

COMMONWEALTH OF DOMINICA

IN THE HIGH COURT OF JUSTICE

SUIT NO. HCV 0427 OF 2002

BETWEEN:

KEN GEORGE

Claimant

AND

DAVINA LUGAY

Defendant

Appearances:

Mr. Alick Lawrence Counsel for the Claimant

Mr. Gerald Burton Counsel for the Defendant

3rd APRIL 2003

JUDGMENT

[1] Cenac J.,

The Issue

The issue which this Court is called upon to decide is whether or not the Defendant is entitled to keep the sum of \$62,723.50 which she collected for and on behalf of the Claimant.

Background Facts

[2] Ken George, the Claimant and Davina Lugay the Defendant are brother and sister. Ken resided with Davina and her family at Canefield prior to and up to August 2002.

- [3] On 28th June 2002 Ken won the lottery. The jackpot prize was \$376,341.00. To avoid the publicity he asked his sister Davina to collect the prize money for him.
- [4] The amount of \$376,341.00 was paid in three equal installments. Davina collected the first and second installments and gave the money to her brother Ken as agreed. He gave her \$20,000.00 from that amount for assisting him.
- [5] On the 16th day of August 2002, Davina collected the third and final installment of \$125,447.00. She kept one half of that amount (\$62,723.50) and handed over the other half to the Claimant (\$62,723.50).
- [6] In spite of several demands by the Claimant Ken for the Defendant to pay him the sum of \$62,723.50, which she kept, she has refused.
- [7] The Defendant in her affidavit evidence seeks to justify her action for keeping the money. She deposed that in consideration for assisting her brother Ken in collecting the prize money and for providing him with rent free accommodation for over three (3) years he agreed to pay her \$100,000.00. The Claimant denied that there was such an agreement between them.
- [8] If the Defendant is to be believed, the Claimant will still be indebted to her in the sum of \$17,276.50. She does not seem to be counterclaiming for that sum.
- [9] I accept without any reservation the evidence of the Claimant Ken George that there was no such agreement. The Defendant is entitled to pay over the amount of \$62,723.50 to the Claimant forthwith.

[10] I will therefore enter judgment for the Claimant for that amount (\$62,723.50) with interest to be paid on the said sum from the 16th day of August 2002 at 5% per annum to date of payment. Costs of \$3,500.00.

**Dunbar Cenac
HIGH COURT JUDGE**