

REPUBLIC OF TRINIDAD AND TOBAGO

CV 2012-05123

IN THE HIGH COURT OF JUSTICE

BETWEEN

SIMON DAVID VINCENT
(Legal personal representative of the estate of
MARILYN M. REDHEAD also called
MARILYN MARLENE REDHEAD, DECEASED)

Claimant

AND

GENA RAMSAHAI
also called GENA MAHABIR-RAMSAHAI

Defendants

Before the Hon. Madam Justice Carol Gobin

Appearances:

Mr. E. Prescott instructed by Ms. S. Sinanan for the Claimant

Mr. K. Wilson for the Defendant

REASONS

The Order

1. Upon hearing the evidence on the surcharging and falsification of the accounts filed by the deceased for the period ending 31st January, 2014, I found that the net assets of the estate were in the sum of \$1,300,000 which sum represented the sale price of the property situated at #29 Frank Hart Street, Arima . Of this sum and by the time that the exercise was completed I had already ordered the sum of \$711,000.00 to be paid into court.

2. I made the following findings in the relation to the statement of accounts filed by the Defendant.

Liabilities of Estate

The Liabilities of the estate are -

(1)	Audit and Accounting fees	\$ 7,500.00
(2)	Insurance Expenses	\$ 7,600.00
(3)	Beneficiary Ann Noel	\$120,000.00
(4)	Beneficiary Lima Sandy	\$ 20,000.00
(5)	Beneficiary Amaris Milington	\$ 60,000.00
(6)	Beneficiary Dr. Chude	\$ 50,000.00
(7)	Land and Building taxes	\$ 444.00
(8)	Repairs and Maintenance	\$ 9,500.00
(9)	Water Rate	\$ 3,178.00
(10)	Maintenance and security expenses	\$ 28,800.00
(11)	Electricity Expenses	\$ 920.00
(12)	Valuators fees	\$ 3,250.00

3. Claims Disallowed and Reasons for Refusal

The following claims were disallowed -

(1)	Executor's Fees (for the reason that there is no basis in law for it)	\$ 87,000.00
(2)	Gift to Executor (While a gift was contemplated, the amount is within the claimant's discretion, the claimant did not agree to this or any sum.)	\$ 250,000.00
(3)	Legal and Professional fees (\$10,000.00 was allowed as a reasonable fee for the services which were reasonably required. I	\$75,000.00

considered the sum claimed to be disproportionate to the level of work that was necessary for the administration) of the estate. Insofar as it appeared costs were being claimed in relation to other actions of the defendant which were unnecessarily adversarial, I rejected the claim.

(4) Medical Expenses – Marie Foundation - \$205,495.00

(The Evidence led in support of this was not credible in the least as to the amount. It was unsupported by any or sufficient documentary proof. The witness, who was called to support the claim for the payment, failed to establish that the testatrix had any contract with the Marie Foundation to supply anything for her care and treatment. Dr. Chude whom the witness identified as his friend, and the doctor who incurred the expense, may well have taken from the Foundation supplies to the value what was claimed. But the evidence that was led failed to establish any liability on the part of the testatrix. But in any case I found it implausible that any supplies of medication and other basic items could have cost \$ 205,000.00 in three months. No particular medication was identified. No bills were produced. I found this claim to be false.

(5) Real Estate Commission \$ 59,000.00

I rejected this claim for the following reasons. A cheque in the sum of \$65,000.00, not \$59,000.00 and which was made payable to the real estate agent, Mary Lee's Real Estate by the Defendant, was produced in support of this claim. The defendant's explanation for the variation in this figure was that he included in the payment other moneys owing to the agent. This raised an issue as to credibility, which was compounded by the relationship between the parties. When the defendant indicated that the Real Estate Agent was in fact his wife, my suspicion as to the genuineness of the transaction increased. The defendant did not produce a formal agency agreement or evidence of an agreed fee. Given the relationship between himself and the agent if such had in fact been produced, it might have gone some way to assisting on credibility. But I rejected the claim entirely when I considered the date of the cheque. It was issued on 5th September, 2013, two years after the sale of the property and three months after I had made an order on 17th June, 2013 for the filing of accounts. This timing suggested to me that this was not a genuine claim, but one

included as an afterthought to reduce the balance due to the beneficiary.

Dated this 23rd day of September 2014

**CAROL GOBIN
JUDGE**