

SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.: 436 OF 2001

BETWEEN:

**VINCENT BERTRAM SLATER
By His Attorney on Record
HYACINTH HARRY**

Claimant

v

CHARMLEY MATTIS

Defendant

Appearances:

Mr. Cecil Williams for the Claimant

Mr. Emery Robertson for the Defendant

2003: November 11

2004: April 7

JUDGMENT

[1] **BLENMAN, J:** Mr. Vincent Bertram Slater (Vincent Slater) seeks a declaration that he is the owner of a parcel of land located at Retreat Village, Vermont in the State of St. Vincent and the Grenadines as reflected in a Deed of Conveyance No. 1803 of 1992 (the Vermont land). He requests an injunction to prevent Mr. Charmley Mattis from trespassing on the land and ordering him to vacate the house which is located on the land, together with damages. Mr. Charmley Mattis counterclaims against him that his purchase of the land was unlawful and he seeks a declaration that the Estate of Terry Mattis is the owner of the land. He requests that Vincent Slater's action be dismissed with costs.

- [2] The Vermont land was formerly owned by Terry Mattis deceased who died intestate Lucelle and Lolita Durrant (the Durrants) were appointed Administracies of the Estate of Terry Mattis by virtue of Grant 123 of 1988. Charmley Mattis is his son.
- The Durrants sold the Vermont land to Mr. Vincent Slater, whose sisters Hyacinth Harry and Bernadette Slater acted as his agents and carried out the sale since he resided in the United States of America. A Deed of Conveyance No. 1803 of 1992 was issued to Mr. Slater in relation to his purchase contends that he took possession of the property thereafter.
- [3] Charmley Mattis disputes that Mr. Vincent Slater owns the property since the Durrants were not lawfully entitled to sell the property to him. Charmley Mattis is in possession of the house and refuses to vacate it despite the repeated requests by Mr. Vincent Slater. He avers that the Durrants improperly obtained Letters of administration to Mr. Terry Mattis Estate and illegally sold it to Mr. Slater. He counterclaims that the property still belongs to the estate of Terry Mattis deceased and seeks to have the sale by the Durrants to Mr. Slater declared a nullity.
- [4] The case for each party was presented through witness statements and oral testimony. Mr. Vincent Slater testified on his own behalf and called three witnesses in support of his case, that he is the fee simple owner of the Vermont land.
- Mr. Charmley Mattis filed a witness statement and testified on his own behalf. He called his uncle Mr. Henry Bushay as his sole witness. Mr. Bushay filed a witness statement and gave oral evidence.
- [5] The issue for the Courts determination is whether or not Mr. Vincent Bertram Slater owns the Vermont land. Alternatively whether Mr. Charmley Mattis is trespassing on the Vermont land which belongs to Mr. Vincent Slater.
- [6] **Claimant's Case**
- Hyacinth Harry and her sister Bernadette Slater filed witness statements in which they both stated that in 1992 they purchased the Vermont land on behalf of their brother

Vincent Slater. At the time of the purchase their brother lived in the United States of America and had told them of the impending sale by the Durrants. They knew the Durrants very well. The Durrants sold the Vermont land in their capacities of Administracies of Terry Mattis' Estate. The property consists of land and an old house. Their father Hugh Leonard Slater commenced to cultivate the land but discontinued after Charmley Mattis threatened to injure him. Charmley Mattis was not living on the land at the time of purchase but in 1993 moved into the house. They instructed Mr. Donald Browne, Solicitor to write him and request that he vacates the house. He vacated the house at Vermont but re-entered sometime in 1993 and still occupies the house. Charmley Mattis has unlawfully cut down fruit trees from the land.

