

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV 2016-04469

BETWEEN

NAWBERT RAMPERSAD

CHANDRAWATEE RAMPERSAD

Claimants

AND

JOAN ALEXANDER

Defendant

Before the Honourable Madam Justice Margaret Y Mohammed

Dated the 16th August, 2017

Appearances

Ms. Nalini Sharma instructed by Ms. Andrea Goddard Attorneys at law for the Claimant.
No appearance for the Defendant.

REASONS

1. On the 23rd June, 2017 the Claimants Notice of Application filed on the 19th April 2017 (“the application”) seeking judgment in default of appearance came up before me. The grounds in the application were that the Claim Form and Statement of Case which were filed on the 31st December 2016 were served on the Defendant by pre-paid registered post pursuant to the order of the Court dated the 22nd February 2017. The time for entering the appearance of 35 days had

expired on the 7th April 2017 and that as at the 19th April 2017 neither the Defendant nor anyone acting on her behalf has acknowledged service of the Claim Form and Statement of case nor filed a Defence.

2. In the application the Claimants were asking the Court to enter judgment for the reliefs claimed in the Claim Form and Statement of Case namely:

- (a) A declaration that the document entitled “Purchase Agreement” dated the 16th day of August 2006, purportedly made between Nawbert Rampersad and Chandrawatee Rampersad of the One Part and Joan Alexander of the Other Part, and the handwritten document dated the 17th day of August 2010 purportedly made between Joan Alexander of the One Part and Chandrawatee Rampersad of the Other Part are null and void, and are not binding on the Claimants or either of them.
- (b) A declaration that the Claimants are and either discharged from performance of the said purported contract or contracts.
- (c) An order directing the Registrar General to remove the caveat lodged by the Defendant relevant to the Claimants’ lands described in the Certificate of Title Volume XXXV Folio 491.
- (d) A declaration that any payments made by the Defendant to the Claimants have been forfeited and the Claimants are entitled to retain same.
- (e) Costs.
- (f) Such further and/or other relief as the Court may seem fit.

3. After the application was filed, the Court directed that it was to be served on the Defendant by registered mail at the same address the Court had ordered for service of the Claim Form and Statement.

4. In support of the application was an affidavit of service filed on the 22nd June 2017 on behalf of the Claimants which was deposed to by Mr. Eddison Baptiste. In the affidavit of service, Mr Baptiste deposed that on the 26th April 2016 he sent the application, the affidavit in support by Andrea Goddard and the draft order all filed on the 19th April 2017 by prepaid registered post addressed to the Defendant at No 1317 Nostrand Avenue, Brooklyn New York, 11226 USA. He annexed a copy of the receipt as proof of payment for the registered mail.

5. The application was heard by me nearly two months after its service. When it came up before me there was no appearance entered and no affidavit in opposition. The Defendant's brother Mr C Husbands Edwards was present in Court, which signaled to me that the Defendant received the application and she was aware of the nature of reliefs the Claimants were seeking. The Defendant's brother indicated that the Defendant wanted an adjournment. However, I was satisfied that the Defendant had adequate time to file an appearance and/or defend the action on two occasions namely after she was served with the Claim Form and Statement of Case and after she was served with the application. She did not take the opportunity to put forward her case after each occasion. I was of the view that to adjourn the application would not have furthered the overriding objective since in my opinion the Claimants had taken all the required procedural steps to prosecute their claim and they had given the Defendant more than adequate opportunity to defend.

6. I therefore made the following order:
 - (a) The document entitled "Purchase Agreement" dated the 16th day of August 2006, purportedly made between Nawbert Rampersad and Chandrawatee Rampersad of the One Part and Joan Alexander of the Other Part, and the handwritten document dated the 17th day of August 2010 purportedly made between Joan Alexander of the One Part and Chandrawatee Rampersad of the Other Part are null and void, and are not binding on the Claimants or either of them.

 - (b) The Claimants are and either discharged from performance of the said purported contract or contracts.

- (c) Any payments made by the Defendant to the Claimants have been forfeited and the Claimants are entitled to retain same.
- (d) The Registrar General is hereby ordered to expunge the Caveat lodged by the Defendant relevant to the Claimants' lands described in the Certificate of Title Volume XXXV Folio 491.
- (e) The Defendant do pay the Claimants' prescribed costs in the sum of Fifteen Thousand Dollars (15,030.00).

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Margaret Y Mohammed
Judge