

**THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**No. CV 2018-01755**

**BETWEEN**

**CHITRADAI AUXILLY**

**Claimant**

**AND**

**MICHAEL KURBANALI**

**MICHAEL KURBANALI as administrator**

**Ad litem in the Estate of Mohinie Doodnath**

**also called Mohinie Kurbanali, deceased**

**Defendants**

**Date of Delivery February 14, 2020**

**Before the Honourable Madam Justice Margaret Y Mohammed**

**Appearances:**

**Ms. Ashely Badal Attorney at law for the Claimant.**

**Mr. Anthony Cherry Attorney at law for the Defendants.**

**JUDGMENT**

1. In 2011<sup>1</sup> the Claimant and her sister Mohinie (“Mohinie”) became the owners of a certain parcel of land in the Ward of Cunupia<sup>2</sup> and known as Lot No 56 Day Drive, off Munroe

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<sup>1</sup> By Deed dated 27<sup>th</sup> July 2011 and registered as DE201101723512,

<sup>2</sup> All and Singular that certain piece or parcel of land situate in the Ward of Cunupia, in the Island of Trinidad, comprising FOUR HUNDRED AND FORTY ONE POINT TWO SQUARE METERS (441.02 sq. M<sup>2</sup>) (being portion of a larger parcel of land described in the First Schedule to Deed registered as No. 14278 of 1991) and bounded upon the North by a Road Reserve 7.62 meters wide on the South upon Lot No. 66 on the East upon Lot No. 57 and the West upon Lot No. 55 and which said piece or parcel of land is delineated and coloured pink and thereon numbered “56” on the General Plan marked “X” annexed to Deed registered as No. 11863 of 1998

Road, Cunupia (“the said lands”). Mohinie married the First Defendant in 2013 and in 2014 she and the First Defendant started the construction of a structure on the said lands. Unfortunately Mohinie passed away in 2017 and the Claimant now seeks the following orders against the First Defendant and Mohinie’s estate, which is represented by the First Defendant as the administrator at litem:

- (a) Vacant possession of the said lands.
  - (b) A declaration that the First Defendant is unlawfully in occupation and/or is a trespasser in respect of the said lands.
  - (c) Damages for trespass.
  - (d) Costs.
2. The effect of the orders which the Claimant seeks is to remove both the First Defendant and the estate of Mohinie from any interest in the said lands.
3. The Claimant asserts that:
  - (a) She alone paid for the purchase of the said lands.
  - (b) After she purchased the said lands, she and her husband, Vernon Auxilly constructed a foundation on a portion of the said lands in order to build her family home.
  - (c) In or around April of 2014 the First Defendant sort permission from her and Mohinie for him to occupy the said lands for the purpose of running a fabrication shop to gain income for the duration of the First Defendant’s daughter’s tertiary level education in Jamaica.
  - (d) She agreed to temporarily allow the First Defendant to fabricate and/or build a movable iron and/or steel burglar proofing and a galvanize roof for the First Defendant to store and/or operate his tools and/or machinery for the purposes of the fabrication shop. The First Defendant built the burglar proofing and the roof over her concrete foundation which are movable.

- (e) The said permission given to the First Defendant by her was done orally and it was never the intention of either of them that the occupation of the said lands by the First Defendant would be permanent or that the said lands would be divided in any way.
- (f) Sometime in 2014, she obtained a temporary electricity connection and to date the said bill is in her name alone and since then, she has been paying it.
- (g) Sometime in or around July of 2015, the First Defendant's daughter completed her tertiary level education program in Jamaica.
- (h) Sometime in or around May 2016 Mohinie was diagnosed with cancer. The Claimant took care of Mohinie at her home in Diego Martin and then sometime in September 2016 she moved into the Claimant's home where she continued taking care of her and all her needs without the assistance of the First Defendant.
- (i) The First Defendant never took the time to take Mohinie for doctor visits or give her any medication or provide for her financially in anyway.
- (j) When Mohinie died in 2017 she became the sole owner of the said lands.
- (k) After Mohinie died, on the 12 July, 2017, the Claimant engaged the services of her attorney at law who wrote a pre-action protocol letter to the First Defendant seeking possession of the said lands.
- (l) The First Defendant remains in occupation of the said lands where he is making a profit and the Claimant is unable to complete her family home and as such the Claimant has been deprived and/or suffered loss and has been unable to occupy it since April 2014.

