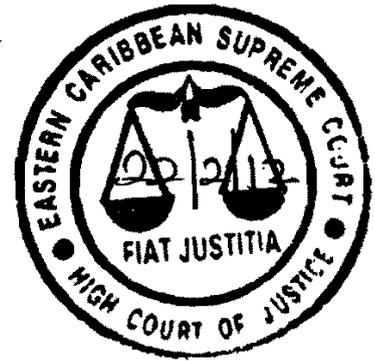


THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
HIGH COURT CIVIL CLAIM NO. 0004 of 2012



BETWEEN:

LEONTIUS ROBINSON

Claimant

V

EDGAR DAVIS

Respondent

Appearances: Mr. Cecil Williams for the Claimant
Mr. Duane Daniel for the Respondent

2012: February 22nd

DECISION

- [1] **JOSEPH J (Ag)**; The Claimant began proceedings by way of Fixed Date Claim on 13th January 2012. The matter came up for first hearing on 26th January 2012 and was adjourned. Counsel for the defendant sought the Court's guidance on whether the matter should have been started by way of claim form instead of fixed date claim. He opined that the matter was one of breach of contract and that it was not a matter concerning the possession or repossession of land. The Claimant's position was stated in a written submission filed on 2nd February 2012 that the matter concerns breach of contract and an equitable interest in land.
- [2] The claim of the Claimant is in two parts. The first part is for the return of the sum of \$23,000.00 paid by the Claimant to defendant as part payment for a piece of land situate at Evesham Vale, interest on that sum from 21st March 2005 to the date of hearing of this claim. The second part, in the alternative, an order authorizing the Registrar of the High

Court to execute a deed of conveyance for the land by the defendant to the Claimant, interest on \$23,000.00 from 21st March 2005 to the hearing of the claim.

[3] The manner of instituting proceedings is outlined in CPR 2000 Pt. 8: by a claim form in Form 1 except in circumstances set out in paragraph (5) which reads:

Form 2 (fixed date claim form) must be used –

(b) In proceedings for possession of land.

[4] I think that the institution of these proceedings by fixed date claim is proper for the reasons: The relief claimed, in the alternative is for the execution of a deed of conveyance which would give (although not directly) (i) possession or (ii) a right to possession to land. Thus the claim would fall within sub paragraph (b) proceedings for possession of land.

[5] Additionally, by making part payment for the parcel of land the Claimant would have obtained an equitable interest in land. I adopt the reasoning of the Learned Judges Harris J. in *Priscilla Leonce nee Jackson v Bernard Leonce* claim ANUHCV 2009/2008 para 13: that of Blenham J. in para 43 of *Mary Edith Doreen Grason, deceased suing by his Attorney Winston Derick v The Attorney General of Antigua and Barbuda*: Joseph-Olivette JA (Ag.) at paragraph 62, who all held that the court ought not to put a restrictive interpretation on paragraph (b). I hold that the proceedings have been correctly instituted.

[6] I thank Mr. Williams for drawing my attention to the cases.



Monica Joseph

High Court Judge (Acting)

20th February 2012.