

EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Claim Number: SLUHCV2018 /0216

Between

Elizabeth St. Hill

Claimant

And

1. Jennifer Nelson Nee Valmont Former Director of Akan Limited AKA Akan Limited.
2. Annott Valmont Former Director of Akan Limited AKA Akan Limited
3. Corinth Developers Limited
4. Arnott Valmont
5. Ingrid Skerrit Nee Valmont
6. Jennifer Nelson Nee Valmont
7. Lorraine Wheeler Nee Valmont
8. Lyttleton Earl Valmont

Defendants

BEFORE:

Her Ladyship, The Honourable Master Agnes Actie

(A Master in Chambers)

APPEARANCES:

Mrs. Wauneen Louis Harris of counsel for the claimant

Mrs. Kimberly Roheman of counsel for the 1st, 2nd 4th 6th 7th defendants

Ms. Diana Thomas of counsel for the 3rd & 5th defendants

.....
April 30, 2019
.....

RULING

1. Upon the matter coming on for a joint application filed by counsel for the defendants, for summary judgment pursuant to CPR 15.2. on the ground that the claimant does not have any realistic prospect of succeeding on some of the causes of action pleaded in the statement of claim.

2. The defendants contend that **the claimant's claim for damages for (i) loss of use (ii) breach of contract, (iii) failing or refusing to grant the claimant proper title (iv) fraud and delict** and interest is prescribed pursuant to Articles 2111, 2119 and 2122 of the Civil Code Cap 4.01 of the Revised Laws of Saint Lucia.
3. I have reviewed the submissions and the authorities cited by the parties. The claimant contends that there are triable issues which are not suitable for summary judgment. The claimant also raised procedural defects in the application which do not comport with the requirements of CPR 15.5 and CPR 30.3.
4. Rule 30.3 (2) permits an affidavit to contain facts of information and belief, if the affidavit is for use in an application for summary judgment providing it indicates which statements are made from the deponents own knowledge, and which are matters of information or belief, and the source of any information or belief. I am of the view that the applicants' affidavit in support comports with the requirements of the Rule 15.5 and 30.3(2).
5. The court accepts that the facts as pleaded in the statement of claim and the causes of action as stated in paragraph (2) above are all prescribed. In *Walcott v Serieux*¹ Byron JA, as he then was, held that both the rights as well as the remedy are extinguished; as long as the evidence in a claim discloses that the period of limitation has expired, the judge has no discretion in the matter.
6. The case of *Walcott v Serieux* is instructive in the case at bar. The causes of action, having been filed outside of the prescription period do **not raise any triable issue to engage the court's jurisdiction**. CPR 15.2 gives the court a discretionary power to enter summary judgment if it appears that the parties do not have any realistic prospect of success.

ORDER

7. It is ordered and directed as follows:
 1. The defendants' application for summary judgment is granted.
 2. All references made in the claim in relation to damages for (i) loss of use (ii) breach of contract, (iii) failing or refusing to grant the claimant proper title (iv) fraud and delict are struck out on the ground of prescription.
 3. The claim shall proceed only on the issues arising on breach of agreement as pleaded in the claim and statement of claim.
 4. The defendants as represented by the two counsels are awarded costs in the sum of \$1000.00 being the sum of \$500.00 each, respectively.

¹ SLU Civil Appeal No 2 of 1975

5. The claim shall be listed for further case management conference on 14th May 2019.

BY THE COURT

REGISTRAR