

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**CLAIM NO: CV 2007-02799**

**BETWEEN**

**USINE STE. MADELEINE CREDIT UNION  
CO-OPERATIVE SOCIETY LIMITED  
Formerly Caroni Limited (Ste. Madeleine) Employees  
Credit Union Co-operative Society Limited**

**CLAIMANT**

**AND**

**CARONI (1975) LIMITED**

**DEFENDANT**



## **DECISION**

**Before the Honourable Madame Justice C. Pemberton**

### **Appearances:**

For the Claimant: Mr A. Manwah

For the Defendant: Ms V. Gopaul instructed by Mr F. Al-Rawi

Please allow me to apologise profusely for this late decision.

### **[1] PARTIES**

The parties to this action are Usine Ste Madeleine Credit Union Co-operative Society Limited (the Credit Union) and Caroni (1975) Limited (the Company).

[2] **FACTS**

The Credit Union brought this action claiming the sum of \$609,014.75, as a result of an alleged breach of contract by the Company to settle outstanding loan balances with the Credit Union on behalf of borrowers who were employees of the Company.

[3] The issue is whether the Company is bound to settle these arrears as claimed by the Credit Union.

[4] **LAW, ANALYSIS AND FINDINGS**

There is no doubt that the Credit Union's books may be showing this deficit. However, the breakdown of the debt, that is, who owed what was not supplied.

Further a close examination of the termination letter attached to the Statement of Claim reads:

*For employees with loan balances with the **Sugar Industry Labour Welfare** those employees would continue to service loans in accordance with the loan arrangements. If you have an unpaid balance on a loan from the Caroni Limited (Ste Madeleine) Employees Credit Union (Co-operative) Society Limited and/or the Caroni Limited (Brechin Castle) Employees Credit Union (Co-operative) Society Limited **and your loan Agreement authorises the Company to settle this balance upon termination of service, the said balance would be settled in accordance with the Loan Agreement.***

The court was **NOT** made privy to any loan agreement between the Credit Union and the employee/borrowers nor was any such document alluded to in the claim. The Statement of Claim speaks to an agreement made partly orally and partly by conduct and lists points of agreement.

- [5] Basic principles of law of contract are that there must be consideration moving for the promisor to the promise and privity of contract between the offer and the offeree from which flow obligations on and rights in the parties are created.
- [6] A correct interpretation of the termination letter will reveal that the **loan agreement** between the borrower and the Claimants **must** authorise the deduction of outstanding balances in settlement of loans upon termination of service. If the loan agreement does not give that express authority to the Company with respect, the Company cannot disburse funds. There is no privity of contract between the Company and the Credit Union.
- [7] Nowhere is it stated that the Company was a borrower or party to the loan agreement between the Claimant and the employee. In the premises I find that there is no privity of contract between the parties to this action.
- [8] I shall now turn to the Credit Union's assertion that the Company entered into the agreement to pay with it orally and partly by conduct. Two issues emerge – one, where is the consideration for such an agreement pleaded? The answer is no. In the absence thereof, no valid contract has been created.
- [9] The second is this – where is the pleading that the Company was fixed with and expressly accepted obligations separate and apart from any loan arrangements entered into by the Borrowers and the Claimant.
- [10] If a party is to create in itself a responsibility to accept financial liability of another party to one with whom that other party has contracted, that responsibility would be clear and unequivocal and all things being equal would be expressed. I say no more.
- [11] **CONCLUSION**
- Any perceived obligations on the part of the Company are therefore invalid and unenforceable. Let me hasten to comment on paragraph 11 of the Statement of Claim in

which this case was placed side by side with a matter presided over by my sister. That paragraph is singularly lacking in particulars and such activity is not to be condoned.

**ORDER**

- 1. That the Claim Form filed on 31<sup>st</sup> July 2007 be and is hereby dismissed;**
- 2. Claimant to pay the Defendant's costs prescribed in the sum of \$95,246.80.**

Dated this 19<sup>th</sup> day of March 2014.

/s/ CHARMAINE PEMBERTON  
HIGH COURT JUDGE