IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT
(CIVIL)
A.D 2011

CLAIM NO. SKBHCV2011/0003

BETWEEN:

NASSIBOU BUTLER
HENRY BROWNE
(Administrators of the Estate of Hubert Phipps deceased)

Claimants

And

ST. KITTS-NEVIS-ANGUILLA NATIONAL BANK LTD

1st Defendant

CLIVE BROWNE

2nd Defendant

MICHELLE ROCHESTER-WOODLEY

3rd Defendant

Appearances: Mr John Cato for the Claimants
Mr J. Emile Ferdinand and Ms Keisha Spence for the First Defendant
Ms Constance Mitcham for the Second and Third Defendants

2012: April 18
2012: June 08

JUDGMENT

[1] THOMAS J: In a Claim Form filed on January 06, 2011, the Claimants, Nassibou Butler and Henry Browne (Administrators of the Estate of Hubert Phipps, deceased) claim against the then Defendant[1] the following: payment of the sum of $650,000.00 and all other monies standing to the credit of the said Hubert Phipps, deceased held in an account at the

[1] Clive Brown and Michelle Rochester-Woodley were added as Second and Third Defendants respectively by Order of the Court dated 13th May 2011.

Defendant's bank; a declaration that all the monies standing to the credit of the said Hubert Phipps, deceased at the Defendant's bank form part of the estate of the said deceased and are payable to the Administrators of his said estate. Also claimed are interest, costs and such further or other relief as may be just.

Statement of Claim

[2] It is the Claimants pleading that the deceased, being a customer of the Defendant's bank, operated a savings account (No. 29-28615) on which he alone deposited and withdrew money on a regular basis. It is further pleaded that as far as it is known to the Claimants the deceased made no testamentary disposition in relation to the said account or to any monies held in the said account.

[3] At paragraph 6 of the Statement of Claim it is contended that in or about December 2005 Vilma Phipps and Renrick Colville Phipps, the then Administrators of the estate of the deceased, in their capacity as such wrote to the Defendant giving notice of their intention to close the said account by the withdrawal of all monies held therein and to open a new account in the name of the Administrators for further distribution to the persons entitled under the resulting intestacy.

[4] It is pleaded by the Claimants that the bank, in response to an inquiry regarding the said account, confirmed its existence but went on to say that the account did not form part of the Hubert Phipps' estate and as such could not be disclosed to or discussed with the Administrators of the estate of the deceased. According to the Claimants, by reason of the bank's refusal and withholding the said monies from the Administrators they are unable to wind up the said estate and distribute the said monies among the beneficiaries entitled thereto.

Defence of 1st Defendant

[5] In its defence the First Defendant admits that during his lifetime the deceased Hubert Phipps opened a savings account at the bank and deposited and withdrew money from that

account regularly. But there is no admission that the deceased was the sole owner of the account and beneficial owner of all monies deposited therein for the following reasons:

a) when the deceased opened the said account on 11/3/94 the deceased indicated that the account was in trust for (T/F) a Michelle Rochester;
b) On 11/7/99 the deceased updated the name of the name of the beneficiary per marriage certificate issued in the City of New York #X96006342 to read 'Michelle Antoinette Rochester Woodley', and
c) On 2/9/2001 a second beneficiary (Clive Browne) was added to the account documentation or the authority of the deceased.

[6] It is however admitted by the First Defendant that, as far as it is aware, no other person could have withdrawn monies from account No. 29-28615 other than the deceased during his lifetime.

[7] At paragraph 8 and 9 of its defence, the First Defendant pleads thus:

> "8. The Defendant admits paragraphs 8 and 9[2] of the Statement of Claim. The Defendant further states that Solicitors acting for the beneficiaries named in relation to the said trust account have also contacted the Defendant asserting entitlements to the monies in Account No. 29 – 28615.
> 9. Faced with the conflicting claims to the monies in the said bank account, the Defendant is not willing to pay out the said monies unless and until the Court determines which of the various competing Claimants to the said monies are properly entitled to receive the said monies".

Defence of 2nd Defendant

[8] The Second Defendant admits that during his lifetime the deceased, Hubert Phipps opened a savings account to which he deposited and withdrew money on a regular basis. However, he does not admit that the deceased was the sole beneficial owner of all the monies deposited in the said account for the various reasons pleaded.

