

SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

CLAIM NO. SLUHCV2001/0422

BETWEEN:

MILDRED SAMUEL

Claimant

and

ADRIAN DOLCY

Defendant

Appearances:

Mr. Richard Frederick for the Claimant. With him is Ms. Lydia Faissal
Mrs. Wauneen Louis-Harris for the Defendant

2003: May 22, 23, 27
June 16

CONSTRUCTIVE OR RESULTING TRUST...COMMON LAW RELATIONSHIP...COMMON
INETNTION...EXPRESS OR IMPLIED...WHETHER CLAIMANT ACTED TO HER DETRIMENT

JUDGMENT

1. **HARIPRASHAD-CHARLES J:** Mildred Samuel and Cornelius Eustace Dolcy, now deceased lived together in a common law relationship for about 12 years until his untimely death on 28th March 2001 at age 52. About two weeks prior to his death, he made a notarial will bequeathing all of his movable and immovable properties to his three children, Marlon, Chanel and Phyllis Dolcy. This included the property at Tapion (land and building) in which the deceased and Ms. Samuel resided prior to his death. Shortly after his death, Adrian Dolcy (the defendant), in his capacity as Executor of the will of the deceased attempted to evict Ms. Samuel from the house. She successfully obtained an injunction to remain there. Subsequently, she instituted these

proceedings claiming a half-share in three properties registered solely in the name of the deceased namely:

- House and land situate at Tapion registered in the Land Register as Block 0649E Parcel 16.
 - Land situate at Morne Fortune registered in the Land Register as Block 0847C Parcel 143.
 - Land situate at Choiseul registered in the Land Register as Block 0223B Parcel 190.
2. Some background facts are essential to put the case in its proper perspective. Most of what I now outline reflects uncontradicted and unchallenged evidence of the parties. To the extent that there is a departure from any agreed facts, then what is expressed must be taken as positive findings of fact made by me.

Background Facts

3. Cornelius Eustace Dolcy (the deceased) married Andrea Gustave whilst pursuing his Bachelor of Sciences degree at the Bristol Polytechnic in England. Two children, Marlon and Chanel were born out of that relationship. After completion of his studies in 1977, he became gainfully employed in England at the Firm of Denis, Tyrell and Partners as a Quantity Surveyor. He then proceeded to Nigeria where he worked for 4 years. In 1987, he returned to St. Lucia. His wife and children stayed behind. From all accounts, the marriage appeared strained as it was finally dissolved in 1998.
4. In St. Lucia, the deceased worked as a Quantity Surveyor at the Central Planning Unit of the Government of St. Lucia from 1987 to 1989. In 1989, he formed the partnership of Skinner, Harper and Dolcy. It remained a viable business entity for years. In or about 1995, the partnership was dissolved. Otneb Consultancy Company was established in its place with the deceased being the majority shareholder. His younger brother, the defendant and Mr. Vincent Campbell were minority shareholders.
5. In 1987, the deceased became romantically involved with Catherine Trim and on 15th July 1988, a daughter, Phyllis was born out of that relationship. He also met Mildred Samuel in or

about 1987. She was a student at Sir Arthur Lewis Community College. They became lovers. This resulted in the breakup of his relationship with Catherine in December 1987. In 1989, Ms. Samuel having just completed her studies at the College, moved in with the deceased. They cohabited at his father's home at Lanse Road, Castries. In 1993, both parties moved into the property at Tapion which Ms. Samuel alleged was constructed by their joint efforts and which is the main subject matter of these proceedings. Ms. Samuel claims a half share in two other properties at Morne Fortune and Choiseul respectively. I think that I can dispose of these properties quickly and concentrate on the main subject matter (the Tapion property).

Land at Morne Fortune

6. Ms. Samuel claims a half share in this property. She based her claim on the fact that since she assisted in setting up the deceased' business which turned out to be successful, therefore she is entitled to a beneficial interest in all properties acquired as a result of that success.
7. The defendant, Adrian Dolcy is the brother and the executor of the will of the deceased. For some unexplained reason, he never spoke of this parcel of land at Morne Fortune registered as Block 0847C Parcel 143. The property is registered in the sole name of the deceased.
8. The evidence reveals that the deceased purchased the land in April 1989, some months prior to the establishment of the Partnership of Skinner, Harper and Dolcy. The deceased paid the full purchase price. Ms. Samuel was still a student at the Sir Arthur Lewis Community College when the land was purchased. She has provided no evidence to show that she contributed, whether directly or indirectly to the acquisition of this parcel of land. I fail to see how she could claim any beneficial interest in it, much less a half share. I therefore hold that Cornelius Eustace Dolcy is the sole owner of a parcel of land at Morne Fortune registered as Block 0847C Parcel 143.

