THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CIVIL CLAIM NO324A OF 2002

BETWEEN:

CARDAN KNIGHTS

Claimant

AND

WILMA CHRICHTON
TERRIL CHRICHTON

Defendants

Appearances:
Mr. Carlyle Dougan Q.C. for the Claimant
Ms. Nicole Sylvester for the Defendants

2006: March 1
2007: May 31

JUDGMENT

[1] **BRUCE-LYLE, J** -: On the 25th September 1989 the Defendant Wilma Chrichton leased a portion of land at Jennings Valley, Grand Sable Estate, from the Claimant Cardan Knights for a period of 3 years.

[2] Before the expiration of the three year lease serious differences arose between the Claimant and the Defendant over lease payments. The Claimant forcibly took possession of the said lands at gunpoint. This is in dispute. The Claimant denies this.

[3] It is the Defendant's contention that she was forced to vacate the said lands on the 7th January 1992 in fear of her life. She further contends that since that date the 7th January 1992 she has not entered upon the said parcel of land. She further contends that later in

the year 1992 she became quite ill and suffered a stroke, and from that time is no longer able to work lands and survives on payments from the Government known as poor relief in the sum of $110 per month.

[4] Defendant Terril Chrichton denies ever having anything to do with the said lands from since early 1992 when he claims the Claimant forcibly took possession of the said lands from his mother. His evidence was that before this forcible reoccupation of the lands by the Claimant, he used to help his mother work the said lands, reap the produce and sell to various persons. But from the date the Claimant took over the lands, he has had nothing to do with the said lands.

[5] This matter proceeded to Case Management on the statement of claim filed by the Claimant. On 13th January 2003 as per a Case Management order, it was ordered that the only issue to be considered by the Court at trial was the issue of arrears of rent due. The Claimant in his statement of claim, claimed:-

(1) Possession of six acres of land situate at Jennings Valley, Grand Sable Estate and butted and bounded as follows:-

On the north and south by a river and on the east and west by remaining lands of the Claimant.

(2)	Cost of Survey Plan	-	$3,600.00
(3)	Arrears on Lease	-	$3,000.00
(4)	Yearly rent from March 1993		
	to March 2002 – 9 years @ $4,800		$43,200.00
	TOTAL CLAIM		$49,800.00

(5) Costs

(6) Further or other relief as may be just.

(6) At the trial the Claimant in his viva voce evidence abandoned all other claims except the claim for arrears of rent at item 4 of his statement of claim and costs. The Case Management order had already ordered the Claimant to take possession of his lands as per item 1 of the statement of claim.

[7] The Defendant Wilma Chrichton contends that the Claimant at no time ever made any demands for payment for any arrears of rent.

[8] As simple as this case may sound there are certain legal issues which will need expounding on. I itemize the issues to be determined as follows:-

(1) Can the Claimant be allowed to simply assert without more that the Defendants were in possession of the said land from 1993 to 2002?

(2) In all the circumstances would it be equitable to allow the Claimant's claim?

[9] I have carefully analyzed the evidence adduced by the Claimant. In my view there is no supporting evidence to substantiate the assertion that the Defendant was in possession of the Claimant's land from March 1992 to August 2002. The Defendant categorically states that she has not been on the land since 7th January 1992. If I accept the Claimant's assertion there is still another hurdle to clear. A claim for rent presupposes the relationship of Landlord and Tenant. The Claimant has not substantiated this. In any case Suit Number 138 of 1992 which has been referred to in evidence categorically negates the relationship of Landlord and Tenant. In that case it was ordered by Joseph, J as she then was that:-

(1) the Defendants (the Claimant in this case), do pay the Plaintiffs (the Defendants in this case) as special damages $24,800 plus $2,400 making a total of $27,000

(2) specific performance of the agreement to lease and to purchase after three years lease

(3) the first Defendant to pay 50% of the Plaintiff's costs.

[10] This was an order of the court dated 19th July 1992. This order was appealed against by the Defendants in that case, Cardan Knights. The appeal was dismissed in a judgment written by Byron J.A. as he then was, dated the 30th October 1994.

[11] It is clear therefore that by the latest in 1993 the lease had been terminated as between the parties. The cause of action in Tort as is alleged by the Claimant accrued therefore in 1993. The Claimant sought the intervention of the Court by filing this claim in 2002 – nine

years after the cause of action arose. Counsel for the Defendants posits that any claim based thereon would be statute barred by 2002. No other claim in Tort was asserted by the Claimant. Section 4 of the Limitations Act Cap. 90 of the Laws of St. Vincent and the Grenadines Revised Edition 1990 states as follows:-

> "4. The right of action to recover any land shall, in a case where –
> (a) the estate or interest claimed was an estate or interest in reversion or reminder on any other future estate or interest; and
> (b) no person has taken possession of the land by virtue of the estate or interest claimed, be treated as having accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest."

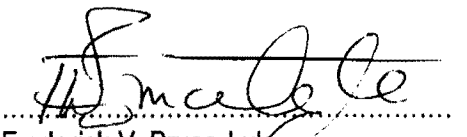
[12] The Claimant, if we follow the above Section 4 of the Limitation Act to the letter, would be statute barred from bringing this action since the six year limitation period would have expired long before the year 2002. As I said earlier in this judgment the Claimant has not given me enough evidence except for a bare assertion that the Defendant was in possession of the said land from 1993 to 2002. He who alleges must prove. On that basis I am not satisfied with the cogency of the Claimant's evidence.

[13] The Defendant on the other hand has categorically asserted that since the 7th January 1992 she vacated the lands. Her son Defendant Terril Chrichton supports her story. To go further the Defendant Wilma Chrichton states that soon after vacating those lands she fell ill with a stroke and has not and cannot work lands since then. A medical report pertaining to Wilma Chrichton signed by Dr. S.B. Debnath District Medical Officer for Cedars is tendered as evidence of the Defendant Wilma Chrichton's health status since January 1992. It states in the penultimate sentence that "At present she is unfit for physical work." This has not been challenged to my satisfaction by the Claimant except for his bare assertion that the Defendant Wilma Chrichton was on his lands from 1993 to 2002. From the preponderance of the evidence and on a balance of probabilities I find I believe the evidence of the two Defendants, over that of the Claimant.

[14] Turning therefore to the second issue I have to address in determining this matter, it is my view that that issue is now moot, considering my findings in the above paragraph. It is my view that the order in Suit 138 of 1992 even though it relates to this same lands in issue

and the same parties, this case is an entirely separate suit and should be determined purely on its own merits. As I said before, the Claimant has not satisfied me on a balance of probabilities that I should accept his claim. The preponderance of the evidence is clearly not in his favour, having regard to all the circumstances of this case.

[15] I will therefore find for the Defendant and dismiss the Claimant's claim. The Claimant is to pay the Defendants' costs in the sum of $3,000.00.



Frederick V. Bruce-Lyle
HIGH COURT JUDGE