Defence of 3rd Defendant

[9] The Third Defendant's defence is in terms similar to that of the Second Defendant in that there is no admission that the deceased was the sole beneficial owner of all the monies

[2] Paragraph 8 and 9 of the Statement of Claim deal with letters written to the bank on behalf of the Administrators and the response on behalf of the bank

deposited in the savings account which he opened at the bank. In this regard various reasons are pleaded.

[10] At paragraph 9 of the defence the following is pleaded:

> "9. In response to paragraph 13 of the Statement of Claim the 3rd Defendant repeats paragraphs 3, 4 and 5 of this Defence and reiterates that the monies in the said account is the property of the beneficiaries named on the account, the 2nd and 3rd Defendant and does not form part of the deceased's estate".

Reply

[11] In their reply the Claimants advance a number of reasons to support their contention that the deceased was in fact the sole owner of the account and beneficial owner of all the monies deposited in the said account. Further, at paragraph 4 of the said Reply it is pleaded that at paragraph 9 and 12 of the Defence evince a tacit admission by the Defendant that it is in doubt as to whether the monies on the account No. 29 – 28615 are trust funds.

ISSUE

[12] The issue for determination is whether a trust was created with the Second and Third Defendants as beneficiaries with respect to the monies in account No. 29 – 28615 at the St. Kitts-Nevis-Anguilla National Bank Limited; or whether such monies form part of the estate of Hubert Phipps, deceased.

Submissions

[13] The basic submission on behalf of the Claimants is that the monies standing to the credit of Hubert Phipps, deceased in account No. 29 – 28615 belonged to the estate of the deceased, notwithstanding the presence of the names of Second and Third Defendants 'alongside' the name of the deceased.

[14] Other submissions on behalf of the Claimants are in these terms:

> ". . . [B]oth at Common Law as well as by Statute Law (The Trusts Act of Saint Christopher and Nevis) militate against payment of the monies to any person or persons

other than the Administrators of the Estate of Hubert Phipps, deceased. The deceased was the owner of the account at all material times. He exercised total control over the funds in the account to the exclusion of both Second and Third Defendants. On this view of the facts, a valid trust can only arise if Hubert Phipps himself had declared in some form or other, that he was holding the monies in the account for the persons named by the bank whose names alongside the name of Hubert Phipps. No such thing happened. There is no evidence in writing or by parol or otherwise that Hubert Phipps made such a declaration. Such evidence as there is as presented by the Defendant bank shows that the bank attempted to constitute itself as an agent for Mr Phipps, the sole owner of the account, and purported to create a trust of the monies in the account for benefit of the Second and Third Defendants by the addition of the meaningless letters 'T/F' which they now interpret to mean 'in trust for'. But this law does not give recognition in any form to such a procedure"

Submissions on behalf of the First Defendant

[15] The fact of the First Defendant being a party to these proceedings arises by virtue of the fact that it is the custodian of certain monies which constitute the subject matter of the said proceedings.

[16] The submissions on behalf of the First Defendant, for the most part, seek to explain the context and legal circumstances.

[17] Part of the circumstances is that if the case involves a trust for (T/F), trustee and trustee turned Claimant. The latter aspect arises because the Trial Bundle, at pages 43 and 44, shows an instrument appointing the First Claimant as Trustee for "the said Michelle Antoinette Rochester-Woodley and Clive Browne of the said monies of an account No. 29-28615 at the St. Kitts-Nevis-Anguilla National Bank".

[18] Under cross examination by learned counsel for the First Defendant, the First Claimant indicated that the said instrument was prepared by him.

[19] The submissions on behalf of the First Defendant read in part as follows:

> "3.1 Confronted with conflicting claim to ownership of, and alleged entitlement to, the monies in the aforesaid bank account, and a paucity of documentation decisively determining the issue, the 1st Defendant considered it prudent to await a determination of the Court that would conclusively resolve the issue concerning the competing claims to entitlement and ownership.

3.2 If the 1st Defendant had been provided with appropriate further documentation from or on behalf of any of the competing claimants which more clearly evidenced the operational terms of the trust arrangement, it may have been possible for the 1st Defendant to permit the withdrawal of the account monies in conformity with such further documentation. However, no such decisive documentation was ever provided to the 1st Defendant by any of the claiming parties. In the absence of any such clear documentation, it is respectfully submitted that the 1st Defendant acted properly in deciding to await a judicial determination of the various parties' entitlement in the matter.