4. The Defendants filed a Defence and Counterclaim. Their position is that:

- (a) The Claimant is not the sole tenant of the said lands.
- (b) Mohinie contributed one-half of the purchase price for the said lands.

- (c) The joint tenancy of the said lands was severed when the Claimant orally agreed to divide the said lands in half and pursuant to the said agreement she put him and Mohinie into possession to construct a house (“the house”).
- (d) The Defendants occupation of the one-half of the said lands was done by the agreement and with the consent of the Claimant.
- (e) On the promise of the Claimant and based on the agreement the First Defendant and Mohinie spent large sums of money on the said lands acquiring an equitable and proprietary interest in it. The First Defendant alone paid for and constructed the entire partly finished house on the said lands. The structure on the said lands is neither moveable nor temporary. It is a fixed house and workshop. To make the house habitable windows and doors which have been fabricated have to be installed.
- (f) The First Defendant started operating his business on the said lands in 2014 and he did not seek nor obtain the Claimant’s permission to do so.
- (g) The Claimant made the arrangements for the electricity supply to the house by agreement since the Deed was in her name. The First Defendant paid for fabricating and installing all the hardware to accommodate the installation of the electricity supply.
- (h) The First Defendant has been in legal occupation of the said lands until Mohinie died and after her death he continued unrestricted possession with the acquiescence of the Claimant as sole beneficiary of the estate of Mohinie and in his own capacity.
- (i) The First Defendant’s daughter’s education was funded by the GATE Programme and from a student loan obtained from RBC Bank.
- (j) The First Defendant met all the medical expenses of Mohinie.

5. The Defendants have counterclaim seeking orders that:

- (a) The oral agreement and the actions of Mohinie severed the joint tenancy.

(b) The said lands be partitioned and give effect to the said agreement. If partition is not possible, a declaration that the First Defendant and the estate of Mohinie are entitled to an equitable charge or lien for the amount of money they expended on the said lands.

(c) Costs.

6. The Claimant replied that she and her deceased husband constructed the house since they were building it for their home as they were renting and needed more space.

7. The Claimant's case rest on the law of survivorship as she and Mohinie acquired the said lands as joint tenants. The author of **Commonwealth Caribbean Property Law** 2<sup>nd</sup> Edition at page 117 described the nature of a joint tenancy as:

"A joint tenancy occurs where land is conveyed or devised to two or more persons without 'words of severance' ...

For a joint tenancy to exist what is known as the four unities must all be present. They are the unities of possession, interest, title and time. What this simply means is that each joint tenant has equal rights to possess any part of the land, each joint tenant has interests which are identical as it pertains to the whole land, each joint tenant has derived his/her title from the same conveyance and each joint tenant must have acquired his/her possession, interest and title at the same time."

8. The effect of the doctrine of survivorship on a joint tenancy was explained in **Halsbury's Law of England** Volume 87 5<sup>th</sup> Edition, paragraph 203 as:

"The death of one joint tenant creates no vacancy in the seised or possession. His interest is extinguished. If there were only two joint tenants, the survivor is now seised and possessed of the whole. If there were more than two, the survivors continue to hold as joint tenants. The incident which is called the 'jus accrescendi', is the most important feature of joint tenancy."

9. In order for the Claimant to succeed, she must prove on a balance of probabilities that:  
(i) she purchased the said lands with only her money; (ii) her version of the agreement for the Defendants' occupation of the said lands; and (iii) she financed the construction of the house on the said lands.
10. The Defendants case rest on 2 principles in law namely, the severance of the joint tenancy and the principle of proprietary estoppel.
11. The circumstances in which a joint tenancy can be severed were set out in the leading authority of **Williams v Hensman** [1861] 70 ER 862 at 867, where it was stated that:  

"A joint tenancy may be severed in three ways: in the first place, an act of any one of the persons interested operating upon his own share may create a severance as to that share. The right of each joint tenant is a right by survivorship only in the event of no severance having taken place of the share which is claimed under the jus accrescendi. Each one is at liberty to dispose of his own interest in such a manner as to survivorship. Secondly, a joint tenancy may be severed by mutual agreement. And in the third place, there may be a severance by any course of dealing sufficient to intimate that the interests of all were mutually treated as constituting a tenancy in common."
12. In this case the Defendants rely on the severance of the joint tenancy by mutual agreement.
13. The law on proprietary estoppel is well settled. The elements of proprietary estoppel were repeated by Mendonca J A **Nester Patricia Ralph and Esau Ralph v Malyn Bernard**<sup>3</sup> at paragraph 38 where he referred to the dicta in **Thorne v Major and Ors**<sup>4</sup> where Lord Walker pointed out that "while there is no universal definition of proprietary estoppel, which is both comprehensive and uncontroversial, that most scholars agree that the