Land at Choiseul

9. The land at Choiseul registered as Block 0223B Parcel 190 was bought in 2001 shortly before the deceased sadly passed away. It is registered in his sole name. He bought the land from a long time friend, Claude Auguste.

10. Ms. Samuel claims a half share in this property on the basis that the land was purchased by the use of funds of the Company and as such, she is entitled to a beneficial interest in this property. She alleges that the deceased held the property on a resulting as well as constructive trust for her. I shall deal with the two concepts later on. For the time being it is convenient to state that they are very similar in nature. In *Hussey v Palmer (1972) 1 WLR 1286*, Lord Denning had this to say:

“Although the plaintiff alleged that there was a resulting trust, I should have thought that the trust in this case, if there was one, was more in the nature of a constructive trust: but this is more a matter of words than anything else. The two run together. By whatever name it is described, it is a trust imposed by law whenever justice and good conscience require it. It is a liberal process, founded upon large principles of equity, to be applied in cases where the legal owner cannot consciously keep the property for himself alone, but ought to allow another to have the property or the benefit of it or a share in it.”

11. Such a trust may arise at the outset when the property is acquired, or later on, as the circumstances may require. Where a claimant proves that he or she has made a substantial contribution to the acquisition or improvement of property in circumstances from which the court may reasonably infer a common intention on the part of the legal owner of the property by reason of that contribution, the legal owner will be deemed to hold the property on an implied, constructive or resulting trust in favour of the claimant to the extent of the claimant's contribution. Such a trust is established merely by proof of the substantial contribution and the common intention.

12. In respect of this property, Ms. Samuel stated that she used to accompany the deceased to the property and she played an active role in its acquisition. Not much was said about this property in her witness statement except that it was acquired by joint efforts and that she instructed the Secretary to write the cheque to pay off Mr. Auguste for the land. Mr. Claude Auguste was called to give evidence on behalf of the defendant. He stated that after his return from England, he commenced the Inner Circle Development which was primarily concerned with sale of land. He borrowed \$6,000.00 from the deceased and he always intended to return it to him. The deceased later decided to use the funds as a deposit for the land in dispute. On a couple of

occasions, Ms. Samuel accompanied the deceased to visit the property but it was the deceased who indicated which of the lots he wanted to purchase and what size he wanted. Ms. Samuel made no contributions or suggestions. On or about 2001 at which time the deceased became seriously ill, Mr. Adrian Dolcy completed the transaction on behalf of his brother. On the date of the funeral, Ms. Samuel approached him and asked him for details of the land which he willingly provided.

13. There is no evidence that all of the money for the purchase of the land came from the Company. And even if it did, I cannot see the basis for Ms. Samuel's claim. In my opinion, she made no substantial contribution to the acquisition or improvement of the parcel of land. She claims that she was responsible for the success of the company and as such, she is entitled to an interest in all assets acquired as a result of the success of the company. There is documentary evidence to show that Ms. Samuel was handsomely paid a monthly salary for part-time services rendered to the company even when she was studying overseas. At the same time, she held decent full-time jobs with reputable companies and presumably, her salary was solely hers. She left to pursue a Masters in Business Administration in England in August 1999. Shortly before she left, the deceased was diagnosed for cancer. It came as a shock to everyone because he was a relatively young man. She nevertheless left leaving her family to take care of the deceased. I do not think that he was happy about her departure. After all, this must have been the time he needed her most. She returned in December 2000. In my opinion, the relationship started dwindling from August 1999. It could not be as harmonious as she claims. This could well have triggered his decision to omit her as a beneficiary under his will.

14. Mr. Frederick submitted that Ms. Samuel's role in the Company was pivotal. I think that her contribution to the business was modest when compared to that of the deceased but was not irrelevant or meaningless. The deceased was the driving force behind the company. He steered the Company to success. He was there all the time. He worked hard.

15. As I have already stated, Ms. Samuel was fairly and adequately compensated for the services she rendered to the Company. I cannot conceptualize why she feels that she is entitled to all

the assets of the Company. Every employee is paid for a job well performed. She is not a shareholder of the Company.

