

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV 2014-03332

BETWEEN

MARILYN LANE

Claimant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Defendant

Before the Honourable Mr. Justice Ronnie Boodoosingh

Appearances:

Mr. R. Persad and Ms. T. Ade-John for the Claimant

Ms. C. Findlay, Ms. K. Matthew and M. T. Kissoon for the Defendant

Date: 31 October 2018

JUDGMENT

1. This claim is for detinue, conversion and trespass to the goods of the Claimant.
2. The case concerns a Toyota Corolla Altis motor vehicle seized by the police on 12 September, 2010.
3. That vehicle had registration plate PCN 4836 and chassis number MR0532EC107053341.
4. It is not in issue that vehicle was seized by the police. The vehicle was not returned. It was subsequently turned over to New India Insurance Company.
5. The Claimant's case is she purchased PCN 4836 for \$65,000.00 from a company called Maska Motors in San Fernando. This was in November 2009. She got a registration certificate on 13 November, 2009. This was her pleaded case. In evidence in chief she said she paid \$95,000.00 for it.
6. The Defendant says they had reasonable and probable cause to seize and detain the vehicle and to later turn it over to New India.
7. Corporal Joseph was the Defendant's main witness. The Claimant, her husband and daughter were the witnesses for the Claimant.
8. In **General and Finance Facilities Ltd. v Cooks Cars (Romford) Ltd [1963] 2 ALL ER 314**, Lord Diplock as stated at page 317 as follows:

“There are important distinctions between a cause of action in conversion and a cause of action in detinue. The former is a single wrongful act and the cause of action accrues at the date of the conversion; the latter is a continuing cause of action, which accrues at the date of the wrongful refusal to deliver up the goods, and continues until delivery up of the goods or judgment in the action for detinue. It is important to keep this distinction clear, for

confusion sometimes arises from the historical derivation of the action of conversion from *detinue sur bailment* and *detinue sur trover*; of which one result is that the same facts may constitute both *detinue* and conversion”.

9. In **Ghani v Jones [1970] 1QB 693 at 706** the main principles relating to detention were identified as follows:

- (i) The police officer must have reasonable grounds for believing a serious offence was committed such that the offender should be brought to justice.
- (ii) For any article seized the police officer must have reasonable grounds to believe it was the fruit of the crime or an instrument relating to the crime or material evidence to prove the commission of the crime.
- (iii) The police officer must have reasonable grounds to believe the person in possession of the item is implicated in the crime or was an accessory or his refusal to submit it was unreasonable.
- (iv) The police officer must not keep the item for any longer than is reasonably necessary to complete the investigations or preserve it as evidence.
- (v) The lawfulness of the police officer’s conduct must be judged at the time and not by what happened afterwards.

10. In **Costello –v- Chief Constable of Derbyshire [2001] 1WLR 1437** it was stated:

“Three general propositions of law are clearly established by Webb’s case. The fact of possession of a chattel of itself gives to the possessor a possessory title and the possessor is entitled to rely on such title without reference to the circumstances in which

such possession was obtained: his entitlement to do so is not prejudiced by the fact that he obtained such possession unlawfully or under an illegal transaction. His claim can only be defeated by proof of a title superior to his possessory title. (ii) In the case of competing claims to ownership (in the case of personality as in the case of realty), titles are relative and the issue falls to be determined by reference to the relative strengths of the two claims and the party with the better title (however frail it may be) is entitled to succeed.” [2001] 3 ALL ER 150 at page 157 c to e.

11. In considering the competing versions of the evidence, the following matters emerge.
12. The police officer, Mr Joseph, had information relating to a serious offence of larceny. He gave evidence that he had checked at the Licensing Office, the national agency for registration of vehicles, where he obtained information that the registration PCN 4836 was assigned to a Honda CRV vehicle owned by one Bernadine Thomas.
13. The Claimant or her family members were in possession of the vehicle. He therefore went to the Claimant with this information.
14. He conducted further investigations. This showed that the chassis number, one of the key means of vehicle identification, was not tampered with.
15. That chassis number related to another vehicle, a Corolla which had been stolen before from a doctor in Sangre Grande. That vehicle had the registration number PCE 6613.
16. What therefore emerged is that the number of this vehicle seized belonged to another vehicle and the chassis number, which was not tampered with, belonged to yet another vehicle. These twin facts of itself would have been compelling pieces of evidence for the police officer.

17. There was a conflict in the evidence as to whether the Claimant handed over a receipt for the purchase of the vehicle. She says she did. Corporal Joseph said she did not.
18. Based on my evaluation of the witnesses, I found Corporal Joseph to be a more credible and believable witness. First, the Claimant said she purchased it for \$65,000.00 in her pleadings. In her witness statement and cross examination she said \$95,000.00. This was an unexplained significant difference. Second, the police had disclosed a document from Maska Motors saying they did not sell a vehicle to the Claimant. Third, while the Claimant produced a registration card, she was required to prove it by the Defendant and she did not do so by calling evidence from an authorised person at the Licensing Office to do so.
19. It was the Claimant's duty to prove she had a better title to the vehicle than New India, who had settled the claim of the medical doctor, and who therefore claimed ownership of the vehicle which corresponded with the chassis number of PCE 6613.
20. The Claimant failed to prove a better title in light of the significant suspicious circumstances surrounding this vehicle. There was also evidence relating to another vehicle which raised suspicions by the police and this vehicle was possessed by the claimant's husband. He had brought a claim also and later withdrew it.
21. Based on all the evidence, therefore, the police had more than ample cause to seize the vehicle and based on their investigations had sufficient evidence to hand over the vehicle to New India. The police officers were entitled to rely on the information they obtained from the recognised vehicle registration authority. While I note the comments in the Claimant's closing submissions relating to "issues" at the Licensing Office, the Court could not speculate that those issues impacted on this case. Neither conversion nor detainee have therefore been proved. Because there may be false registrations relating to some vehicles at the Licensing Office, does not mean that in these circumstances that was the case. One anomaly does not prove another. The evidence that this was a stolen vehicle was compelling.

22. Had the Claimant brought evidence which showed some conflict in the registration records of the Licensing Office, the Court could have considered and weighed that evidence. But this required the Claimant to bring an authorised person from the Licensing Office or to subpoena their records. It may well be that the Claimant was herself in possession of a false registration certificate.
23. I note also that I accepted the evidence of Police Officer Perriera. I found him to be credible and his evidence to be supported by relevant records produced to the Court. I accordingly, preferred the evidence of the Defendant to that of the Claimant.
24. The claim is dismissed. The Claimant must pay the Defendant's prescribed costs based on the sum of \$65,000.00.

Ronnie Boodoosingh
Judge