3.3 It would have been a difficult decision, with substantial potential liability exposure, for the 1st Defendant to seek to make a determination of the entitlement in the circumstances which exist in this matter. Those circumstances include:

a) documented repeated declarations of trust by the late Mr. Hubert Phipps when he opened and amended the relevant bank account;
b) his naming of the relevant beneficiaries not once, not twice, but three times, and affixing his signature to the relevant signature cards to that effect; and
c) the absence of any documentary details as to the basis of the intended operational specifics of the declared trust arrangement.

3.4 In relation to trusts law, it has been said by Lord Walker and Lady Hale in ***Jones v Kernott*** [2011] UKSC 53, [2012] 1 All E R 1265 at paragraph 36 that:

> ". . . there will continue to be many difficult cases in which the court has to reach a conclusion on sparse and conflicting evidence. It is the court's duty to reach a decision on even the most difficult evidence. It is the court's duty to reach a decision on even the most difficult case. As the deputy judge (Mr Nicholas Strauss QC) said in the admirable judgment [2009] EWHC 1713 (Ch), [2010] 1 WIR 2401, para 33 (in the context of a discussion of fairness), 'that is what courts are for.' . . . The trial judge has the onerous task of finding the primary facts and drawing the necessary inferences and conclusions, and appellate courts will be slow to overturn the trial judges' findings. . .".

3.5 The 1st Defendant does not propose to contend in these proceedings for a decision by the Court in favour of, or against, either of the contending parties hereto who claim to be entitled to the monies in the relevant bank account. The 1st Defendant adopts a neutral position in that respect".

Submissions on behalf of the Second and Third Defendants

[20] The following is part of the submissions on behalf of the Second and Third Defendants:

"10. It is submitted with respect, that there is little doubt that the deceased, express instructions on the signature cards, and by his conduct, intended to benefit the 2nd and 3rd Defendants. The question which follows then is whether the method by which he purported to benefit them is sufficient to transfer said benefit, that is to say, whether there is a validity constituted trust.

11. To ensure this question, it is useful to turn to Hanbury and Martin: Modern Equity, where Jill Martin outlines the three 'methods of benefiting an intended donee' as i. an outright transfer; ii. a transfer to a trustee; and iii. a declaration of self as trustee.
12. It would appear that the intention of the settler is of paramount importance in this regard. Since if the settler intends to give effect to one of the above methods, but fails, then none of the other two methods can be imposed to save the trust. The 2nd and 3rd Defendants humbly submit that it is the method which obtains in the instant case, since the evidence presented is pellucid in demonstrating that the deceased's clear intention was to declare himself as trustee of the monies in the said savings account 29-28615.
15. In Phillip Pettit's Equity and the Law of Trusts, it states that a settlor 'can completely constitute a trust by declaring himself a trustee thereof for the intended beneficiary'. When discussing the requirements for same, Professor Pettit explains that there are no requirements of writing in connection with contracts to create a trust or to dispose of equitable interests in pure personality. Pettit illustrates, by making reference to decided cases, that the said declaration must be an irrevocable one, where the settlor need not use the words 'I declare myself a trustee', but that he must do something which is equivalent to it and use expressions which have meaning".

The Law

Central to the issue is the question whether a trust was created of the Second and Third Defendants.

[21] The law relating to trust is abundant, clear and precise. In this regard under the Trusts Act ("the Act") a "trust" is defined thus:

> "A trust exists where a person (known as a trustee) holds or has vested in him or her or is deemed to hold or have vested in him or her property of which he or she is not the owner in his or her own right
>
> a) for the benefit of any person known as a beneficiary whether or not ascertained or in existence;
> b) for any purpose which is not for the benefit only of the trustee; or
> c) for such benefit as is mentioned in paragraph (a) and also for any such purpose as is mentioned in paragraph (b)".

[22] Section 4 of the Act also authorizes the creation of a trust for any lawful purpose. The section also sets out the requirement for at least one resident trustee and also the roles that may be performed by bodies corporate in relation to trusts so created.

[23] As noted above, the Claimants case is that no trust was created for the benefits of the Second and Third Defendants. In turn, the said Defendants contend that there is.