16. In my judgment, Ms. Samuel has not made a substantial contribution to the acquisition or improvement of the property in circumstances from which the court may reasonably infer a common intention on the part of the deceased by reason of that contribution. I therefore hold that Cornelius Eustace Dolcy is the sole owner of the parcel of land at Choiseul registered as Block 0223B Parcel 190.

Property at Tapion (Land and Building)

17. The main dispute in this case relates to the property at Tapion. The defendant alleges that his deceased brother purchased the land in 1992 solely from his own funds and that shortly thereafter, the deceased constructed a building on the land by means of a mortgage in the sum of \$250,000.00. The mortgage was in the sole name of the deceased and was secured against a life insurance policy in the deceased's name obtained from Barbados Mutual Insurance. The deceased paid the entire mortgage repayments with no direct contributions from Ms. Samuel. The defendant next alleges that Ms. Samuel is not entitled to any interest in this property because there was never a joint decision between the parties to build a three-storey building as Ms. Samuel was abroad furthering her education at the time the land was purchased and the building was constructed. He stated that the decision to build a three-storey building was made solely by the deceased and came as a result of the sloping topography and due to the fact that the excavation of the land had proven costly. He also alleges that he advised the deceased to optimize use by building an additional floor similar to his house where the topography considerations were similar.

18. Ms. Samuel claims a beneficial share in the property on two grounds:
 - (a) That there was an agreement by the deceased that she will have a beneficial interest in the property and in reliance on the agreement, she significantly altered her position to her detriment and
 - (b) That she made indirect substantial contribution to the acquisition of the property.

19. Ms. Samuel alleges that despite her absence from St. Lucia when the building was being constructed, she contributed substantially to its acquisition. She alleges that upon agreeing to construct the building, she informed the deceased that since she was studying overseas at the time, she would seek the assistance of her family to make a tangible contribution on her part, being fully aware that her two brothers, Vercern and Luther Samuel and a nephew were into construction. She next alleges that her sister, Vela who was employed at M & C at the time was able to purchase materials at a discounted rate because she was a member of staff.
20. It is undisputed that the land is registered in the sole name of the deceased. He bought it in April 1992 from the Urban Development Corporation. This was about 3 years after the parties entered into a common law relationship. In the said year, the deceased constructed a three-storey building on the said land. The building comprised the dwelling house, his office and three rental apartments. It is also undisputed that during the period of the construction of the building, Ms. Samuel was not in St. Lucia. She left in 1990 to pursue a three-year degree in Management Systems at Hull University, England. She was an island scholar. Her scholarship entitled her to free tuition, books, boarding and accommodation. She returned to St. Lucia in July 1993. Upon her return, the three-storey building was already constructed. In fact, the deceased and one of Ms. Samuel's sister, Vela Samuel had comfortably installed themselves in the new house. Upon her return, Ms. Samuel joined Vela and the deceased and they all began living together.
21. The evidence reveals that Mr. Emmanuel Auguste was the principal contractor who was employed to undertake the construction of the building. The defendant who is a qualified civil engineer provided engineering expertise gratuitously and Mr. Claude Auguste did the plumbing. Ms. Samuel's two brothers and other workers from Ti Rocher, Micoud assisted in the construction of the building by doing all of the masonry work and tiling. I believe that they were paid a lower wage rate than the regular worker and all this was done in order to assist their sister. I accept Ms. Samuel's evidence that she used some of her maintenance allowance from her scholarship to help furnish the dwelling house and that many items were purchased in London and shipped to St. Lucia and that she contributed to the overall general expenses

associated with the running of a home. In addition, she purchased a refrigerator, washing machine, stove and other household items for the home.

22. In 1989, when the Partnership of Skinner, Harper & Dolcy was formed, Ms. Samuel was working at the National Commercial Bank. She worked there for a year before she went off to study. I believe her testimony that after work and during her leisure, she performed accounting and administration duties for the Company. After all, it was a newly established company and she possessed the necessary skills. She prepared the initial letter/ introductory memorandum, which was distributed to a range of potential clients in St. Lucia. She assisted in putting systems in place and setting up the office at Vide Bouteille where the Partnership operated for some time before changing location. The Partnership was dissolved sometime in 1995. From the Notice of change of directors, it appeared that Otneb Consulting Limited was incorporated the same year as it bore the Registration No. 101 of 1995. Ms. Samuel continued to provide valuable accounting services to the company even though gainfully employed. The evidence of several witnesses including Ms. Velita Edward (a witness for the defendant) bear testimony to the fact that Ms. Samuel assisted significantly in the success of the business ventures of the deceased. I also prefer the evidence of Ms. Samuel to that of Mr. Adrian Dolcy. He was more shifty and inconsistent in his evidence. This was especially evident during cross-examination. I am of the view that Mr. Dolcy is well aware of Ms. Samuel's contribution to the business but the acrimony is too intense to think rationally and reasonably. He maintains that Ms. Samuel has not contributed to the acquisition of the home. He denies ever seeing Ms. Samuel's brother on the construction site even though other defendant's witnesses testified that the brothers assisted in the construction.

