

THE EASTERN CARIBBEAN SUPREME COURT
MONTSERRAT

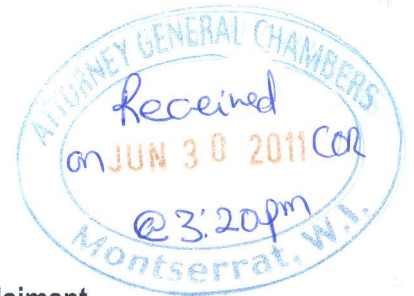
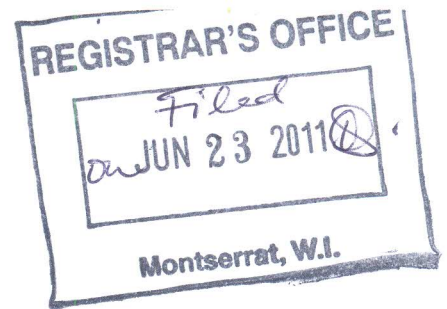
IN THE HIGH COURT OF JUSTICE

CLAIM NO. MNIHCV2004/0009
BETWEEN:

LILIAN RILEY

and

CHRISTOPHER GERALD
REGISTRAR OF LANDS
HON. ATTORNEY GENERAL



Claimant

Defendants

Before:

Ianthea Leigertwood-Octave

High Court Judge

Appearances:

Mr. David Brandt for the Claimant.

Mr. Kharl Markham for the First Defendant.

Ms. Sheree Jemmotte for the Second and Third Defendants.

2009: May 28; October 13
2011: June 23.

JUDGMENT

Introduction

- [1] The introduction to this claim starts with a reference to someone who is neither a party nor a witness in these proceedings but who is central to the dispute between the parties: Ms. Ruby Weekes ["Ms. Weekes"].

- [2] Ms. Weekes became the registered proprietor of Block 14/14 Parcel 88 [“the property”] in the St. John’s Registration Section on 7th April 1992. On 10th July 2001, the First Defendant, Christopher Gerald [“Mr. Gerald”] lodged a caution [“the Caution”] on the property at the Land Registry.
- [3] On 5th July 2001, the Claimant Lilian Riley [“Ms. Riley”] sought to have the property registered in her name by lodging various documents at the Land Registry. These documents included a Transfer of Land Document [“the Transfer Document”] dated 5th July 2001, which named Ms. Weekes as the Transferor and Ms. Riley as the Transferee.
- [4] On 12th February 2002, a Declaration by Ms. Weekes was filed at the Land Registry acknowledging her indebtedness to Mr. Gerald for services provided and expenditure incurred on her behalf.
- [5] On 10th February 2004, Ms. Riley’s solicitors wrote to the Second Defendant, the Registrar of Lands [“the Registrar”], indicating that there was no legal basis for the Caution and requested that the Registrar remove it. The Caution remained and on 15th March 2004, Ms. Riley commenced these proceedings against Mr. Gerald, the Registrar and the Third Defendant, the Hon. Attorney General, who was made a party by virtue of the Crown Proceedings Act. She sought an order that the Registrar remove the Caution. She also alleged that Mr. Gerald had placed structures on the property and sought an order that he remove them.
- [6] In his defence, Mr. Gerald claimed that he had cared for Ms. Weekes over the years and at some point in time, she had offered to transfer the property to him. On 28th January 2002, she had executed a declaration acknowledging expenditure that he had incurred on her behalf. He admitted constructing part of his business place on the property but alleged that Ms. Weekes had sanctioned it when it was brought to her attention. She had also given him permission to put a structure on a portion of the property.
- [7] The Registrar and the Hon. Attorney General have denied any liability in this matter, relying on Section 7 of the Registered Land Act¹.
- [8] At the trial of the claim, there was no evidence presented on behalf of Mr. Gerald, as he had failed to comply with the court’s directions for the filing of witness statements.

¹ 1999 Revised Edition