[24] In the end, the issue must turn on the technical requirements of a trust. This is what learned counsel for the First Defendant has in mind in tendering the following submission:

> "4.1 It is submitted that the Trust Act, Cap 5.19 does not in and of itself provide an answer to the present question that falls to be decided by the Court.
> 4.2 The 1st Defendant acted reasonably in requesting documentary evidence from the various Claimants, or their legal representatives, regarding the trust that it records disclosed had been declared by Mr Hubert Phipps. Had clear and appropriate documentation been provided to the 1st Defendant evidencing the terms and/or functional mechanics of the declared trust, the 1st Defendant may have been put in a position to make an informed decision regarding decision regarding the entitlement to payment of the particular Claimants to the account monies.
> 4.3 It is submitted that the trusts Act, Cap 5.19 is not and does not purport to be a comprehensive code containing the law relating to trusts and their validity and enforceability under the Laws of St. Kitts and Nevis. The provision of Section 13 of the Trust Act itself supports this submission".

[25] In this regard following learning is important[3]

> "An express trust will not take effect unless the 'three certainties' are present: viz (i) certainty of words (or intention); (ii) certainty of subject matter; and (iii) certainty of objects".

[26] The learning continues:

> "The fundamental principle is that an express trust is created where the settler: shows an intention to do so. It is therefore necessary that the settler's intention to create a trust, as opposed to a moral obligation, be indicated with sufficient certainty. It is a question of construction of the words used in the will or trust document; coupled with any admissible extrinsic evidence, or whether the settler intended to establish a trust. Since 'equity looks to the intent rather than the form of words used there is no need for any precise technical expression to be employed. The issue of certainty of intention has most often arisen in wills where the testator has used 'precatory words' ie words such as, 'wish', 'hope', 'desire' or in full confidence. The use of precatory words is prima facie is prime facie evidence that a mere moral obligation rather than a trust was intended, but a definitive answer to the question of intention can only be given after the whole will has been construed. In Re Adams and the Kensignton Vestry a testator gave all his property to his wife 'in full confidence that she will do what is right as to the disposal thereof between my children, either in her lifetime or by will after her

[3] Gilbert Kodilinge Trust – Text, Cases and Materials (1996) page 45

> decease'. It was held that no trust was created since, looking at the will as a whole, the words in full confidence imposed a mere moral obligation and not an enforceable trust".

The Evidence

[27] In his Witness Statement Mr Nassibou Butler, the First Claimant, dwells on the account opened by the deceased at the St. Kitts-Nevis-Anguilla National Bank, the First Defendant. He dwells further on the contention that the said account was always controlled by the deceased up to the day of his death. And further in his Witness Statement this evidence is given:

> "As far as I am aware the Third Defendant never worked in the Trade Link Business at any time at all. Also as far as I am aware the Third Defendant never gave the deceased any monies to purchase property for her and the deceased never purchased any property for the Third Defendant".

[28] Nicole Gumbs in her Witness Statement gave evidence of the opening of account number 29-28615 at the Bank by the deceased in the name of "Hubert Phipps T/F Michelle Rochester on 11th March 1994". She goes on to say that "the use of TF would only have been stated where the customer (in this case Hubert Phipps) indicated to the Bank that the account was an account which he wished to establish in trust for the named beneficiary (initially Ms Michelle Rochester)".

[29] It is Nicole Gumbs' further evidence that the signature card of the account was updated in July 1999 to reflect a change of name of Michelle Rochester as Michelle Rochester Woodley and to add the name of Clive Brown as a beneficiary in August 2001.

[30] In cross examination the witness gave further details concerning the deceased's account at the bank.

[31] Clive Brown in his Witness Summary speaks to his relationship to the deceased, as being his nephew, his shareholding in the company, Tradelink, with the deceased and his responsibilities in relation to the said company.

[32] In cross examination Clive Brown revealed that he is a banker by profession and in relation to his activities in transferring goods to St. Kitts for the business, he said that the only receipts he retained were from the shippers. According to him, all other receipts were sent to his uncle, the deceased. He also testified that he did not keep a record of anything.

[33] Clive Brown also gave evidence concerning the account and his understanding of its operation.

[34] Michelle Rochester-Woodley in her Witness Statement gave evidence generally about her relationship with the deceased, her uncle. She also gave evidence concerning the opening of an account at the bank in trust for herself and her uncle, Clive Brown.