23. In light of the above, the question is whether Ms. Samuel is entitled to a beneficial interest in the property at Tapion and if so, what is the extent of her beneficial interest therein.

24. There is no dispute in this case about the principles of law to be applied in determining whether, in the absence of an express agreement, the claimant has a beneficial interest in the property at Tapion. They are the same as in English law: see Article 916A (2) of the Civil Code of St. Lucia. These principles were explained in *Gissing v Gissing (1971) AC 886, 904-910* by

Lord Diplock; see also *Grant v Edwards (1986) Ch. 638*. The question in *Gissing v Gissing* was whether a wife had a beneficial interest in the matrimonial home which had been purchased during the marriage in the name of the husband only. But the principles which that case identified are not confined to situations where the parties are married to each other when the property was acquired. As Lord Diplock explained at p 904H, they are of general application and can be applied to any case where a beneficial interest is claimed by a person, whether spouse or stranger, in whom the property is not vested. The question in all these cases is whether a common intention can be inferred from the parties' conduct as to how the beneficial interest is to be held. The relevant intention is that which a reasonable person would draw from the parties' words or conduct. It is for the court to determine what inferences can reasonably be drawn, and each case must depend on its own facts. Where the most likely inference from the parties' conduct is that the beneficial interest was not to belong solely to whom the legal title is vested, the court must determine what in all the circumstances is a fair share.

25. Further guidance is to be found in *Grant v Edwards et al (1986) Ch. 638 at page 654*, Sir Nicholas Browne-Wilkinson V.C. declared:

"If the legal estate in the joint home is vested in only one of the parties (the legal owner) the other party (the claimant), in order to establish a beneficial interest, has to establish a constructive trust by showing that it would be inequitable for the legal owner to claim sole beneficial ownership. This requires two matters to be demonstrated: (a) that there was a common intention that both should have a beneficial interest; (b) that the claimant has acted to his or her detriment on the basis of that common intention."

26. *Nourse LJ* at p 648G-H said that this requires there to have been conduct on which the claimant could not reasonably have been expected to embark unless she was to have an interest in the property.

27. Lord Bridge of Harwich puts it this way in *Lloyd's Bank PLC v Rossett (1990) 1 All ER 1111 at page 1118*:

"The first and fundamental question which must always be resolved is whether, independently of any inference to be drawn from the conduct of the parties in the course of sharing the house as their home and managing their joint affairs, there

has at any time prior to acquisition, or exceptionally at some later date, been any agreement, arrangement or understanding reached between them that the property is to be shared beneficially. The finding of an agreement or arrangement to share in this sense can only, I think, be based on evidence of express discussions between the partners, however imperfectly remembered and however imprecise their terms may have been. Once a finding to this effect is made it will only be necessary for the partner asserting a claim to a beneficial interest against the partner entitled to the legal estate to show that he or she has acted to his or her detriment or significantly altered his or her position in reliance on the agreement in order to give rise to a constructive trust or proprietary estoppel."

28. See also: *Stoeckert v Margie Geddes (Jamaica) Privy Council Appeal No. 66 of 1998*.

29. In the instant case, it is accepted that Ms. Samuel did not make any direct financial contribution towards the acquisition of the property. It is also accepted that she was not responsible for the mortgage repayments. However, there is enough evidence to support the finding that Ms. Samuel made substantial indirect contributions to the acquisition and improvement of the property. He assisted substantially in the business especially during the formative years of its incorporation. The parties were lovers. They were a team. She helped him with the accounting and administrative aspects of his business. He became very successful. As a result, he handsomely rewarded her and her family. They lived comfortably and went on several holidays together. After all, they were "man and wife."