[7] **Bernadette Slater**

Ms. Bernadette Slater testified that Charmley sold some of the windows from the house, which was in a state of disrepair, without the permission of Mr. Vincent Slater. Charmley Mattis threatened her once with a cutlass when she visited the land and fearing for her safety she left the land. Charmley Mattis who was a Rasta, originally lived elsewhere. The land was sold at a cheap price, it was Vincent Slater who telephoned her to tell her that he had learnt that Terry Mattis land was for sale and requested that she investigated on his behalf. She knew that Charmley Mattis, no longer lived with his father before Terry Mattis death. At the time of the sale, Charmley Mattis was not living in the house since it had no bed, chair, door or window. She reiterated that Charmley was not living with Terry Mattis at the time of his death neither at the time of her brother's purchase, since she visited to the land several times after the purchase and never saw Charmley there until about one year and a half after, when he threatened her. The house originally had woodlice and was uninhabitable. Recently, Charmley did some repairs to it, and is in occupation of the house.

[8] **Hyacinth Harry**

Hyacinth Harry said that when she and her sister purchased the land on behalf of their brother, Vincent Slater, Charmley Mattis was not living in the house which was in a state of disrepair Charmley subsequently entered the house and sold the windows which he

replaced with boards. In cross examination she stated that before Terry Mattis died he lived with Ms. Durrant with whom he had children. She was adamant that Charmley was not living there at that time since before his father died there was a fall out between Charmley and his father and he had to leave the house. Terry Mattis had other children but she did not know whether he had made a Will. She bought the property through Mr. Donald Browne, Solicitor who advised her that in the sale he was acting on behalf of Terry Mattis' wife, his common-law wife and children. Much was made of the fact that Charmley Mattis paid to bury his father, Ms. Harry was adamant that she had no knowledge of this information.

[9] She knew the late Terry Mattis very well and was aware that a part of Terry Mattis' Estate was already divided up and Charmley had received his share of the estate. He got the shop and had received the money from the sale of Terry Mattis' animals. Mr. Browne had never told her there was a dispute surrounding the property when she purchased the land on behalf of her brother. The property was valued for estate purposes at \$95,000. She was able to beat down the price from \$95,000 to \$70,000 the latter sum she and her sister paid on behalf since the house was not livable. She maintained that she visited Vermont almost everyday to see her Dad and she used to visit the land to pick fruits after they had purchased it. Vagrants used to occupy the house, after the purchase, they obtained the assistance of the police to remove them out of the house.

[10] **Vincent Bertram Slater**

Vincent Bertram Slater stated that he is the owner of the Vermont land Village, in Vermont having purchased it from Lucelle Durrant and Lolita Durrant (the Administracies of the Estate of Terry Mattis. Grant No. 123 of 1988 was given to them on the 14th September 1988 and they conveyed the land to him by virtue of Deed No. 1803 of 1992. He has lived in the United States of America for over 31 years and learnt of the property which became for sale on Mattis' death, while he was on the United States of America. He told his sisters and they transacted the sale on his behalf with his money. His father Leonard Hugh Slater and his sisters cultivated the land in his absence. He requested his

sisters in 1993 to contact Mr. Donald Browne Solicitor to write Charmley Mattis advising him to leave the house which Charmley Mattis did but re-entered it and have threatened his father and sisters with violence. He purchased the property honestly and without any notice of Mr. Charmley Mattis' claim to the property Charmley Mattis occupies the house at Vermont without his possession.

[11] In cross examination he stated that he never saw the valuation for the property. His sister spoke with the Lawyer before the sale. When he purchased the land in 1993, Charmley was not living there. He came home to St. Vincent in 1993 after he had purchased the land and at that time there were no doors, windows or galvanized on the roof of the property.

Terry Mattis had children but he did not know Charmley. He returned to St. Vincent in 1993 and spent a month. Before he bought it he had not seen it recently since before 1993, the last time he was in St. Vincent in 1978. His sister Hyacinth was his Attorney on record. The house was not in good condition. He bought the property for \$70,000 but did not consider it a steal. In the documents attached to the Letters of Administration of Terry Mattis' estate it was valued at \$95,000. He did not know Lolita or Lucelle Durrant, his sisters conducted the transactions on his behalf. He did not know the terms of their Letters of Administration. He was sure that the house is in bad condition but he was not visited the house since he returned to St. Vincent and the Grenadines a few days before the trial.