[35] In cross examination Michelle Rochester-Woodley testified that she gave money to the deceased to purchase the house which she has occupied for more than twelve years. It also her evidence that even after the house had been paid for, she continue to give the deceased money to put on the account. According to her, this was in varying amounts, sometimes it was $500.00.

Analysis

The three certainties must now be analyzed against the backdrop of the evidence

Certainty of Intention

[36] Unlike the cases of *Sharon Otway (Personal Representative of the Estate of Thomas Otway, deceased and Sharon Otway v. Jean Gibbs*[4] and *T. Troithrom International S.A. ET AL v Lalibai Thakurdas Pagarani ET AL*[5], which were cited to the Court, in this case there is no evidence of any spoken words by the deceased for the purpose of drawing a reasonable inference or finding of fact relating to intention. However, the opening of the account and placing the names of the Second and Third Defendants must go toward the requirement of certainty of intention. Added to this, Nicole Gumbs said as follows in cross examination:

[4] Privy Counsel Appeal No. 30/1999
[5] Privy Counsel Appeal No. 53/1998

> "The customer would have indicated to the Bank that the funds would have been for the benefit of the named persons after his death Mr Phipps would have been entitled to use the funds".

[37] Learned counsel for the Claimants submits that the use of the funds by the deceased after the names were added to the account negates intention to benefit the Second and Third Defendants. On the other hand, learned counsel for the Second and Third Defendant contends that the evidence presented is pellucid in demonstrating that the deceased's clear intention was to declare himself trustee of the monies in the savings account.

[38] On the narrow point of intention the Court agrees that there was certainty of intention on the part of the deceased to benefit the Second and Third Defendants. But the matter does not and as the other two certainties must be considered.

Certainty of Subject Matter

[39] The law is that there are two aspect of this requirement. They are:

a) Certainty of the property to be held on trust
b) Certainty as to the beneficial interest which each beneficiary is to receive.

[40] As noted above, the submission on behalf of the Claimants is that there is no evidence as to the corpus of the trust at the date of the death of the deceased and the terms upon which the monies were to be placed in trust for the Second and Third Defendants. This submission is supported by the evidence of the said Defendants who both said that they did not know how much money was involved. Nor is there any evidence from any other source in this connection.

[41] It is also common ground that the deceased maintained control of the account and used it up to his death. And neither the Second nor the Third Defendant had access thereto. This was stated in evidence by the said Defendants. And as learned counsel for the Claimants put it:

> "[The deceased] made use of the account as if he alone still owned it devoid of any interest in the beneficiaries. In this scenario the settler and the trustee are one and the same person. The settler still had legal titles to the trust property, and the

> intended beneficiaries had name. There was no separation of the of the incidents of 'control' and 'ownership'".

[42] The control of what was supposed to constitute the subject matter of the trust added to the uncertainty of the property to be held on trust.

[43] Further, there is no certainty as to the beneficial interest each beneficiary is to receive and Clive Brown did testify under cross examination that he did not know how much money was involved, but he wanted what was rightfully his. Also, Michelle Rochester-Woodley testified that she did not find out how much money was on the account.

[44] The rule is that "the beneficial interest by each beneficiary will be sufficiently certain. If they are not they will fail and the trustees will hold on a resulting trust for the testator's estate"[6].

[45] The matter of the certainty of subject matter is definitively recorded in Vol. 48 of ***Halsbury's Laws of England***[7] as follows:

> "In order to create a valid trust the property to be affected by the trust must be either expressly designed or so defined that it is capable of being, ascertained, otherwise the trust is void for uncertainty. The beneficial interest to be taken must also be certain".

Certainty of Objects

[46] The certainty of objects refers to the persons who are to benefit under the trust. It is clear that the deceased intended the Second and Third Defendants to be beneficiaries by adding their names to the account. And even the First Claimant under cross-examination conceded that if the trust was created the Second and Third Defendants would be the beneficiaries.

[47] It is therefore the determination of the Court that there exits certainty of objects

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[6] Kodilinge, op cit at page 51
[7] At paragraph 551

Conclusion

[48] Before dealing with the conclusion two submissions by learned counsel for the Second and Third Defendants must be addressed. The first seeks to distinguish the case of ***Shelly Ross v Royal Bank Trust Company (Barbados) Ltd and Jacques Ross*** made this submission:

> "It is submitted, with respect that the instant case can be distinguished on the basis that the deceased in the instant case, by his spoken words and conduct of placing the names of the 2nd and 3rd Defendants as beneficiaries on the said account 29-28615 completely constituted a trust by declaring himself as trustee of the money in the said account".

