

SAINT LUCIA

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

Claim No: SLUHCV 2006/0775

BETWEEN:

LEROY MATHURIN
WAYNE ALBERTSON

Claimants

AND

SAINT LUCIA AIR & SEA PORTS AUTHORITY

Defendants

Appearances:

Mr. Horace Fraser for the Claimants
Ms. Samantha Charles for the Defendant

.....
2008: July 9, 15
August 6
September 26
.....

JUDGMENT

Mason J

[1] This is a claim for damages for assault, unlawful arrest and false imprisonment with respect to the arrest and detention of the Claimants by the servants of the Defendant on Friday 18th August 2006 at the Hewannora International Airport.

[2] The Claimants are taxi drivers in the employ of one Kelvin Mitchell who trades under the name of C J Touring Services, a business contracted by Sandals Resorts to effect the transfer of their guests from the airport to the Sandals Hotels.

[3] It is the evidence of the Claimants that at about 2:00 p.m. on the date in question while standing in the airport lobby awaiting the arrival of the Sandals guests, they were arrested and taken to the Vieux Fort Police Station where they were locked in a cell until about 6:45 p.m. after which they were processed, bailed and charged at about 7:10 p.m.

[4] It is the evidence of the witnesses for the Defence, both police officers, that on the day in question, they observed the Claimants in what they termed a restricted area, an area cordoned off in the arrival area where the general public is not permitted to assemble. The witnesses state that they instructed the Claimants to leave the area, that the Claimants left and almost immediately returned. When they were again approached and asked to leave, the Claimants refused. They were later seen collecting bags for passengers and they were arrested and charged.

[5] The charges were that they:

- 1) *remained at the arrival lobby at the airport after having been required by the Sargeant to depart therefrom, contrary to regulation 27 (1) of the Airport Regulations, No. 42 of 1976; and*
- 2) *without lawful excuse, contravened a direction given by the Sargeant not*

*to pack up any passengers on behalf of Sandals, contrary to section 85(a)
(iii) of the St. Lucia Air and Sea Ports Authority Act, No. 10 of 1983*

[6] Regulation 27 (1) (c)

Regulation 27 is captioned "Preservation of Property". By (i) (c) it is provided that a person shall not at an airport remain on an airport or any part thereof after having been required by the Superintendent or a Police Officer to depart therefrom.

[7] I agree with the submission of Counsel for the Claimants that according to the rules of statutory interpretation, and indeed in accordance with section 10 of the Interpretation Act of St. Lucia, one may look to the heading and marginal notes to assist in the interpretation of legislation.

[8] The tenor of regulation 27 suggests that it is for the prevention of destruction and damage to the airport. While (1) (c) speaks to remaining "on any part" of the airport, it cannot contemplate standing in general public areas like the lobby or checking in areas.

[9] As pointed out by Counsel for the Claimants, Section 4 of the Regulations indicates the building and areas on an airport declared to be restricted areas and that the lobby is not one of them.

[10] In the premises I am satisfied that the Claimants did not commit an offence in relation to Regulation 27 (1) (c).

[11] Section 85 (a) (iii)

This section provides that any person who being on any premises of the Authority....without lawful excuse contravenes any directive given by any officer authorized by the General Manager, shall be guilty of an offence.....

[12] I am of the view that this charge also cannot stand for the simple reason that "any direction given by any officer" must in itself be lawful.

[13] The Claimants were given the direction by the officer "not to pick up any passengers on behalf of Sandals". Under cross examination, one of the Defence witnesses admitted that he did not enquire of the Claimants whether they or Sandals had the requisite permission from the Minister to pick up passengers.

[14] Thus not having ascertained whether the Claimants were contravening the Act, they were themselves acting unlawfully by arresting the Claimants.

Damages

Special Damages

[15] As has been established special damages are such as the law will not infer from the nature of the act. They do not follow in ordinary course. They are exceptional in their character and therefore, they must be claimed specially and proved strictly : per Lord Mcnaghten in Stroms Bruks Aktie Bruks Aklie v Hutchison (1905) AC 515.

[16] The Claimants claim as special damages their lawyer's fee and loss of income in the sum of \$1,200.00 each. This award will be made.

General Damages

[17] Having reviewed the authorities provided by the Claimants, taking into account the indignity suffered as a result of being placed in a cell for 5 hours, I consider reasonable an award of \$3,000.00 for unlawful arrest and \$6,000.00 for false imprisonment – awards which this court as presently constituted has awarded in another similar action – as well as \$5,000.00 for aggravated damages.

ORDER

Judgment entered in favour of the Claimants.

Each Claimant is awarded the sum of \$15,200.00 - special damages \$1,200.00, general damages \$14,000.00 – together with interest at the rate of 6% per annum from the date of judgment until payment.

Costs prescribed in accordance with Part 65.5 CPR 2000.

SANDRA MASON QC

High Court Judge