[12] He was given possession of the house when he bought it even though no one lived in the house since it was not livable. In re-examination he stated that he has not visited the house since his return recently because of Charmley's violent behaviour towards his father and sisters. He considers \$70,000 a fair price and when he bought the land he did not know that anyone was claiming it. He denied ever speaking to Mr. Henry Bushay about the land.

DEFENDANT'S CASE

[13] **Charmley Mattis**

Charmley Mattis filed a witness statement and gave oral evidence. He stated that he is the son of Terry Mattis deceased. His father lived with Lucelle Durrant and they had three children. She left his father with the three children and he helped his father to take care of his siblings. He lived with his father at the Vermont land from his birth until his father's death for some 38 years continuously. He has only left the premises for a short time to visit his aunt. He cultivated the land for several years but did not cut down trees. He concedes that in 1994 and 2001 that he received a letter from Mr. Donald Browne requesting that he leaves the land but states that he has refused to vacate since he was unaware that the land was sold. On the 13th May, 1998, the Grant that Lucelle and Lolita Durrant obtained was revoked by virtue of a default judgment in Suit No. 215 of 1996. He has applied for Letters of Administration to Terry Mattis' Estate. He admits that he knows both Hugh Slater and Mr. Bertram Slater.

[14] In cross examination he stated that when his father died he was a Rasta. He lived with his father until his death and had never left the house. Ms. Lucelle Durrant and her children also lived in the house during the time. He denies that his father had even thrown him out of the house and reiterated that he is a farmer who cultivated his father's land. He never saw Hugh Slater on the Vermont land and was unaware of the sale of the land until he received a letter from Mr. Donald Browne in 1994. Hugh Slater lives about 70 yards away from the property. He denied that he threatened Mr. Hugh Slater or Mr. Bernadette Slater in fact he had never seen them on the land. He saw them in Vermont but during 1992 – 1993 but he never saw them in Vermont. He saw them at other times. He denied knowing that Mr. Emery Robertson acted as Solicitor for Ms. Lucille Durrant in 1987, in Mr. Terry Mattis' Estate.

[15] He was unaware that Ms. Lucelle Durrant was granted Letters of Administration of his father's estate until he received the letter from Mr. Donald Browne in 1994; this is when he learnt that Mr. Vincent Slater was claiming the land. After vigorous cross examination he conceded that sometime he went to the mountain where he has a hut and farmed in

the mountain. He maintained however that it was not true that he spent anytime living in the mountain away from the land. He maintained that he lived in the house continuously without interruption from birth.

[16] **Henry Bushay**

Henry Bushay is Charmley Mattis' mother's brother. He is 70 years old. He stated that Terry Mattis deceased owned lands at Vermont. He also knew Hugh Slater very well. Hugh Slater told him that he bought the property at Retreat for \$70,000. He told him that the land could not sell for that price as a result he contacted Mr. Matadial, a lawyer who advised him to contest the sale. Charmley Mattis lived with his father from birth until his father's death. He saw Mr. Hugh Slater subsequently and told him that if the land were to be sold for \$70,000 that he would purchase it for Terry Mattis' children. He chased Mr. Slater off the land after he was told by Slater that he had bought the land and that he was going to put Charmley out of the house. He also spoke to Mr. Bertram Slater about the land.

[17] He stated, in cross examination, that he saw both Hyacinth Harry and Bernadette Slater whom he knew very well, very often when they visited their father at Vermont. He saw them there regularly in 1992 at Vermont. He knows the disputed land very well and he saw Hugh Slater on the land during the period 1992 – 1993 but that he was not cultivating the land. Terry Mattis deceased who had adult children had put him in charge of the land before he died. Charmley Mattis was around when Terry Mattis put him in charge of the land. At the time of his death, Charmley Mattis lived in the house with his father and his two younger siblings. He states that he is in charge of the Estate. Lucille Durrant was not living with Terry Mattis at the time of his death.

