

ST. VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. SVGHCV58 / 2000

BETWEEN:

EUPHEMIA STEPHENS
AND
ROBERT WILLIAMS
ADMINISTRATORS OF THE ESTATE OF
EARDLEY STEPHENS

Applicants

and

PIRATE COVE RESORTS LIMITED
AND
ROBERT BRISBANE

Respondents

Appearances:

Mr. Hans Matadial for the applicants

Mrs. Kay Bacchus-Browne for the respondents

2002: July 26, 29
August 2

RULING

ALLEYNE J.

[1] It appears in this action that on 14th March 2000 judgment was entered by consent for the applicants against the respondents for the sum of \$604,845.00 and interest. Neither the formal order nor a minute thereof can be found on the file. Nevertheless, there is no dispute between the parties that such an order was made.

- [2] On 22 March 2001 a praecipe for a writ of *Fieri Facias* was filed by the applicant, and a writ was issued on 22nd May 2001.
- [3] By order of the court, a consent order made on 3rd May 2002 and entered on 28th May 2002, it was ordered that
- [4] On 5th July 2002, the real estate agent appointed to carry out the sale, having failed to receive any offer at the reserved price of \$8.00 per sq. ft., the court reviewed the reserved price and set a new reserved price of \$100,000.00 per acre. The judgment debtor/respondent continued to be free to sell the land and discharge the judgment debt.
- [5] On Friday 26th July 2002 Mrs. Kay Bacchus-Browne, Attorney-at-Law for the respondents, and the second named respondent, appeared before me on an application without notice. Mr. Matadial, Attorney-at-Law for the applicants, was not present but Mrs. Bacchus-Browne assured the court that she had spoken with Mr. Matadial and he had told her that he would not be able to attend court but that she could proceed in his absence to obtain the order that she sought. I did not record, nor can I say with certainty, that counsel said explicitly that Mr. Matadial had consented to the order proposed, but there was no doubt in my mind that that was what was intended to be conveyed by Mrs. Bacchus-Browne to the court. On that understanding, and on Mrs. Bacchus-Browne's assurance that a sale at a price acceptable to both parties, and far more favourable than the reserved price, had been negotiated on behalf of the respondent, the court ordered that the respondents pay the judgment debt and costs on or before 31st August 2002, and further ordered that authority to Joseph Lewis to advertise the land for sale or to deal with the land was discontinued. The court further granted liberty to apply. Mrs. Bacchus-Browne was directed to prepare a draft order.
- [6] After court had been adjourned, but later on the same day, the Registrar informed me that Mr. Lewis had entered into a contract for the sale of the land under the authority of the order of the court, at a sum in excess of the reserved price, had

received a deposit in compliance with the court's order, and had presented the said deposit to the Registrar by way of cheque. I directed the Registrar to require Mrs. Bacchus-Browne, Mr. Matadial and Mr. Joseph Lewis to attend before me on Monday 29th July 2002 at which time the court would further address the matter.

[7] On 29th July, both counsel along with Mr. Joseph Lewis attended Chambers, and Mr. Lewis satisfied me that he had advertised the sale as directed by the court, received and evaluated offers, entered into a formal written agreement on the basis of the best offer, and received a 10% deposit from the proposed purchaser, and agreement to the payment of the balance on the terms of the court's order. The written agreement and the cheque for the deposit were produced.

[8] I heard from both counsel, and it was clear that there had been no agreement between them, nor had Mr. Lewis been informed before he entered into the agreement that the respondents had received an acceptable offer. It was suggested by counsel for the respondents that Mr. Lewis had acted improperly by accepting an offer without "coordinating" with the respondents and the applicants. I do not agree.

[9] Counsel further contended that it was necessary before a sale could be concluded that the particular 8 acres out of the identified 15 acres be agreed between the agent and the respondents. This was the first time that any such suggestion had been made, and such a condition cannot be implied from the court's order of 3rd May 2002 or any other order.

[10] Mr. Lewis appears to have acted entirely within the letter of the court order, and in my view he cannot be faulted.

[11] It is important that purchasers of property under a court ordered sale can be confident that their purchase will be honoured, and the integrity of this court's orders would be brought into question were I to interfere with the agreement

entered into between the court appointed agent for the sale of the land, and the purchaser.

[12] The order made on the 26th July 2002 is discharged and the agreement for sale entered into by the court appointed agent for sale is confirmed.

Brian G.K. Alleyne
High Court Judge