodridge, the Plaintiff had no belief that she had any legal interest or claim in the property. She must have known at the time of construction, though she denied it at the trial, that the property belonged to Dodridge and would go to his heirs and successors after his death. The only reasonable inference as to an intention of the parties, given the relationship, the childlessness of the Plaintiff, the probating of the will and the taking out of the deed by Dodridge with the knowledge of his sister the Plaintiff only two years before the construction of the house, the knowledge of the Plaintiff that the property belonged to Dodridge, their joint contribution to the construction of the house on the property despite this knowledge on the part of the Plaintiff, and their long and harmonious relationship in sharing the small family home upto the death of Dodridge, is that the intention was that the Plaintiff would be able to live on the property for the balance of her life, and after her death it would belong to Dodridge and his heirs.

[9] There will be judgment accordingly that the Defendant is the legal owner of the property described in her deed 931/1996 subject only to a life interest in the Plaintiff. The Plaintiff will be responsible for the maintenance and upkeep of the house while she occupies it. After the death or abandonment of the property by the Plaintiff, the Defendant shall be entitled to possession of the property. I have considered what would be a fair order as to costs. The normal order is that costs follow the event. Neither of the principal parties was truthful in important respects of their evidence to the court. Neither party can be said to have entirely succeeded in her claim. In the circumstances, in exercise of the discretion as to costs vested in the court, the order will be that each party will bear her own costs.

I D MITCHELL, QC
High Court Judge