[18] **Defendant's Submissions**

Learned Counsel Mr. Emery Robertson argued that no property passed to Vincent Slater since the Durrants signed in the Deed in their personal capacity and there was no property in that capacity. That the price that Mr. Slater paid for the land was low and the property ought to have been valued recently. The Durrants have a duty to sell the

property at the best available price. They have committed breaches of trust. Mr. Donald Browne acted as Solicitor for both the purchasers and the vendors, accordingly Mr. Vincent Slater must be deemed to have had both actual constructive and imputed notice. Mr. Donald Browne knew of the dispute between Terry Mattis children and therefore Mr. Vincent Bertram Slater would be clothed with Mr. Browne's knowledge. Based on evidence that Donald Browne knew that Charmley Mattis was in actual possession and that Lucelle and Lolita Grant were only given a limited grant and if they wanted to exercise the power of sale they had to get the Court's permission, Mr. Vincent Bertram Slater could not properly acquire title to the Vermont land.

[19] **Claimant submission**

Learned Counsel Cecil Williams argued that Lolita and Lucelle Durrant were the Administracies of Terry Mattis' Estate and were entitled to sell the Vermont lands. Vincent Slater was not aware of any dispute in relation to the property when he purchased it neither was his sisters.

He cannot be deemed to have notice of any improper transaction. He submitted that no evidence was presented to support the contention that Donald Browne acted for Gwendolyn Mattis and challenged the validity of the Administrators Grant. Mr. Slater had no constructive actual or imputed notice of any breaches by Mr. Donald Browne. His sisters neither had any personal knowledge. He opined that when Mr. Slater bought the property Mr. Charmley Mattis was not living there so Mr. Slater could not be held to have notice of that which did not exist. Mr. Donald Browne sent the notice to Charmley Mattis requesting him to leave the property after Mr. Slater had purchased it. He asserted that on the absence of any evidence of the revocation of Grant No. 123 of 1998, the Deed of conveyance executed in favour of Mr. Vincent Bertram Slater is valid. There was no notice of any previous Deed or conveyance affecting the property.

[20] **Findings of Fact and Application of Land**

This is a civil action and the standard of proof is on the balance of probabilities. The court is of the view that the evidence of Mr. Bertram Slater's witnesses is more plausible. The facts as I find them are that Mr. Vincent Slater bought Vermont land the property

from the Durrants who were Administracies of the Estate of Terry Mattis. At the time of purchase he did not see the house land but knew it previously. His sisters acting on his behalf paid the purchase price of \$70,000. Charmley was not living in the house at that time. He and father had fallen out and he was living elsewhere at the time of his father's death. Vincent Slater having bought the land allowed his father Hugh Slater and his sister to cultivate it. I was extremely impressed as to the truthfulness of the Slaters.

[21] Mr. Vincent Slater was not aware of any dispute in relation to Terry Mattis Estate. He bought the property bona fide and was given possession of the property. His sisters and father had control over the property after his purchase of it. He would not have bought the land if he knew there was a dispute in relation to the land. Henry Bushay is Charmley Mattis' uncle and he is unhappy that Mr. Vincent State bought the property, based on his demeanour and testimony. There is no evidence before the court that either Vincent Bertram Slater or his sisters were aware of any dispute or competing interests in relation to Terry Mattis Estate; at the time of purchase.

[22] Charmley Mattis used to go to the mountain and was not living in the house which was in a state of disrepair at the time of its purchase. I do not believe that he never saw Mr. Hugh Slater on the land in 1992 Henry Bushay testified to having seen Mr. Hugh Slater there and I believe him. If Charmley Mattis never saw Mr. Hugh Slater on the land the only plausible reason is because he was not living at Vermont at the time. Charmley Mattis having received the first letter from Mr. Donald Browne left the house but re-entered it after he was advised to do so. Having heard the evidence and viewed his demeanor, I have absolutely no doubt that he threatened and chased both Hugh Slater and his daughter from the land with a cutlass and cut down the trees.