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<sup>3</sup> Civil Appeal No. 131 of 2011

<sup>4</sup> [2009] UKHL 18

principle of proprietary estoppel is based on “three elements, although they express them in slightly different terms; a representation or assurance made to the claimant; reliance on it by the claimant and detriment to the claimant in consequence of his (reasonable) reliance...”. For a claimant therefore to properly plead his case in proprietary estoppel, he must set out those three elements; a representation or assurance, reliance on that representation or assurance and detriment as a consequence.

14. In **Mills v Roberts**<sup>5</sup> Jamadar JA explained that the elements of proprietary estoppel must be examined holistically in the round and are not “watertight compartments”. The Court will examine the alleged inducement, encouragement and detriment to determine if they are both real and substantial and the Court “must act to avoid objectively unconscionable outcomes”. Jamadar JA stated at paragraphs 19 and 22 that:

“19. In respect of the law of proprietary estoppel we are more troubled about the correctness of the application of the law. Whereas in promissory estoppel there must be a clear and unequivocal promise or assurance intended to effect legal relations or reasonably capable of being understood to have that effect in the law of proprietary estoppel there is no absolute requirement for any findings of a promise or of any intentionality.

15. In proprietary estoppel therefore, the focus shifts somewhat from the search for a clear and unequivocal promise and for intentionality, to whether the party claiming the benefit of the estoppel had a reasonable expectation induced, created or encouraged by another, and in those circumstances acted detrimentally to the knowledge of the other. For proprietary estoppel to operate the inducement, encouragement and detriment must be both real and substantial and ultimately the court must act to avoid objectively unconscionable outcomes.

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<sup>5</sup> CA T243 of 2012

16. Kokaram J in **Kurt Farfan and Ors v Anthony White**<sup>6</sup> at paragraph 26 stated the extreme care the Court should adopt when examining the questions of promise, reliance and detriment. Kokaram J referred to Sir Henry Brooke in the Privy Council decision of **Knowles v Knowles**<sup>7</sup> at paragraph 27 who stated:

“In *Jennings v Rice* [2002] EWC Civ 159 [2003] 1FCR 501...Robert Walker LJ said at para 58 that the essence of the doctrine of proprietary estoppel is to do what is necessary to avoid an unconscionable result. In the opinion of their Lordships it would be unconscionable in this case to deprive George of his property when he had done nothing at all to encourage any belief that his brother and sister-in-law could treat the property as belonging to them. While recourse to the doctrine of estoppel provides a welcome means of effecting justice when the facts demand it, it is equally important that the courts do not penalise those who through acts of kindness simply allow other members of their family to inhabit their property rent free. In *E & L Berg Homes Ltd v Grey* (1979) 253 EG 473, [1980] 1 EGLR 103 Ormrod LJ said at p 108: ‘I think it important that this court should not do or say anything which creates the impression that people are liable to be penalised for not enforcing their strict legal rights. It is a very unfortunate state of affairs when people feel obliged to take steps which they do not wish to take, in order to preserve their legal rights, and prevent the other party acquiring rights against them. So the court in using its equitable jurisdiction must, in my judgment, approach these cases with extreme care.’ ” (Emphasis added)

17. The Court must examine the inducement, encouragement and detriment to determine if they are both real and substantial. The Court must act to avoid objectively unconscionable outcomes<sup>8</sup>.

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<sup>6</sup> CV 2016-03644

<sup>7</sup> [2008] UKPC 30

<sup>8</sup> Jamadar JA in *Esther Mills v Lloyd Roberts* Civ Appeal No T 243 of 2012



18. The parties gave two different versions of the purchase of the said lands; the agreement for the Defendants occupation of the said lands and who financed the construction of the house. The determination of these issues are fact driven. According to the learning in **Horace Reid v Dowling Charles and Percival Bain**<sup>9</sup> when determining questions of fact the Court must weigh the versions of the events, on a balance of probabilities, in light of the evidence and in doing so the Court is obliged to check the impression of the evidence of the witnesses on it against: (1) contemporaneous documents; (2) the pleaded case; and (3) the inherent probability or improbability of the rival contentions.

