

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CIVIL SUIT NO.: 4 OF 1996



BETWEEN:

RANDOLPH CUMBERBATCH

Claimant

V

LOUISE DOPWELL

Defendant

APPEARANCES:

Mr. Victor Cuffy for Claimant

Miss Nicole Sylvester for Defendant

2002: July 1

JUDGMENT

- (1) **ALLEYNE, J:** George Richardson and Lotty Lewis were brother and sister. Lotty, and probably George, were born at Lodge Village, St. Vincent, in a board house on land belonging in the words of the Defendant, to "the Clarke family." George Richardson migrated to England about 40 years ago, but maintained his connection with St. Vincent, to which he returned occasionally. After his departure, Lotty continued to live on the land, in the family house, where her children were born. There is no evidence that she ever laid claim to the land, which the Defendant acknowledged belonged to the Clarke family, not to Lotty.

- (2) In 1969 Esther Clarke sold the land to George Richardson and executed a deed of conveyance in his favour, which is registered as deed No. 1388 of 1971. At this time Lotty was still living in the house on the land, and there is no evidence that, even then, she asserted any claim to ownership of the land. In that year, at age 26 or thereabouts, the Defendant migrated to St. Croix in search of a better life. She has lived there ever since, returning here frequently, while her mother and sisters were still alive. Neither her mother nor her sister, according to her, ever worked, and she supported them both. Both have died. It is a remarkable fact that, although the defendant claims to remember with a high degree of certainty and exactitude the years in which she built the wall and the property, she commenced construction of the wall house on the property, and she completed the house, she has no reliable recollection of the years in which her beloved and wholly dependant mother and sister died. She gave several different dates, and on more than one occasion claimed to be completely blank on the matter. However, it appears that the sister died in or about 1990, and the mother some years before that, probably in the early '80's.
- (3) The Claimant claims that in 1977 he came to St. Vincent on vacation. Also on the trip was his close friend, George Richardson who, he claims, lived in that house while there. I believe him. It is likely that his sister, Lotty Lewis, also lived in the house at the time. There does not appear to have been any dispute between these siblings as to the ownership of the land, George Richardson having purchased it from Esther Clarke, as earlier adverted to. It does not appear that Richardson's title was at that time subject to any question. Certainly there is no evidence that it was, and the Court has to rely on the documentary title of Richardson at that date. The Defendant was then in St. Croix.
- (4) In 1993, Richardson died and by his will devised the land to the Claimant, who obtained probate of the will, and by Deed of Assent vested title in himself beneficially. That deed is dated 4th July 1994 and is registered as No. 1965 of 1994.

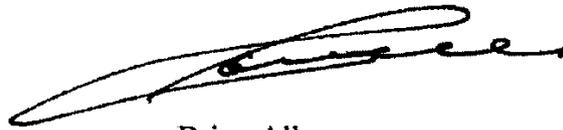
- (5) Soon after the Claimant obtained his deed from the Registry, a meeting was convened at the Chambers of Mr. Victor Cuffy, which was attended by the Claimant, the Defendant, Mr. Cuffy representing the Claimant, and Mr. Mark Williams, at the time the solicitor for the Defendant. The Claimant claims that meeting was convened to negotiate the price of sale of the property, which the Defendant had offered to buy and he had agreed to sell. At that meeting he proposed a price of \$25,000.00, being \$5.00 a square foot, which he claimed to be the market value. According to him, the Defendant balked at that price, they failed to agree on a price, and the meeting came to an inconclusive end. It is after this meeting, according to the Claimant, that the Defendant first laid claim to the land.
- (6) The Defendant, for her part, claimed that she begun building a house on the land in 1980, and completed it in 1990; that her mother connected water to the property, and she, the Defendant, connected electricity. She admits that there was a meeting at Mr. Cuffy's Chambers in 1994 as alleged, but denies that this meeting was to negotiate a purchase of the land by her. She denied that her first contact with the Claimant concerning that land was at that meeting, but was unable to offer any reasonable explanation of how and why the meeting was convened. She denies ever having discussed the land with the Claimant, and said that Mr. Cuffy called her lawyer to arrange the meeting, apparently "out of the blue". I do not believe her. I accept the version of the Claimant, which accords much more closely with reason, that they had spoken, and had agreed that they would meet with their legal representatives. I believe that the meeting's purpose was to follow up on negotiations for the sale of the land, but that the parties were unable to agree.
- (7) Any claim to title to the land on the part of the Defendant could only have arisen, in my view, after the death of her mother, who lived on the land until his death.

The Defendant said in evidence that she built on the land on her mother's authority. She claimed further that her mother had authority because she is from there.

- (8) Occupation, or possession of land, no matter how long or how exclusive, does not bar the right of the legal owner of the land unless the possession is adverse to the right of the owner, and is accompanied by the animus possidendi. There is no evidence whatsoever that the Defendant's mother ever made a claim to title of the land, that her possession was adverse to the right of the owner, that is the Clarke family, or subsequently her brother George Richardson. There is no evidence that Lotty Lewis ever expressed, explicitly or implicitly, as animus possidendi in relation to this land.
- (9) I believe and accept the Claimant's evidence that the Defendant conceded his ownership of the land and expressed willingness to purchase, but was put off by the price asked. I do not believe for a moment that the meeting at Mr. Cuffy's Chambers was convened in the manner implied by the Defendant. I believe it was convened on the instructions of both parties for the purpose of negotiating a sale of the land.
- (10) The Claimant's claim succeeds and the Defence which relies on the Statute of Limitations fails.
- (11) There will be judgment for the Claimant for the declaration of title claimed.
- (12) It is ordered that the Defendant be restrained, by herself, her servants or agents or otherwise from doing any further building or construction work on the land.
- (13) It is further ordered that the land be valued by a valuer agreed between the parties, exclusive of any buildings, at a market value prevailing in 1994, and that the Defendant pay to the Claimant the sum arrived at as the value of the said land

within three months of the said valuation having been communicated to her, failing which she shall surrender possession of the said land.

- (14) The Claimant shall have the costs of this action, to be assessed on the basis of the value of the land.

A handwritten signature in black ink, appearing to read 'Brian Alleyne', written in a cursive style with a large loop at the end.

Brian Alleyne
HIGH COURT JUDGE