

**IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SAINT LUCIA

CLAIM NO. SLUHCV2006/0732

BETWEEN:

CLIFTON E. CHARLES acting herein as Administrator of the
Estate of **MATILDA CHARLES** aka **MATILDA CLARKE** of
Marisule Quarter of Gros Islet

Claimant

and

FELICIA HARRY of Marisule Quarter of Gros Islet

Defendant

Appearances :

Mrs. L . Faisal for Claimant
Mr. V. Barnard for Defendant

2007: May 24;
June 25.

JUDGMENT

- [1] **COTTLE J.:** The Claimant brought an action seeking vacant possession of certain property at Marisule recorded in the Land Registry as Block 1053B Parcel 147. The property is registered in the name of Matilda Charles, the mother of the Claimant. Matilda Charles died on 11th June 2003 and the Claimant sued as her personal representative on behalf of her estate.
- [2] The Defendant resisted the claim. She avers that she is entitled to a one half share in the property on the basis that she had contributed to the construction of the dwelling house built on the property.

[3] The facts

The Claimant and the Defendant cohabited for several years. They first lived together at Debreuil, Choiseul in a concrete structure which was at first annexed to a wooden house owned and occupied by Matilda Charles. The Claimant says that the Debreuil property was constructed entirely at his expense. The Defendant was then a married woman with three minor daughters. She had recently been estranged from her then husband. The Defendant says that she contributed to the construction of the Debreuil house. She says that she had \$6,000 in savings and gave \$3,000 of that to the Claimant.

[4] Unhappy differences arose between the Defendant and Matilda Charles. There was an altercation during which the Defendant struck Matilda Charles. Matilda Charles thereupon removed her wooden home from where it abutted the concrete annex in which the Defendant lived with the Claimant and her children. This left one side of the structure open to the elements and this had to be enclosed. Matilda Charles required the Claimant and Defendant to vacate her property at Debreuil.

[5] The Claimant moved to the property at Marisule which is the subject of this claim. At that time there was an old wooden building on the property. One 'Browne' was employed to renovate the house and make additions in concrete. He was later replaced by contractor Mr. Cyril Dornelly who completed the project.

[6] The Defendant joined the Claimant in the Marisule house. She remains there to this day. The Claimant says that he alone financed all of the construction and renovation of the Marisule house. The Defendant says that she contributed to the building costs.

The Evidence

- [7] Mr. Clifton Charles swore that he is a former Sergeant in the Royal St. Lucia Police Force. The Defendant would come to the Vieux Fort Police Station where he was posted to make reports. In 1987 he was involved in an accident which incapacitated him from work. During his convalescence the Defendant would visit him where he lived at Debreuil with his mother. She told him that she had separated from her husband and moved in with her mother but that because of hardship she would have to move out. According to the Claimant he then had Mr. Craig Jn Charles build a concrete extension to Matilda Charles' home. On completion the Defendant and her three daughters moved in. The Defendant was then unemployed and had no money. The Claimant maintained her and the children.
- [8] At Debreuil the Claimant had opened a small village rum shop. From it he generated only modest returns as it was a small enterprise located in a little village.
- [9] The house at Marisule was built using the personal funds of the Claimant and the proceeds of bank loans which the Claimant is still repaying. The Defendant was in no position financially to contribute and the Claimant certainly had no intention that she should acquire an interest in his mother's property.
- [10] On cross-examination the Claimant maintained that he was the sole provider for the Claimant and her children during the course of the relationship.
- [11] Huggins Nicholas was called by the Claimant. He gave evidence that he was acquainted with the parties. He knew that the Defendant came and joined the Claimant at Debreuil. He was sure that it was the Claimant who financed the building of the Debreuil annex. At Debreuil the Defendant was only employed for

a short period and her earnings were minuscule. He described the rum shop as a small village business with a domino table and two chairs. It was no restaurant.

[12] Once or twice a month if the domino players requested there would be souse or fried chicken sold. Cyril Dornelly also gave evidence. He testified that it was the Claimant who hired him and it was the Claimant who paid him. He did substantial renovation work on the Marisule house.

[13] The only witness for the Defendant was the Defendant herself. She testified that the Debreuil house was constructed during the cohabitation of the parties using joint funds, labour and income. She then worked at various factories in Vieux Fort. She gave the Claimant \$3,000 to assist in the building of the Debreuil annex.

[14] She moved with the Claimant and their family to Marisule and contributed substantially to the construction of the home there. She took \$18,000 from the joint profits at the Debreuil rum shop to pay the first builder one Mr. Browne. Mr. Browne was later replaced by Mr. Dornelly who completed the project. She agrees that the Claimant raised her three daughters who are now all adults – they call him Daddy.

[15] The Defendant was cross examined. She made a poor impression on the Court she admitted that her earnings from factory work were in the order of \$250.00 every 3 weeks. For the first time she made mention of doing crochet, chair backs and washing to earn money that she contributed to the building of the Marisule house in addition to the earnings of the rum shop. It was clear that that business could not generate sufficient profit for the Defendant to withdraw \$18,000.

[16] She provided no evidence of her income from her employers though these employers are available. One revealing response in cross-examination was that the Defendant thought it was the obligation of the Claimant to take care of herself and her 3 young daughters because **“he was with (me).”**

- [17] From the evidence, I accept that it was the Claimant who provided the finances to build both the Debreuil Annex and the Marisule house. The Defendant considered that it was his duty to maintain her and her children. To his credit the Claimant has done so. These children are all now adults. They were aged 3,6, and 9 when the relationship began.
- [18] I can find no evidence from which I can infer that the Claimant intended that the Defendant should be entitled to a beneficial interest in the properties. They belonged in law to his mother. She may well have chosen to alienate them in her lifetime.
- [19] I find that the counterclaim is dismissed. Judgment is entered for the Claimant for immediate possession of the property registered as Block 1053B Parcel 147, as I do not find that the Defendant has any beneficial interest therein.
- [20] I award the Claimant costs, which I assess in the sum of \$5,000.00 having regard to the relationship of the parties.

BRIAN S. COTTLE
HIGH COURT JUDGE