

SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CLAIM NO.: 290 OF 1997

**IN THE MATTER OF THE COMMONWEALTH COUNTRIES JUDGMENTS
(ENFORCEMENT) ACT, CAP 82 OF THE LAWS OF SAINT VINCENT AND
THE GRENADINES, REVISED EDITION 1990**

AND

**IN THE MATTER OF THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) ACT CAP 87 OF THE LAWS OF SAINT VINCENT AND THE
GRENADINES REVISED EDITION 1990**

BETWEEN:

STEVEN STEEL SUPPLY

Judgment Creditor

AND

**DINO TRADING AND SERVICES PTE LIMITED
DORA SONG CHOO KAM also called DORA PROCHILO
Joined pursuant to order of Court made on August 1997**

Judgment Debtor

**INTERPLEADER SUMMONS
CLAIMANT – ASHFORD COLE**

Appearances:

Mr. Joseph Delves for Claimant

Ms. Nicole Sylvester and Ms. Rochelle Forde for Judgment Creditor

2003: March 20

2003: April 10, 2003

RULING

[1] **BRUCE-LYLE, J:** A Summons for Interpleader relief calls upon the Claimants to appear and state the nature and particulars of their respective claims. In both stakeholder and sheriff's Interpleaders the Claimant should swear and file an affidavit setting out in detail what he claims and the grounds upon which his

claim is based with such precision as to enable the opposing Claimant or the Execution Creditor to decide whether to oppose it and so that the Court may make an appropriate order.

[2] The affidavit should exhibit or contain a list of the goods claimed, or otherwise describe them, so that the parties know exactly what is being claimed.

[3] The Court then has these alternatives at its disposal –

- (a) dismissal of the application
- (b) a summary determination of the merits of the claim
- (c) a reference of the matter to the judge
- (d) remission of the proceedings to the County Court
- (e) a reference of the dispute for arbitration
- (f) a reference of the matter to an official reference
- (g) the substitution or addition of the Claimant as Defendant to proceedings already begun
- (h) an order that an issue be stated and tried

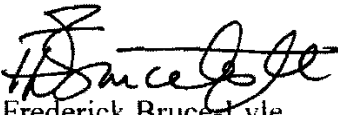
[4] These alternatives mentioned above are resorted to only after the Court has considered that there is a dispute between them, however nebulous, to try; and also that

- (a) a sufficiently detailed affidavit has been supplied by the Claimant
- (b) whether the Court should direct the sheriff to provide an inventory
- (c) the discovery of documents

[5] The Civil Procedure Rules 2000 at Part 54.2 provides that there can only be a summary determination of the issues by consent of the parties. There has been no such consent indicated by the Claimant's Learned Counsel despite the fact that Learned Counsel for the Execution Creditor seems to be bowing in that direction. In that regard I rule that if this matter is to proceed any further, it should do so on the determination of the issues or any of the other alternatives aforementioned.

- [6] The main questions I think necessary to determine at this stage is whether in the Claimant's affidavit supporting his claim, detailed and precise information which I can consider sufficient, has been provided to enable the Execution Creditor, a clear view of the issues involved, and whether an absence of such detailed and precise information vitiates the Claimant's case or claim.
- [7] A glance at the affidavit of Ashford Cole the Claimant in this matter, reveals a general statement of the items he claims as "goods and chattels seized by the Sheriff of the High Court under a writ of fieri facias in this action, and referred to in the summons filed on 6th August 2002..."
- [8] The summons filed on 6th August 2002 clearly describes the said goods and chattels as "one (1) Isuzu Rodeo recreational vehicle bearing licensed number PA 868 and one (1) factory building shell, structure, and related scrap metal and machinery situate at Mount Bentick." Despite the absence of a clear definition of these goods and chattels in the Claimant's affidavit, they are adequately, to my mind, described in as much detail as possible in the summons to give the Execution Creditor a clear idea as to what the Claimant is laying claim to.
- [9] I therefore do not agree with that limb of Learned Counsel for the Execution Creditor's arguments, and rule against that position, as I am convinced that the affidavit of the Claimant as it stands does not vitiate the Claimant's claim, and cannot therefore invite the Court to dismiss the claim outright.
- [10] Paragraph two of the Claimant's affidavit also gives an outline of the basis for the Claimant's claim, and is supported by one document – a receipt – Exhibit A.C. 1. This clearly raises issues that can only be determined at trial – issues of fact and law. The supposed deficiency of the receipt, raised by learned Counsel for the Execution Creditor is not an issue appropriately determined at this stage. There are issues to be tried, and at this stage that is my only concern.

[11] Having thus determined, I rule that this matter proceed to trial on the issues raised by the Claimant and those by the Execution Creditor, with the Claimant Mr. Ashford Cole as the defendant, and the Execution Creditor Steven Steel Supply as the Claimant, costs to the Claimant to be agreed or assessed. Matter is adjourned to the June 2003 Civil list for trial.


Frederick Bruce-Lyle
HIGH COURT JUDGE