

SAINT LUCIA

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

SUIT 877 OF 1998

BETWEEN:

JOSEPH PLACIDE also known as EUNIFRED MERIUS
suing herein AS THE SOLE Administrator of the
Succession of the late PLACIDE MERIUS

Plaintiff

And

(1) St. TORRENCE MERIUS sued herein as the
Sole executor of the last will and Testament
Of the late GONGAZUE ANTHONY ALSO known
As FLORTON PLACIDE

(2) AGATHA SONSON sued herein as the sole
Personal representative of the late JOSEPH
SONSON FLORTON also known as JOSEPH
PLACIDE

Defendants

Appearances

Miss Cybelle Cenac for the Plaintiff
Mr. Hilford Deterville for the second named Defendant
The first named Defendant present but un-represented

2001: January 25th
April 20th

JUDGMENT

[1] **d’Auvergne J:** By summons dated 15th September 1999 and filed on the 16th September 1999 the second named Defendant through her attorney Gregory Thomas sought the following:

- (1) Whether the failure of the Plaintiff to state the Parcel No. of the lands to which his claim relates, or to otherwise specify the particulars to Lands for which questions of title are sought to be determined, does not entitle the Defendant to have the claim struck out as an abuse of the process of the Court.
- (2) Whether these proceedings, which seek to question the title of a proprietor who had been awarded title by the Adjudicator and by an order by the Registrar of Lands under the Land Registration and titling Project when there has been no appeal from the award or order, do not constitute an abuse of the process of the Court.
- (3) Whether the failure of the Plaintiff to make a claim under the Land Adjudication Act and the declaration by the Registrar of Lands that AGATHA SONSON is the proprietor with absolute title with respect to the lands referred to in paragraph 18 of this affidavit make the matters raised in this suit res judicata.
- (4) Whether the claim herein discloses any reasonable cause of action.
- (5) Whether the Plaintiff has not on the facts of this case acquiesced in the title of AGATHA SONSON to the lands as to disentitle him from making a claim such as has been made in these proceedings.

With this Summons was filed an affidavit by the said attorney and a list of exhibits. On the 10th of November 1999 the Plaintiff filed an affidavit in reply.

[2] **Facts**

The Plaintiff alleges that he is the sole administrator and one of the two heirs of Placide Merius who was one of the three lawful sons of Merius Placide also known as Anthony Placide; the other two sons were Gongazue Anthony Placide and Alister Merius who died intestate on the 16th December 1920 and was succeeded by his lawful daughter Betty Albert who also died intestate without any heirs; that the second named Defendant is the wife of Joseph Sonson Florton also known as Joseph Sonson Placide an illegitimate son of Gongazue Anthony Placide who was also the father of St. Torrence Melius the first named Defendant.

[3] He further alleged that his grandfather Merius Placide had a brother by the name of Jn Baptiste Placide also called Biscette Placide (herein after called Biscette) who died on the 30th of October 1927; that by a declaration of Succession registered in vol. 129 a No. 112948 Gongazue Placide wrongfully declared that he is the sole heir at law and legal representative of Biscette and wrongfully claimed the whole of the property of the Succession of Biscette comprising of (3) “three acres and thirty-three perches more or less in extent”; that the declaration is wrong because the heirs are Gongazue Placide who is only entitled to an undivided half share since the other half share belongs to the heirs of Merius

Placide, his grandfather of whom his sister Esther Placide and himself are the sole surviving heirs.

[4] He further alleges that based on the erroneous declaration of Goganzue Placide the sale by the latter to Joseph Sonson Florton also known as Joseph Sonson Placide the deceased husband of the second Defendant, of two (2) acres, one (1) rood and 5.89 perches was also wrong at law, for it purported to sell to the husband of the second named Defendant more land than Goganzue Placide was entitled to; that the two sales of 10,171 square feet to Augustin Poyotte and 4,601 square feet to Rudolph Etienne by Joseph Sonson Placide, the husband of the second named Defendant are also wrong at law; that consequent upon the above he was claiming the following:

- (1) A Declaration that the Declaration of Succession by Gonzague Placide claiming the whole of the Grande Riviere lands is wrongful and that the said Goganzue Placide was only entitled to an undivided one half share of the Grande Riviere lands;
- (2) a Declaration that the Plaintiff Joseph Placide also known as Eunifred Merius as Administrator of the succession of the late Placide Merius Placide is entitled to the remaining one half share of the Grande Riviere lands or to payment for the value thereof;
- (3) partition of such of the Grande Riviere Lands as can be partitioned;
- (4) provision for the costs of the said partition among the co-owners thereof and of the other costs hereof, if any;

- (5) All necessary inquiries and accounts;
- (6) further or other relief.
- (7) an injunction to restrain the Defendant from parting with the whole or part of the Grande Riviere Lands until after the determination of the action herein.

[5] The second named Defendant acting through her attorney, whom the Plaintiff alleges to be her son, denies most of the allegations but admits the sales which she pleaded were not wrongful for the following reasons:

- (a) That she is duly registered as the proprietor with absolute title with respect to the portions of land registered as Parcels 1251 B 451, 1251 B 453 and 1251 B 455.
- (b) Parcels 1251 B 451, 1251 B 453 and 1251 B 455 are dismemberments of the portion of land previously registered as Parcel 1251 B 260.
- © The late Joseph Sonson was duly adjudicated as the sole proprietor of Parcel 1251 B 260 under the provisions of the Land Adjudication Act and his title thereof was entered in the Land register on the 29th October 1986.
- (d) No appeal has been made against the decision of the adjudicator under the Adjudication Act and not attempt has been made to rectify the register under the provisions of the Land Registration Act.
- © Since October 1987 all land in Saint Lucia is land registered under the Land Registration Act.

