

**THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**CV 2016-03515**

**BETWEEN**

**ROOPCHAN BOODRAM**

**Claimant**

**AND**

**MANO SAKAL**

**(The Liquidator of Santa Cecilia Limited)**

**Defendant**

**Before the Honourable the Mr. Justice Ronnie Boodoosingh**

**Appearances:**

**Mr Z. Ashraph for the Claimant**

**Mr J. Rampersad for the Defendant**

**Date: 14 November 2018**

### **REASONS (Edited Oral Judgment)**

1. The Claimant and his family live at No. 51 Centeno Trace, Pluck Road, on a parcel of land comprising 7,630 sq. metres.
2. The Claimant claims for specific performance of an oral agreement between the Claimant and the Defendant for the sale by the Defendant of the lands for the sum of \$2,000.00.
3. There was an alternative claim for adverse possession.
4. An issue was made regarding the date of the agreement. The Statement of Case referred to 29 September, 1993. In my view, the date was not important to the substance of the claim.
5. The Claimant's father, according to the evidence, purchased the lands from the then liquidator of Santa Cecelia, Bernard Lazarri for \$700.00. This was in 1985. There is a receipt to this effect.
6. On 29 September, 1993 the Claimant's father entered into an agreement with him and his siblings to convey the lands he purchased to them.
7. Lazarri conveyed lands, pursuant to that agreement to Dolly Boodram dated 7 June, 1999. The sum of \$700.00 previously paid was accepted as the purchase price.

8. The Defendant then entered into agreements with Titmus and Sukdeo Boodram to convey lands to them for \$2,000.00.

9. Those lands were later conveyed to them or their assignees/ heirs.

10. In like manner, the Claimant approached the Defendant for the lands he was occupying to be conveyed to him.

11. The Claimant's case is that on surveying, it was discovered he was occupying more than an acre and hence the agreement was made for the lands to be conveyed to him for \$2,000.00.

12. The Claimant says he paid the sum of money. Thus, the Claimant performed his part. It was for the Defendant to perform its part by conveying the lands.

13. In consequence of the oral agreement the Claimant:

- Surveyed the land;
- Paid the \$2,000.00;
- Occupied and refurbished the house and planted the lands.
- The Claimant went to his Attorney and had a deed drawn up for execution.

14. The Defendant failed to complete his side of the bargain. It was for the Defendant to do so.
15. I accepted the evidence of the Claimant and his then Attorney at Law, Mr Abdel Ashraph in preference to the evidence of Mr Sakal.
16. I found Mr Ashraph to be both reliable and credible and I had no difficulty in accepting his evidence as to what took place. His evidence was supported by the available documentation.
17. All of this pointed to the existence of an agreement.
18. The issue of delay was raised. In my view, this was not a consideration relevant to this claim. The Claimant had acted on this matter. He has continued to live on the land and to develop it and plant it. There can be no prejudice to the Defendant in doing what ought to have been done a long time ago.
19. I found Mr Sakal to be belligerent at times; his evidence was also convenient and unreliable. His memory was understandably faulty on different matters raised in cross-examination.
20. In the event, I am wrong on the finding above, I went on to consider the Claimant's alternative case of adverse possession.

21. It is clear from the evidence that the Claimant has been in possession and control of the lands for over sixteen years. He called several witnesses who all testified to this. Despite small inconsistencies which are to be expected in the recollections of so many witnesses, I accepted their evidence of the Claimant's occupation of the lands for many years.
22. Previously, his father had the lands from the 1940's. After 1985 no rent has been paid. Occupation has continued.
23. The property has passed down from one generation to another.
24. There were several acts of possession including building a house on the lands, cultivating same, raising animals, granting permission to his son to build on the land etc.
25. It is also clear that the Claimant possessed the land with the intent of exercising control and ownership against the interest of the owner. Time continued to run from the occupation of the Claimant's father to him.
26. The fact of the acknowledgement of the ownership by the Defendant company is immaterial in the facts of this case. It is clear that they always possessed the land. There was no intention to surrender the lands to the Defendants. They dealt with it as their own.
27. There is therefore judgment for the Claimant against the Defendant.

**Order:**

28. The Defendant is to execute the requisite deed of conveyance of the lands to the Claimant within twenty-eight (28) days. In default, the Registrar is empowered to do so.

29. Alternatively, it is declared the title of the deed has been extinguished by operation of law.

30. The Claimant is entitled to the use, enjoyment and possession of the lands.

31. The Defendant must pay the Claimant the costs of this claim in the sum of \$14,000.00.

**Ronnie Boodoosingh**

**Judge**