30. Undoubtedly, Ms. Samuel was led into believing that there was a common intention that both herself and the deceased would have a beneficial interest in the property and as such, she acted to her detriment on the basis of that common intention. With that belief well rooted in her mind, she set out to purchase a parcel of land at Cap Estate for \$117,876.00. The land is registered in their names. The deceased paid the initial deposit of approximately \$10,000.00. She has been solely responsible for the monthly loan repayments on this property and continues to service the said loan up to today. I think that a common intention can be reasonably inferred and Ms. Samuel was led by the deceased to believe that the said property was for their joint benefit and she acted on those assurances to her detriment and to the deceased's benefit by utilizing her accounting and administrative expertise to his benefit and permitting her family to assist with the masonry and tiling of the property. She also acted to her

detriment by allowing him to hold a joint share in the Cap Estate property as she continues to pay the monthly loan repayments. I therefore hold that Ms. Samuel has rendered these services and done acts in reliance of a common intention that she would have a beneficial interest in the Tapion property.

31. The more difficult question which remains is: what is the extent of Ms. Samuel's interest?

32. Mr. Frederick submitted that Ms. Samuel is entitled to the entire property on principle of joint tenancy. The four unities of possession, interest, title and time must be present for a joint tenancy. In my respectful judgment, the principle of joint tenancy does not apply to the present situation.

33. Ms. Harris maintained that Ms. Samuel is not entitled to any share of the Tapion property. The gist of her argument is that the deceased was a successful Quantity Surveyor who assisted not only Ms. Samuel but her entire family. Counsel submitted that Ms. Samuel and her family abused the kindness and generosity of the deceased. He wanted them to leave the property but they all refused to including Ms. Samuel. Counsel next submitted that Ms. Samuel was overpaid for the minimal assistance she gave to the business ventures of the deceased.

34. In the instant case, I am aware that Ms. Samuel is paying the monthly loan repayments on the land at Cap Estate of \$1,491.55. As of 7th May 2002, there was an outstanding balance of \$74,519.22. I am also aware that she sold the Toyota Prado for \$85,000.00 in order to pay off the outstanding arrears of \$86,129.35 on that vehicle which should have been paid by the Company. She should be reimbursed that sum of money. I have taken it into consideration in determining her interest in the Tapion property.

35. It is not clear from the evidence the proportion of contribution made by the parties. It seems therefore that the principle of "equality is equity" should be applied. See: *Redhead v Redhead* (1982) *OECS Law Reports, Volume 2, 311* and *Stout v Stout* [Civil Appeal No. 10 of 1994] [unreported] *British Virgin Islands*.

36. On the issue of quantification, the following passage in *Lord Diplock's* speech in *Gissing v Gissing*, at page 792 provides useful guidance:

"I take it to be clear that if the Court is satisfied that it was the common intention of both spouses that the contributing wife should have a share in the beneficial interest and that her contributions were made on this understanding, the court in the exercise of its equitable jurisdiction would not permit the husband in whom the legal estate was vested and who has accepted the benefit of the contributions to take the whole beneficial interest merely because at the time the wife made her contributions there had been no express agreement as to how her share in it was to be quantified. In such a case the court must first do its best to discover from the conduct of the spouses whether any inference can reasonably be drawn as to the probable common understanding about the amount of the share of the contributing spouse on which each must have acted in doing what each did, even though that understanding was never expressly stated by one spouse to the other or even consciously formulated in words by either of them independently. It is only if no such inference can be drawn that the Court is driven to apply as a rule, and not as an inference of fact, the maxim "equality is equity" and to hold that the beneficial interest belongs to the spouses in equal shares."

37. From what I have said, this was a case of joint enterprise by both parties, each making his or her contribution. It cannot be said that the evidence is clear and the amount of their contributions can be precisely quantified. In such a case, I will apply the maxim "equality is equity".

38. I would therefore declare that Ms. Samuel and the deceased (his estate) are entitled to a one-half share in the property at Tapion.

The Counterclaim

39. The defendant counterclaimed against Ms. Samuel for damages in respect of the following:

- (1) That the Claimant renders an account of the rents received from the property situate at Tapion
- (2) Special damages of \$27,479.27
- (3) General Damages
- (4) Aggravated and exemplary damages
- (5) Damages for loss of use of the vehicle Registration No. 6520.
- (6) Recovery of the said vehicle estimated at a value of \$80,000.00.
- (7) Recovery of the files and diskettes belonging to Otneb Consultancy Limited or the value thereof.

- (8) Damages for loss of use and occupation of the premises located at Tapion to the exclusion of the beneficiaries of the estate of the deceased named therein.
- (9) Interest on damages awarded pursuant to Article 1009 A of the Civil Code.
- (10) Costs.

