

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV 2016 – 03388

Between

RISHIRAM CHRISTOPHER

Claimant

And

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

First Defendant

P.C. BENNETT 5000

Second Defendant

P.C. STEWART 16054

Third Defendant

RODNEY CHARLES

Fourth Defendant

P.C. STEWART 16509

Fifth Defendant

Before the Honourable Mr Justice Ronnie Boodoosingh

Appearances:

Mr Dale Scobie for the Claimant

Mrs Maria Belmar-Williams and Ms Shalini Singh instructed by Ms Kendra Mark for the First, Second and Fifth Defendants

Date: 5 February 2020

JUDGMENT

1. This case illustrates what can happen when the police get themselves involved in the private business of citizens without court orders.
2. This claim was brought for trespass against the defendants for the part played by police officers and a bailiff / agent in the removal of the claimant from his home. The claimant, Mr Christopher, lived in a wooden house in Biche. He said the property was owned by his sister and her husband. They live in New York. They bought it from Mustapha and Pearl Ali. The Alis previously bought it from one Jai Ramkissoon in 1986. The Alis sold this property to his sister and her husband for \$35,000.00. He produced a receipt for this transaction. In 2003 his sister turned the property over to him by giving him permission to live there.

3. In his witness statement the claimant said on or about 12 January 2013 police officers came and demanded he leave the property. One of them, PC Bennett, threatened to charge him with possession of marijuana which he claimed he found on the compound. He had no such thing there. After they left Mr Christopher called the Biche Police Station and he lodged a complaint.

4. On or about 15 January at about 7:30 pm he was there with two friends watching news when he realised a police vehicle had stopped in front of his home. Police officers came out carrying guns. They came in and threatened him asking him if he was “still focking here”. He attempted to show them the receipts he had for the property. One of the police officers said they “had better thing than that, we have papers from the Red House”. The police told his friends to leave. Two police officers then started to throw his belongings in the yard. The items remained without protection for some days. They got soaked. The electricity was cut for the property. The police officers emptied his house and broke down a shed he was building.

5. After a few days he got a photographer to take photographs of the items in the yard. He got an adjuster to estimate the value of his items. He has claimed for loss of items in the sum of \$37,200.00. He produced the agreement between the Alis and Mr Ramkissoon. He produced receipts from the Alis to Mr Ramkissoon. He produced the receipt from his sister

and her husband to the Alis. He produced a valuation report for the items and the property.

6. After he was put out, Mr Rodney Charles put up four No Trespassing signs.

7. Mr Mustapha Ali gave evidence and supported the claimant's evidence that his sister and her husband bought the house from him. He also saw the items in the yard. Mr Rakesh Ramsawak, who said he was present, also supported the claimant's version. He said he was there and saw that the police and other men also broke down the banister of the house, knocked down the gallery and broke down the shed and nailed up the door. The officers said the property belonged to one Annmarie Thomas and they must leave.

8. For the defendants, Christopher Bennett gave evidence. He was a police officer attached to the Tunapuna Court and Process Branch. He said in January 2013 he received a call from one Rodney Charles for his assistance to go to a property in Biche to serve a Notice of Eviction on a person living on premises that did not belong to him. Mr Charles told him Thomas had hired him to remove the person. He was shown what he called a "Deed of Purchase" for the property. That document purports to sell a wooden house located at #432 Newlands Village, Biche by Mr Ramkissoon to Ann Marie Thomas made in 2001. The house in

the schedule is referred to as No. 45 at LP 432. I should note that in rural locations it would not be uncommon for more than one property to have the same light pole number.

9. He said that he informed PC Stewart to assist him with serving a document. After his tour of duty ended at the Tunapuna Court, he and PC Stewart left and went to the Biche Police Station. They met Mr Rodney Charles and another man along the way. They too went to Biche Police Station. They informed the sentry they were there to serve a document in the area. They followed Mr Charles and located the house. They went to the front door. They spoke to the claimant. Another man was there. The police noticed the place was dilapidated. They introduced themselves as police officers to the claimant and told him they were there with Mr Charles who was a representative of the owner of the land. They then moved away and stayed in the yard.

10. After half hour, PC Bennett noticed the claimant and the other man removing their own items and putting them outside. Mr Charles then padlocked the house and put up a No Trespassing sign. He denied issuing threats. He did not remove any items. They caused no damage to the claimant's property.

11. PC Floyd Stewart also gave evidence. He was requested by PC Bennett to go with him to assist in serving a Notice. On 15 January 2013 they

went to Biche, dressed in police uniform and reported to the Biche Police Station. They then went to the house. They introduced themselves. He heard Mr Charles told the claimant someone else owned the property. Mr Charles asked the claimant if he had documents and the claimant did not produce any. Mr Charles told the claimant he would have to relocate. The claimant and the other man then removed his items and placed them in the yard. Mr Charles then secured the property and they left. The claimant said he would relocate the items from the yard.