[6] She further pleaded that it is an abuse of the process of the Court to institute proceedings with respect to Registered Land relying on allegations relating to matters occurring prior to and unconnected with the adjudication process undertaken under the provisions of the Land Adjudication Act and the Land Registration Act.

[7] **Arguments**

At the hearing Learned Counsel for the second named Defendant argued that the Plaintiff had no **Locus Standi** for his seisen ended in March 1997 one year after he was granted Letters of Administration on behalf of his father Placide Merius Placide; that it had not been shown that the time was extended by Article 599 (3) of the Civil Code of St. Lucia.

[8] He contended that since the coming into force of the Adjudication Act and Registration Act Nos. 11 and 12 of 1984 respectively, all lands in St. Lucia is registered; that every parcel of land was demarcated and given a block and number; that a root of title is determined from the adjudication record and not from deeds of the parties.

[9] Learned Counsel also quoted **Article 52 of the Code of Civil Procedure** which states:

“If the object of the demand is a thing certain, it should be described in such a manner as clearly to establish its identity.....”

[10] He argued that the matter was Res Judicata since a decision as to the ownership of the land had been determined by a competent tribunal. He made reference to the decision of the Adjudicator dated 11th April 1986 recorded as Dispute Hearing 6A6D and quoted **Ronald Halstead vs The Attorney General of Antigua OECS Court of Appeal No. 10 of 1993 at page 14.** He said that the matter being Res Judicata, to re-litigate it, is clearly an abuse of the process of the Court and urged the Court to dismiss the claims in the statement of claim.

[11] Learned Counsel for the Plaintiff argued that the Plaintiff was not only the administrator of the estate of his father and grandfather but was also an heir; that moreover an extension of time can be applied and obtained before judgment.

[12] She further argued that the procedure for converting a provisional title into an absolute title was provided for under Section 29 of the Land Registration Act which reads as follows:

29. (1) Any proprietor registered with a provisional title or any interested person may at any time apply to the Registrar to be registered or to have the proprietor registered, as the case may be, with an absolute title.

(2) If the applicant satisfies the Registrar that the qualification to which the provisional title is subject has ceased to be of effect, the Registrar shall make an order for the registration of the proprietor with absolute title after such advertisement as the Registrar may think fit.

(3) On the making of any such order or on the application of any interested party after the expiration of twelve years from the date of first registration with a provisional title, the Registrar shall substitute in the register the words “absolute title” for the words “provisional title” and the title of the proprietor shall thereupon become absolute.

[13] She said that the second named Defendant did not follow that procedure and therefore her absolute title is contrary to law, that she was only entitled to the provisional title that was granted to her husband in 1986, a title that was obtained erroneously by Gongazue Placide, who disinherited his own brother.

[14] Learned Counsel for the Plaintiff concluded her arguments by stating that since the absolute title was erroneously obtained then the Adjudicator’s decision is not final.

[15] Learned Counsel for the second named Defendant replied by quoting the case of **Robertson vs Issac 43WIR Page 126** which confirms that an order made by a Court must be obeyed unless and until it has been set aside by the Court.

[16] **Conclusion**

All land in St. Lucia is now registered land. All titles were adjudicated and registered in accordance with the Adjudication Act and Registration Act of 1984

and their amendments. Procedures were set in place for dissatisfied claimants who could then petition the Land Adjudication officer and if still dissatisfied with his decision could appeal to the Land Adjudication Tribunal and if still further dissatisfied he may within two months of the date of the certificate of the land Adjudication Tribunal appeal to the Court of Appeal.

[17] The evidence in this case revealed that no application had ever been made to set aside, vary or appeal against the adjudication record and on the 29th of October 1986 Joseph Sonson the husband of the second named Defendant was entered as having provisional title in the Land Register and again no appeal has been made to rectify the Register under the provisions of the Land Registration Act.

[18] Many decisions have been given to substantiate that very point both in St. Lucia and other states of this jurisdiction e.g.

Berthillia Ennis v Phyllis Barras et al unreported High Court Suit St. Lucia No. 760 of 1995.

Loopsane Portland et al v Sidonia Joseph [1993] Civil Appeal No. 2 of 1992.

Jerome Jn Francois et al and Robert Angus Bain et al (Saint Lucia) High Court Civil Suit # 290 of 1992.

Skelton v Skelton 1986 37 WIR 177.

[19] In my judgment this case is a commoflauged attempt to appeal against the decision of the Adjudicator after the time for doing so has passed. While it is true

that any mistake or fraud made in the registration process could be rectified, neither were specifically pleaded and moreover the Court has to distinguish whether mistake complied about occurred during adjudication under the Adjudication Act or in registration under the Registered Land Ordinance. But this is not the case.

[20] As I have said before, there must be an end to litigation. A decision stands until varied or set aside. The fact is that the second named Defendant is the owner with absolute owner of the parcel of land previously registered as Parcel 1251 B 260.

[21] I find the claims by the Plaintiff is an abuse of the process of the Court for he never followed the procedure set out by the Land Registration and titling project, that the matter is Res Judicata and cannot be re-litigated in any form except for the exceptions under the Land Registration Act 1984 which must be specifically pleaded.

[22] I pause here to note that at the commencement of the hearing the first named Defendant told the Court that he would be concurring with whatever the Plaintiff said and that he understood the implications. Nevertheless I will not award costs against him.

[23] My order is as follows:

That the Statement of Claim be struck out as disclosing no reasonable cause of action in accordance with views expressed above.

Plaintiff to pay costs to the second named Defendant to be agreed or otherwise taxed.

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Suzie d’Auvergne
High Court Judge