

**THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**CV 2009 - 02975**

**IN THE MATTER OF**

**THE WILLS AND PROBATE ORDINANCE, CHAPTER 8 NO. 2**

**AND**

**IN THE MATTER OF THE ESTATE OF**

**BOON ABELTO ALSO CALLED ABELTO BOON, DECEASED**

**BETWEEN**

**POONIE ABELTO**

**Claimant**

**AND**

**STEVE BELTO**

**Defendant**

**CV 2012 – 00390**

**BETWEEN**

**STEVE BELTO (AS LEGAL PERSONAL REPRESENTATIVE  
OF BOON ABELTO, DECEASED)**

**Claimant**

**AND**

**POONIE ABELTO**

**KENNETH RAMNATH**

**Defendants**

Before the Honourable Mr Justice Ronnie Boodoosingh

**Appearances:**

Mr Robert Boodoosingh for Poonie Abelto and Kenneth Ramnath

Mr Ronald Dowlath for Steve Belto

**Dated:** 19 September 2014

**REASONS**

1. These two matters were consolidated. It is an unfortunate claim between mother and son. The claims concern a piece of land with the building on it measuring 616.3 square metres at Acono Road, Maracas/St. Joseph.
2. Poonie Abelto is 78 years old and was married to Boon Abelto. Steve Belto is one of her children. Kenneth Ramnath was the owner of the land. He entered into an agreement for the sale of the land with Boon Abelto for the sum of \$15,000.00. He subsequently transferred the land to Poonie Abelto.
3. Boon and Poonie had 8 children, all now adults. Other children included Peter Sookia and Helena Kalloo. At the present time Steve Belto lives with his family in an annex to the main house. Poonie lives with other children and their children in the main house. Peter lives with his family in an annex.
4. Poonie Abelto's case is that she was the common law wife of Boon since she was 17 years old but they got married in 1980. Boon died in 2005. She learnt that her husband

made a will giving the property to Steve. She was in the house when the will was made but her husband was on his death bed when it was made; he could not talk and he was in no position to make a will.

5. At the start of their relationship they lived in a tapia house. Her husband was a plumber and electrician. She was a domestic servant. They worked together to build the present house. This was in the 1960s. She made financial contributions to build 2 rooms and a toilet. She also worked in the home cooking, cleaning, maintaining and enhancing the home and surroundings. She worked in the government's Labour Intensive Programme. She used her back pay monies to build the rooms. Her husband contributed by wiring the house. Two sons William and Peter also made contributions to the house. Steve added the annex to the western side comprising 3 bedrooms, kitchen, toilet bath and living room.
6. Peter also had an annex comprising bedroom, living room, toilet, bath and kitchen.
7. All of these stand on the one lot of land.
8. At present the land is occupied by herself; Helena; Dinesh and his wife and family; Steve and his wife and family; and Peter.
9. Kenneth Ramnath has conveyed the freehold interest in the land to her. She contributed to the land rent and construction. Her husband paid part of the money for the land and Peter paid the balance of the purchase price.

10. Her case was supported by the evidence of Peter Sookia, one of her sons and by Helena Kalloo, one of her daughters.
  
11. Kenneth Ramnath also supported Poonie's case. His father had owned the land which he inherited. The land rents would be brought by either Boon or Poonie. He has transferred the land to Poonie, the purchase price having been paid off.
  
12. He said Boon and Poonie had broken down the initial tapia house and constructed a concrete house. Boon was a heavy drinker. He said after Boon had initially paid \$6,000.00 it was Peter who came and paid off for the land. It was then he transferred the land to her.
  
13. Steve Belto's version was somewhat different. He said his father Boon inherited the tenancy rights to the property from his grandparents. His father made a will. His mother approved of the will. He paid for the funeral service and performed the funeral rights for his father. He got probate of the will.
  
14. He said his father had an agreement with Ramnath for the sale of the land and his father had paid \$6,000.00.
  
15. He said in furtherance of the gift he took over the maintenance of the house. He rewired it in 2008. He surveyed the land. He has also assented a Deed for the house to his benefit. He said his mother made no financial contribution to the house. It was his father who did everything. He said when he started working he started to make contributions to the house. This continued. His brothers did not contribute to the house. He supported the family. He eventually built an annex to the house for himself.

16. He was the only one to take care of his father when he got sick after he retired. He therefore feels he is entitled to the house and property as per the will of his father.
  
17. His evidence is that his mother hardly worked because she used to be sick.
  
18. Between the two cases I preferred the evidence of Poonie Abelto and that of her children Peter and Helena. I also found that Mr Ramnath was able to support their version as the landlord of the lands.
  
19. The receipts supported that both Boon and Poonie paid toward the land rents. The receipts presented also supported that the receipts for the purchase of the land were made in Poonie's name.
  
20. I find that Poonie worked, and with her husband and children they all contributed to the house. Two of the sons built their own place on the land. It is clear it was intended for them all to have a place on the land.
  
21. I found Poonie to be forthright and categorical in her answers. The weight of the evidence was on her side. It is also consistent with what is reasonable and plausible that the parents would have worked hard to build on the land for a long time. She would have made both financial and other contributions over the years. Even if the will was validly made the house was not entirely that of Boon for him to bequeath. They both worked together to build it from its tapia house beginnings. The children also contributed to it. It was the matrimonial home to which Poonie would have acquired an interest even if it had been built exclusively from the financial resources provided by Boon.

22. I found that Steve Belto exaggerated his role in the construction and running of the home. He also denigrated the substantial contribution that his mother made towards the home and care and upbringing of the family including himself. In cross examination he at first said he did not know if his mother contributed to the home. His father was head of the home. He accepted she cooked, washed and took care of them. He did not know if his mother contributed to the land rent. His parents, he accepted, lived together for 50 years. They remained together through it all. He didn't know if his father gave Peter permission to build his annex. The two rooms and toilet were completed in 1983 when he was 17 or 18 years old. This begs the question of whether he could have contributed or been in a position to contribute or to pay for these expenses himself. He accepted that Peter paid the balance for the land. He was only willing to give his mother a life interest in the property. He did not appear to value his mother's contribution as a homemaker as being of value comparable to financial contributions.

23. In any event I accepted that Poonie made the exclusive contribution as homemaker and also made a substantial financial contribution over the years along with her husband to the development of the main house.

24. I would accordingly order judgment for Poonie Abelto against Steve Belto in CV 2009-02975. I also declare that Poonie Abelto is the lawful owner of the lands which are the subject of these proceedings and is entitled to the equitable interest in the buildings standing on the said lands. In respect of the main house she is entitled to a 100 percent interest in the home. Steve Belto is entitled to his interest in the annex which he occupies. Peter Sookia did not bring a claim. But he is also in occupation of an annex. While I will make no order in respect of the annex he occupies, Steve Belto is clearly not entitled to interfere with Peter Sookia's occupation of same. The Deed No. 200902293572 in favour of Poonie Abelto stands. The Deed of Assent registered as Deed No. DE200900063818 is void and of no effect. The Registrar General is to expunge this Deed from the records of the Registrar General's Department.

25. The claim and/or counterclaim of Steve Belto in CV 2012 – 00390 is dismissed.

26. After discussions with the attorneys and in order to allow the parties to move on and try to heal their family relations, I will order that the parties shall bear their own costs in relation to the claims.

Ronnie Boodoosingh

Judge