12. I believed the claimant and his witnesses. I did not believe the defendants' witnesses. The main reasons are as follows. First, I thought that the claimant was unlikely to just leave his home as easily as the police said knowing he had documents for the premises. Second, the document which PC Bennett has produced is not definitively connected to this property. It may be for a property in the area but it is not, on its face, proved to be conclusively connected to the particular property. Third, I do not accept the events went as peacefully as the defendants' witnesses said. It would be incredible for a person who has been occupying premises for so long, with documents in support of his occupation, to simply, just like that, voluntarily remove his items in the manner described by the police. Fourth, the photographs do not show items carefully placed as suggested by the defendants' witnesses. Fifth, the claimant would be unlikely to take the steps he did to get photographs and a valuator if he had voluntarily left immediately upon request by Mr Charles. Sixth, the police themselves said they went to serve an eviction notice. How then did this proceed to be a voluntary

removal taking place immediately upon demand? Seventh, the person who sold the house to the claimant's sister and husband came and gave evidence about the transaction. This therefore bolstered the claimant's contention of his right to be there. Eight, listening to the witnesses being cross-examined on both sides, I formed the conclusion that the claimant and his witnesses were being truthful about the events they described. Ninth, even if the deed was valid and related to the property it was not conclusive that Ms Thomas had a better right to possession. I found the version of the police officers in this instance to be implausible.

13. This in my view was a high handed and unjustified removal of Mr Christopher from his home. It was abuse of power of the worst kind. The police acted as associates of a bailiff / agent who had no authority from the court to act. Conduct by police officers like this erodes public confidence and trust. They make citizens wary, suspicious and resentful of the police. It brings down the good work of those police officers who are faithfully carrying out their duties.

14. Even if there was merit in the contention of Mr Charles that the claimant was on someone else's property without permission, the role of the police was not to aid the bailiff / agent in the removal of the claimant in these circumstances. Ms Thomas ought to have sought a court order for the claimant's removal. The Deed of Purchase put forward does not of itself, even if it was valid, entitle the holder to possession of the premises. There can be many variables which impact on this. It may be

the property was sold to two parties by the previous owner, Mr Ramkissoon. It may be that there may be a right to possession by the claimant as against Ms Thomas. The Alis said they had owned the house before the date of Ms Thomas' Deed. It could have been a mistake about which house was involved. It may be that there was something suspicious about a deed registered 12 years after the purported sale. There were potential factual disputes that needed to be resolved. That is why we have civil courts.

15. This is a very different circumstance such as where there is a warrant or order from the court. Even in such a case there is a process that can be followed. The police may have been entitled to assist by accompanying someone to keep the peace if a party wished to serve a notice. But that is not what I have found to be the case here. The police are not enforcers of bailiffs or agents. Any assistance ought to have ended with service of the notice.

16. The police ought not to have involved themselves in what was a private dispute as to the occupation of premises. Their role is to keep the peace. In this instance I accepted the evidence of the claimant that the police were actively involved in assisting Mr Charles in his unlawful removal of the claimant. One of them, I accepted, used obscene language. They took on the role of the court in declaring that they had better papers from the Red House!

17. The claimant has shown justification for being on the premises. The defendants have shown none. Trespass is proved in these circumstances.

18. On damages I accepted the claimant's evidence that his belongings were removed and they were damaged. There was also supporting evidence from his witnesses. All these items, it seems reasonable to me, would be in someone's home. It is a simple list. There is nothing lavish or extraordinary in that list that required any special proof of existence or value. In any event, the claimant's witness, an experienced valuator, Mr Maharaj, supported the presence of the items and values claimed. I also accepted the replacement cost for the broken step as claimed.

19. There is judgment for the claimant against the first, second and fifth defendants. The third and fourth defendants were not served. The claims against them stood dismissed. The defendants must pay the claimant special damages for trespass in the sum of \$37,200.00. I am of the view that he should be awarded a further sum for trespass with an uplift for the aggravating features of this case. He was summarily ejected from his home. His belongings were placed in the open subject to weather. He was threatened with a false charge. His entitlement to possession was not considered. The police took on a partisan role and did not show the restraint and independence required of their office. This must have traumatised the claimant. I am of the view that a further sum for damages for trespass should be awarded in the sum of

\$40,000.00. Interest was not specifically claimed and none is awarded. The first, second and third defendants will pay the prescribed costs of the claimant based on the figure of \$77,200.00. There is a stay of execution of 42 days.

Ronnie Boodoosingh

Judge