#### **Purchase of the lands**

19. The Claimant stated in her witness statement that she purchased the said lands with her money alone and that Mohinie did not make any financial contribution. She did not attach any receipt to her witness statement as documentary proof. However the Claimant's was not a witness of truth on this assertion since in cross-examination she admitted that there was a clause in the Deed which stated that both she and Mohinie provided the consideration/money to purchase the said lands.

#### **The agreement to occupy the said lands**

20. The Claimant stated in her witness statement that in April 2014 the First Defendant asked her and Mohinie for permission to occupy the said lands and to operate a fabrication shop to finance his daughter's tertiary education in Jamaica. In cross-examination, the Claimant changed this when she stated that she allowed the First Defendant to construct a temporary structure over the foundation which she and her husband had constructed. Later in cross-examination she stated that Mohinie asked her for permission for the First Defendant to occupy the said lands and at that time it was owned by her and Mohinie. She accepted that Mohinie had the same rights as her to the said lands but she still insisted that Mohinie had to ask her for permission.

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<sup>9</sup> Privy Council Appeal No. 36 of 1987.

21. The Claimant also stated in cross-examination that the reason she allowed the First Defendant to occupy the said lands in 2014 was temporary in order for him to use it as a fabrication shop to gain income to fund his daughter's education which ended in July 2015.
22. The Defendant stated in his witness statement that when he got married to Mohinie he was renting at Ascot Road and he discussed with her the need to get their own home. Mohinie indicated to him that she and her sister had purchased the said lands with the intention of dividing it into 2 separate parcels on which each of them would eventually build her own house. A meeting was held which was attended by the Claimant, the Claimant's husband, Mohinie and the First Defendant. At the meeting, it was decided that as Mohinie and the Defendant were building first they would occupy the front parcel. They agreed that they would build 1 foundation which would eventually accommodate both houses as a duplex. He stated that the agreement from the beginning was that the Claimant would occupy the rear half of the said lands and Mohinie would occupy the front half. This evidence was unshaken in cross-examination.
23. In cross-examination, the First Defendant also stated that his daughter's education was funded by the GATE Programme and by a student loan from RBC and he produced a letter from RBC as proof of the said student loan. The Defendant also testified that he also assisted his daughter financially and his daughter's studies in Jamaica ended in July 2016.

**The financing of the house on the said lands**

24. The Claimant stated in her witness statement that she and her husband constructed a concrete foundation on a portion of the said lands in order to build a family home. However, in cross-examination she change her position when she stated that the foundation was built on the whole of the said lands. She later accepted that when the First Defendant was given permission to build the fabrication shop it was to occupy only part of the said lands and that at present there is only 1 building on the front half of the

said lands and that there are not 2 structures namely her foundation and the fabrication shop.

25. The Claimant stated in her witness statement that she obtained a temporary electricity connection for the said lands in her name and to date she has been paying all the bills. She attached a copy of the electricity bill dated 11 May, 2017 and receipt dated 26 April, 2018 to support her evidence.
26. The Claimant also stated in her witness statement that after Mohinie got ill she cared for Mohinie both at Mohinie's home and later at her home without any financial assistance from the First Defendant.
27. The Claimant further stated in her witness statement that sometime in or around July 2015, the First Defendant's daughter finished her tertiary level education in Jamaica and according to the agreement the permission and/or licence which she had granted to the First Defendant had expired. She stated in cross-examination that the First Defendant's daughter' tertiary education ended in July 2015 and that she asked the Defendant to leave the said lands in July 2017 after Mohinie had died in March 2017.
28. The Claimant also stated in cross-examination that she constructed the house on the said lands and she produced receipts in her name for the purchase of construction materials.
29. The First Defendant stated in his witness statement that soon after the agreement he and Mohinie laid the foundation for the house as agreed. He and Mohinie decided that they will construct the house piece meal which they would purchase materials as and when they could afford it and construct the house as they went along. They began to do this forthwith. During the construction, relations between the Claimant and he and Mohinie were good. After about 1 ½ years of construction Mohinie became ill. At that stage all the walls were constructed, the roof was completed and all the plumbing and electrical piping were in place. He and Mohinie had to stop the construction after Mohinie got ill since she

was unable to work and they were unable to benefit from her income. During this time, they did not have any disagreements with the Claimant. The Claimant was unable to afford to build on the said lands so the Claimant reached an agreement with them that they would buy out the Claimant and he would use her portion of the said lands to erect his workshop.