[23] Charmley Mattis expects the Court to believe that he lived in his father's house all of the time after his death and took care of his younger siblings yet he never saw the Slater's on the land. The Court rejects his testimony. The Court is of the view that he did no see Mr. Hugh Slater who lived only 70 yards away on the land initially because Charmley Mattis was not always living there at that time. He was not in uninterrupted exclusive

possession of the property for over 12 years as he would have the Court believe. He re-entered the house at Vermont after Mr. Vincent Slater had purchased it.

[24] The Court does not believe the witness Henry Bushay. He was proved to be very hostile and aggressive. I was not impressed with his demeanour. He has the interest of his nephew to protect. I reject his testimony as untrue.

[25] The parties clause of Deed No. 1803 of 1993 indicates that Lolita and Lucelle Durrant executed it in their capacity as Administracies of the Estate of Terry Mattis. Their failure to sign at the bottom of the Deed in that capacity is not fatal. The recitals in the Deed clearly refer to the Estate of Terry Mattis and the Grant No. 123 of 1988. The sale was executed in their capacities as Administracies. There is no evidence before this Court that the Grant has been revoked before the sale of the property.

[26] The Administration of Estates Act Cap. 377 Laws of St. Vincent and Grenadines section 47 provides that upon the death of a person intestate the personal representative holds the real and personal property of the deceased and can sell the real estate as trustee for the estate. The Durrants were issued by the Court with Grant No. 123 of 1998 of the Estate of Terry. They sold the Vermont lands, in their capacities as Administracies, to Mr. Vincent Bertram Slater as stated in Deed Number 1803 of 1992, Section 51 of the Administration of Estate Act, enable them to sell and provides that -

“An assent or conveyance by a personal representative in respect of a legal estate shall, in favour of a purchaser, unless notice of a previous assent or conveyance affecting that legal estate has been placed on or annexed to the probate or letter of administration, be taken as sufficient evidence that the person in whose favour the assent or conveyance is given or made is the person entitled to have the legal estate conveyed to him.”

[27] There is no evidence before the Court that Grant No. 123 of 1998 was revoked even though Mr. Emery Robertson learned Counsel asserted that it was revoked in Suit No.

215 of 1996. Even if this is so, it would have been after the execution of Deed No. 1803 of 1992. I am not of the view that in selling the land at the price of \$70,000 the Durrants acted illegally.

[28] There is no evidence before the court as to the value of the Vermont land. The allegation of collusion or breach of trust in the determination of the purchase price has not been substantiated. Re: Cooper and Allen's Contract for sale Harlech (1876) 4 ChD. 808 at p815-816 Jessel Mr. Stated

"Therefore if they sell at a fair value, judging the fair value in the same way as trustee usually judge what is the fair value, that staking proper advice as to the value, and acting on that advice of course they have committed no breach of trust, nor can the purchaser have any notice of any breach of trust"

Mr. Vincent Slater took possession of the land, having purchased it in 1992, by virtue of the acts of his sister and father having purchased.

[29] **Conclusion**

In the premises I will uphold Mr. Vincent Bertram Slater's claim and dismiss Mr. Charmley Mattis' counterclaim.

[30] Accordingly it is hereby ordered as follows:-

- (a) That judgment be and is hereby entered for Mr. Vincent Bertram Slater on his claim.
- (b) That the counterclaim filed by Mr. Charmley Mattis is dismissed.
- (c) That the Deed of Conveyance Number 1803 of 1992 is valid and by virtue of this deed, Mr. Vincent Bertram Slater is the fee simple owner of the lands described in the Deed.

- (d) That with effect from the 1st June, 2004 Mr. Charmley Mattis is hereby restrained from entering and trespassing whether by himself his servant and/or agents over the lands forming the subject matter of Deed No. 1803 of 1992.

- (e) That the costs of the claim and the counterclaim be paid by Mr. Charmley Mattis to Mr. Vincent Bertram Slater in the sum of \$10,000.

Louise Esther Blenman
HIGH COURT JUDGE