[49] The difficulty with the submission is that, as already noted, is that even if the deceased had declared himself as trustee, he still operated the account as his own rather, than as trustee. The Defendants did testify that they had no access to the said account. This the Court accepts as being factual. And in the pleadings the First Defendant did admit that no other person could have withdrawn money from the account during the lifetime of the deceased. And in any event such a trust is subject to the three certainties examined above.

[50] The Second submission is in these terms:

> "All of the requirements of a trust now exist, (1) the intention is clear and now irrevocable, (2) the beneficiaries are known and the trust property known. The deceased clearly declared himself as a trustee in favour of the 2nd and 3rd Defendants and therefore. It is humbly submitted that the said account 29-28615 is for the benefit of the 2nd and 3rd Defendant".

[51] Again, the submission speaks to 'the trust property known' while the relevant certainty requires that the trust property must be certain and not merely known. And it has already been determined that the subject matter of the trust was uncertain.

[52] It is therefore the conclusion of the Court that while there is certainty as to intention and objects, there is none in relation to the subject matter of the trust. As such the issue of a

trust cannot arise and does not exist. In the context of the foregoing the following reasoning of Lord Justice Turner in *Milroy v Lord*[8] is helpful:

> "Under the circumstances of this case it would be difficult not to feel a strong disposition to give effect to this settlement to the fullest extent, and certainty I have spared no pains to find the means of doing so, consistently with what I apprehend to be the law of the Court, but after full and anxious consideration, I find myself unable to do so. I take the law of this Court to be well settled, that in ordered to render a voluntary settlement valid and effectual, the settler must have done everything which, according to the law of the property and render the settlement binding upon him. He may of course do this by actually transferring the property to the persons for whom he intends to provide and the provision will then be effectual, and it will be equally effectual if he transfers the property to a trustee for the purpose of the settlement or declares that he himself holds it in trust for those purposes; and is the property be personal, the trust may, as I apprehend, be declared either in writing or by parol; but in order to render the settlement binding, one or other of these modes must as I understand the law of this Court, be resorted to for there is no equity in this Court to perfect an imperfect gift".

[53] In *Shelly Ross and The Royal Bank Trust Company (Barbados) Limited and Jacques Ross*[9] the issue was whether the proceeds of a fixed deposit of $31,008.67 made by Ebson Anthony Ross, deceased at the Antigua Branch of the Royal Bank of Canada on 6th March 1972 formed part of the estate of the said Ebson Anthony Ross, deceased or whether the money was the property of the Appellant, Shelly Ross.

[54] The Court ruled that the donor had not parted with the intended gift to his daughter and so long as the gift was incomplete for want of delivery the donor has a *locus poenitentiae* and may revoke the gift at any time. As such there was neither a gift nor a valid trust in favour of the Appellant.

[54] The case merely re-states a well established and fundamental principle that so long as any one of the relevant legal requirement is not satisfied the purported gift or trust is invalid.

[55] Given the ruling that there was no trust created by the deceased, it follows that the proceeds held an account 29-28615 at the St. Kitts-Nevis-Anguilla National Bank form part

[8] [1862] 45 ER 1184
[9] Civil Appeal No. 3 of 1978 (St. Kitts Nevis Anguilla)

of the Estate of the deceased, Rupert Phipps and must be paid over to the Administrators of the Estate to be dealt with in accordance with the law.

Costs

[56] In the circumstances of this case the costs of all parties must be paid out of the estate.

ORDER

[57] IT IS HEREBY ORDERED AND DECLARED as follows

1. There was no valid trust created by the deceased with respect to the monies held in account 29-28615 at the St. Kitts-Nevis-Anguilla National bank Limited since all of the certainties of a trust were not satisfied.
2. The said monies forms part of the estate of the deceased and must be paid over by the bank to the Administrators to be dealt with in accordance with law.
3. All parties must be paid their costs from the estate.

Appreciation

[58] The Court wishes to record its sincere appreciation to counsel on all sides for the assistance rendered to the Court by way of very comprehensive submissions and authorities.

Errol L Thomas
High Court Judge [Ag]