30. The First Defendant also stated in his witness statement that the construction of the house from foundation to its present state was all financed jointly by him and Mohinie, with no assistance from the Claimant or any immediate family members. He said that he purchased all the material for the roof and together with his son, Ryan, fabricated the roof, doors and burglar proofing.
31. The First Defendant further stated in his witness statement that he had a functioning business and he was able to take care of his family needs without assistance from anyone. His daughter's education was financed through GATE and a student loan from RBC.
32. The Defendant stated in his witness statement that he had known the Claimant for 12 years and she has never been employed except for a CEPEP job for 2 to 3 months and neither she nor her husband had the means to construct a house and that was the reason they agreed to sell out the interest in the said lands to he and Mohinie.
33. In cross-examination, the Defendant explained that Mohinie and the Claimant had a good relationship so he and Mohinie ordered the materials from the Hardware and since the Claimant was living close to the said lands she collected the materials and they paid for the materials later on the weekends. He also explained that is the reason the receipts are in the Claimant's name. He stated that sometimes he paid for the materials with his credit card and the receipts are now faded due to length of time which has passed. He accepted that he could but he did not try to get any statements for his credit card from his bank.

34. The Defendant relied on the evidence of his witness Mr Clifton Straugh and a valuation report which was part of the supplemental list of documents. Mr Straugh stated in his witness statement that he was 65 years old and he has been a self-employed mason for 35 years. He knew the First Defendant and in 2001 the First Defendant informed him that was building a house somewhere near Chaguanas and that the wanted him to do some masonry work for him. About 2 or 3 days after the First Defendant took him to the site and pointed out the work that he would like him to do. He said that he started working on the house and he was the only mason. When he was on the scaffolding the First Defendant assisted him by passing the bricks and the mortar. He stated that he put up some walls and he plastered the inside. He did no work on the foundation, which was already there.
35. According to Mr Straugh's witness statement, he, the First Defendant and the First Defendant's son, Ryan installed the roof. He stated that he knew the Claimant and her husband before the latter passed away. While he was there, he never saw either the Claimant or her husband do any work on the house. He said that once or twice he saw the Claimant's husband visit the site. He also stated that he knew Mohinie and that although she was not involved in any construction she visited the site. He stated that only the First Defendant paid him.
36. In cross-examination, Mr Straugh accepted that a date was missing in his witness statement. He stated that he was not taking a record at the time and that he was unable to recall the date he did the work for the First Defendant on the house since it was a long time ago. He explained that he was paid cash and he did not issue any receipts.
37. The valuation report was commissioned by the First Defendant. The photographs which were contained in the valuation report showed that the house was a concrete structure which was affixed to the foundation and there were 2 connections for electricity.

### **Findings of Fact**

38. I have concluded that the Claimant exaggerated when she stated that she alone provided the funds for the purchase of the said lands. The receipt clause in the Deed which she accepted proved that her assertion was not credible.
39. I have also concluded that the Claimant failed to prove her version of the oral agreement and that she financed the construction of the house for the following reasons:
40. First, the Claimant did not dispute that she shared a good relationship with the First Defendant and Mohinie while the house was being constructed. Indeed based on the Claimant's own evidence she shared a good relationship with Mohinie up until she passed away since she cared for her while she was ill. In my opinion, this is important in understanding the context of the agreement which she entered into with the First Defendant and Mohinie. In my opinion, it is more probable given the good relationship which the parties shared at that time that the Claimant made the oral agreement as stated by the First Defendant and that she assisted the First Defendant and Mohinie by collecting the materials from the hardware since she lived closed to the said lands.
41. Second, the Claimant's evidence that she gave the First Defendant permission to occupy the said lands was not credible. Mohinie was a joint owner of the said lands. Therefore she did not need the Claimant's permission to construct any building on it. She was entitled in her own right to construct the house. In **Halsbury's Laws of England Vol 87 at paragraph 201**, the learned authors stated that *"each joint tenant has an identical interest in the whole land and every part of it. The title of each arises by the same act. The interest of each is the same in extent, nature and duration."* In my opinion, it was more probable that the Claimant and Mohinie agreed that the First Defendant and Mohinie would construct the house on the said lands.