Rents

40. Mr. Dolcy alleges that Ms. Samuel is unlawfully receiving rents from the rental of the property at Tapion and as a consequence, he seeks an order for Ms. Samuel to render an account of the rents received. Except for this bare allegation, Mr. Dolcy proffered no other evidence as to whether or not the apartments are indeed being rented. I will however made an order that Ms. Samuel do provide to the defendant, Mr. Adrian Dolcy a monthly account of all rents collected from the rental of the property at Tapion so that the said rents could be apportioned equally between her and the estate of the deceased.

Special Damages

41. Mr. Dolcy claims special damages of \$27,479.27. It is alleged that Ms. Samuel wrongfully misappropriated a cheque for the sum of \$12,839.47 issued to the deceased which cheque was deposited on the account of Ms. Samuel at Bank of St. Lucia. It is further alleged that she wrongfully made purchases totaling \$4,154.51 on the credit card in the name of the deceased and made extensive use of the cellular mobile phone registered in the name of the deceased from the period commencing 31st July 2001 until 7th August 2001 in the sum of \$10,485.29.

42. Mr. Dolcy could not provide concrete evidence to substantiate any of these allegations. He admitted that he made assumptions in relation to the credit card and cellular phone of the deceased. In respect of the cellular phone, the calls were made when the deceased was not in St. Lucia. The popular legal adage of "he who asserts must prove" still holds good. I will therefore dismiss this claim.

The Toyota Prado

43. It is alleged that Ms. Samuel wrongfully and unlawfully took possession of the Toyota Prado following the demise of the deceased. It is next alleged that Ms. Samuel fraudulently registered herself as jointly owning the vehicle with the deceased and wrongfully benefited from the use.

As a consequence, Mr. Dolcy claims the sum of \$80,000.00 for recovery of the vehicle and loss of use of the vehicle.

44. It is undisputed that the vehicle was financed by a loan from Barclays Bank by Otneb Consulting Limited. It is also undisputed that the Company paid the monthly loan of the vehicle and then stopped the monthly payments to the Bank shortly after the deceased died. The vehicle was registered in the joint names of Ms. Samuel and the deceased. When the Company stopped paying the monthly loan on the vehicle, the Bank contacted Ms. Samuel. As a result, she sold the vehicle for \$85,000.00 in order to pay the arrears which had crept to \$86,129.35. I agree with Mr. Frederick that she did so in good faith. I am rather surprised that Mr. Dolcy would be so presumptuous to seek to recover the value of the vehicle as well as loss of use. It should have been the other way around. In any event, I have included this figure in favour of Ms. Samuel in arriving at the extent of her beneficial interest in the Tapion property.

45. Some other ancillary issues were raised in the counterclaim. At the trial, these issues were not canvassed. I came to the conclusion that good sense prevailed.

Conclusion

46. For the reasons above, my order will be as follows:

- (1) That the land at Morne Fortune and Choiseul be declared the sole properties of the estate of the deceased, Cornelius Eustace Dolcy.
- (2) That the land at Cap Estate be declared to be the property of both the claimant, Mildred Samuel and the estate of the deceased in equal shares and that Ms. Samuel is to continue to pay the monthly loan repayments until the property is fully paid.
- (3) That the claimant, Mildred Samuel is entitled to a half share in the dwelling house and land situate at Tapion registered in the Land Register as Block 0649E Parcel 16.
- (4) That the said Mildred Samuel do provide to the defendant, Mr. Adrian Dolcy a monthly account of all rents collected from the rental of the said property at Tapion

so that the said rents could be apportioned equally between her and the estate of the deceased.

- (5) That a Quantity Surveyor/ Valuer to be agreed upon by the parties be appointed to view and value the dwelling house at Tapion so that the market value could be ascertained, upon which either party may choose to purchase the other party's half-share.
 - (6) The counterclaim is dismissed.
 - (7) That each party bear his/her own costs.
47. I feel impelled to state that this is an unfortunate case which could have been amicably resolved if acrimony and selfishness had not raised their ugly heads. I do hope that the intense bitterness which was so profound during this trial would be soon forgotten as all parties will have to work together to seek to implement this order.
48. Lastly, I would like to commend both Mr. Frederick and Mrs. Harris for their sterling presentation and immeasurable assistance to this Court. For this, I am indeed grateful.

INDRA HARIPRASHAD-CHARLES
High Court Judge