

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. **CV2018-00651**

BETWEEN

JOEL THOMAS

Claimant

AND

TECU CREDIT UNION

Defendant

Appearances:

Mr. Mustapha Khan instructed by Mr. Kristin Khan, attorneys-at-law for the Claimant

Ms. Leah Hector attorney-at-law for the Defendant

Before the **Honourable Madame Justice Mira Dean-Armorer**

REASONS

1. In December, 2005, the Defendant, the TECU Credit Union and Cooperative Society obtained judgment against the Claimant, Mr. Joel Thomas for the liquidated amount of \$126,767.83 plus interest.
2. The Defendant registered the judgment as provided under section 8 of ***the Remedies of Creditors Act Chapter 8:09***. The judgment was first registered in 2005. The Defendant conducted a levy in 2006 and recovered \$3,356.90. The Judgment was re-registered in April, 2011, August 18, 2014 and August 3, 2014.

3. On February 23, 2018 the Judgment debtor instituted these proceedings by way of a Fixed Date Claim against the Judgment creditor seeking an order that the Judgment creditor file a Memorandum of Discharge and release in respect of the judgment.
4. At the first hearing of the Fixed Date Claim, I gave directions for the filing of an agreed statement of facts and written submissions.
5. In the interim, however, the judgment was automatically discharged as of November 2018 by effluxion of time. The issues which arose in the claim and those which were addressed in the Written Submissions were therefore rendered academic and the single question which engaged my attention was the issue of costs.
6. On March 20, 2019, I dismissed the Claim, since it was recognised by both parties that there was no issue before the Court, apart from the issue of costs. I then ordered that the Claimant pay to the Defendant cost in the sum of \$7000.00, which represented 50% costs in respect of an unquantified claim. My reasons for the cost order are set out below.

Decision

7. At the date of the decision, the judgment had already been discharged as at November 2018. The Claim which was filed in February, 2018, would have been academic. Accordingly, the matter was stood down for discussions to be had on how the matter should be disposed of by the Court. Mr. Khan returned and indicated that he would

leave it to the Court to give its decision and on the issue of costs, he asked for 50% of an unquantified claim.

8. I therefore made the following ruling. The registration of judgment under the ***Remedies of Creditor's Act Ch 8:09*** is measure of enforcement where a judgment has already been awarded against a litigant. Litigants must comply with the decision of the court in keeping with the principle of the rule of law. To do otherwise would be to bring measures of enforcement against himself.
9. The proceedings laid in the hands of the Claimant to honour the judgment debt against him, which was made since the year 2005. It was his decision to do otherwise and it was my view that he brought this situation into being against himself and made the claim necessary.
10. The event was determined against the Claimant and there was no reason to depart from the general rule that costs should follow the event. In fact, there was good reason to award costs against the Claimant, since he had failed to comply with a judgment entered against him. In my view it was therefore just that the Claimant pay to the defendant the cost of this claim as 50% of the sum of cost associated with an unquantified claim which was \$7000.00.

Date of Delivery: December 29, 2020

Justice Dean-Armorer