42. Third, the Claimant was not a witness of truth when she stated that the foundation was on all of the said land since she contradicted her own evidence on more than one occasion in cross-examination. I find the First Defendant's evidence to be more credible since his consistent and unshaken evidence was that the foundation for the house was built by him and Mohinie on the front part of the said lands. I also find the First Defendant's version that he and Mohinie agreed with the Claimant that they would build 1 foundation which would eventually accommodate both houses as a duplex since the photograph in the valuation report supported this evidence.
43. Fourth, I have attached no weight to the receipts which the Claimant produced as proof that she paid for the materials to construct the house on the said lands since the makers of the receipts were not called to give evidence and the Defendant's explanation that he and Mohinie paid for the materials removes the presumption that the Claimant paid for the materials. Further, there was no evidence from the Claimant of her means to pay for the construction materials. She knew that this was an issue and she failed to adduce any such evidence to her detriment. While I accept that the First Defendant did not provide any bank statements of his means at the time to finance the construction of the house, his evidence which was unshaken in cross-examination was that both he and Mohinie were working and they had agreed to build the house by purchasing the materials as they could afford to do so.
44. Fifth, I accept that Mr Straugh stated in his witness statement that he did work in 2001 on the house and in cross-examination he was unable to clarify any missing information with respect to this date. It was not plausible that the said work was done in 2001 since the said lands were only purchased in 2011 and the First Defendant and Mohinie got married in 2013. Despite this deficiency in Mr Straugh's evidence, I still found him to be a witness of truth who had no interest to serve and who explained that he was unable to recall the dates since it was a long time ago. In my opinion, Mr Straugh's evidence supported the First Defendant's evidence that he spent his money on the plastering of

the walls and installation of the roof to the house. It also supported the First Defendant's assertion that he physically did work in the construction of the house.

45. Sixth, the Claimant's alleged reason for giving the Defendant's permission to occupy the said lands was not credible. In my opinion if the Claimant's version for giving the First Defendant permission to occupy the said lands was temporary until his daughter finished her tertiary education, she would not have waited until after Mohinie died to ask the First Defendant to vacate the said lands. It is more probable that since the Claimant knew that the First Defendant's daughter education was completed before 2017, she would have asked him to vacate before Mohinie died. In my opinion, the Claimant asked the First Defendant to leave after Mohinie died since she was aware of the First Defendant's version of the agreement.
46. Last, the Claimant's version that the agreement that the structure was to be temporary was not credible since she lived closed to the said lands. It was more probable that if the structure which was being constructed was more of a permanent nature she would have known. The photographs in the valuation report clearly demonstrated that the house was a concrete permanent structure. However, there was no evidence that from 2014 to after Mohinie died in 2017 that the Claimant actively took steps to stop the construction of the house.
47. I have therefore concluded that the joint tenancy of the said lands was severed when the Claimant entered into the oral agreement with Mohinie and the First Defendant for them to construct a house on the front portion of the said lands. The joint tenancy having been severed by mutual agreement it means that upon the passing of Mohinie, her one-half interest in the said lands devolved to her estate and in particular the one half share based on the agreement was the portion where the house is situated.



48. Even if the tenancy was not severed, the house was constructed by the First Defendant and Mohinie after the agreement. In my mind, this amounted to an assurance by the Claimant that the portion of the said lands where the house is situated would be owned by them and based on this assurance they suffered a substantial detriment by using their funds to finance its construction. For these reasons, they have acquired an equitable interest in the one-half portion of the said lands where the house is situated.

**Order**

49. The Claimant's action is dismissed.

50. Judgment for the Defendants on the counterclaim namely:

- (a) The oral agreement severed the joint tenancy in Deed dated 27 July 2011 and registered as DE 201101723512.
- (b) The said lands are to be partitioned and give effect to the said agreement.
- (c) It is declared that the First Defendant and the estate of Mohinie are entitled to an equitable charge or lien for the amount of money they expended on the said lands.

51. The Claimant is to pay the Defendants costs of the claim in the sum of \$14,000.00 and counterclaim in the sum of \$14,000.00 with a total of \$28,000.00.

**Margaret Y Mohammed**  
**Judge**