

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

Claim No. CV2018-01771

IN THE MATTER OF THE ESTATE EDESEL VERNON REID

(DECEASED) AND THE WILLS AND PROBATE ACT

BETWEEN

**RENEE ZAMORE**

**JEROME REID**

Claimants

AND

**CARMEN DIZON-REID**

(as the lawful widow and Legal Personal Representative of the Estate

of Edsel Vernon Reid, deceased who died on 24th February, 2016)

Defendant

**Before the Honourable Mr. Justice R. Rahim**

Date of Delivery: December 15, 2021.

Appearances:

First Claimant: Mr. T. Bharath instructed by Mr. S. Sharma

Defendant: Mr. S. Jairam S.C and Ms. S. Lakhan instructed by Ms. S. Jairam.

## DECISION ON APPLICATION

1. This is a decision on an application of the Claimant pursuant to **Part 44.6 CPR** which reads;

44.6 (1) If—

(a) the court orders a party to do an act; but

(b) he does not do it, the party who obtained the order may apply for an order—

(i) that he may do the act; or

(ii) that some person appointed by the court may do it.

(2) The court may order the person who failed to do the act to pay the costs and expenses of the person who does it.

(3) If it does so, it must assess the costs under rule 67.12.

(Part 53 deals with enforcement by committal or confiscation of assets)

### Background

2. Some background to the litigation is necessary for context. This claim relates to the distribution of the estate of Edsel Vernon Reid (“the deceased”) who died intestate. By Fixed Date Claim dated May 17, 2018 the claimants initiated the claim against the defendant as LPR of the Estate of the deceased seeking orders that the estate be administered by the defendant according to law.
3. On February 14, 2019 a consent order was entered the parties having appeared in court on February 3, 2020 and agreed to same. The defendant did not appear but was represented by her Attorneys. It is undisputed that the terms of the consent order were

communicated to the defendant by her Attorneys. The said order of February 14, 2019 reads:

*1. The Defendant do forthwith sell or cause to be sold on the open market or by private treaty the property situated at No. 16 Aruac Road, Valsayn Park South, in the Island of Trinidad ("the said property") for the sum of seven Million Trinidad and Tobago Dollars (TT\$7,000,000.00) or at for the sum as agreed between the parties hereto, such agreement to be evidenced by an exchange of emails or letters between the respective Instructing Attorneys-at-Law for the Claimants and for the Defendant.*

*1.1 The Defendant will liquidate all outstanding debts, fees, charges and/or expenses owed to Republic Bank Limited in respect of the existing mortgage related to Jeren Limited on the said property out of the proceeds of sale, before the surplus from the sale of the said property is distributed amongst the Claimants who are entitled to 50% of the proceeds and the sale and the Defendant who is entitled to the remaining 50% of the sale thereof.*

*1.2 In addition to paragraph No. 1.1 above, the Defendant will also liquidate all amounts owing with respect of lands and building taxes, realtor fees/commission and Water and Sewerage Authority bills before distribution of the aforesaid surplus.*

*1.3 All monies received for and in respect of the sale of the assets of the Estate of the Deceased, Edsel Vernon Reid ("the Deceased") shall be deposited in an interest bearing account in any local commercial bank or the Unit Trust Corporation of Trinidad and Tobago in the joint names of Shiv Sharma and Shantal Jairam, the respective instructing Attorneys-at-Law for the Claimants and the Defendant for the payment of the Deceased's Estate debts, expenses or liabilities as agreed between the said Attorneys-at-Law and the distribution of the surplus thereafter to the parties hereto.*

*1.4 The Defendant shall forthwith render a true and correct account to the Attorney at Law for the Claimants of all monies received and/or debts or expenses paid on behalf of the Deceased's Estate and all sums owed to the Deceased's Estate, if any, shall be deposited into the joint bank account/account as described in paragraph 1.3 above.*

*2. The Claimants agree that the Defendant's portion of debt owed by Jeren Limited to the Deceased's Estate amounts to the sum of One Million, Six Hundred and Fifty*

*Thousand Trinidad and Tobago Dollars (TT\$1,650,000.00) and the said sum shall be paid by the Jeren Limited directly to the Defendant in full and final settlement and the Estate shall thereby absolve, release and/or discharge Jeren Limited from any liabilities owed to the Deceased's Estate.*

*2.1 The said sum of One Million, Six Hundred and Fifty Thousand Trinidad and Tobago Dollars (TT\$1,650,000.00) shall be paid to Shantal Jairam, Instructing Attorney at Law for the Defendant by Jeren Limited directly from the proceeds of sale of the Jeren Limited shares in Trinidad Aggregate Products Limited ("TAP"), upon receipt thereof.*

*2.2 Alternatively, if the sale as contemplated in paragraph 2.1 hereof does not materialize, the said sum of One Million, Six Hundred and Fifty Thousand Trinidad and Tobago Dollars (TT\$1,650,000.00) will be deducted either from the First Claimant's share of the surplus of the sale of the said property or the First Claimant's share of the proceeds from the sale of the Deceased's shares in "TAP", whichever is earlier.*

*3. The Defendant shall offer for sale the Deceased's shares in TAP at and for the sum or price of Three Dollars and Fifty Cents (\$3.50) per share to ANSA McAI Limited pursuant to the Share Purchase Agreement of which Fifty Cents (\$0.50) per share will be deposited by ANSA McAI Limited in an escrow account for a period of approximately one year pending the due diligence and such other terms and conditions as stipulated by ANSA McAI Limited in its offer to the shareholders of TAP and the balance thereof shall be distributed according to the laws of intestacy under the Administration of Estates Act of the laws of Trinidad and Tobago, Chap 9:01. The proceeds of the sale of the said shares shall be deposited into the joint bank account/account as described in paragraph 1.3 above.*

*4. The Defendant had previously agreed to pay all penalties and interest as levied by the Board of Inland Revenue in respect of the personal income tax liabilities owed by the Deceased's Estate to the Board of Inland Revenue and the Defendant shall honour that promise by paying the said amounts due to the Board of Inland Revenue.*

*5. The Defendant shall forthwith hand over Ms. Shantal Jairam Instructing Attorney at Law the following items:*

*5.1 The Deceased's gold and diamond ring which was a gift.*

5.2 *Two Boscoe Holder paintings, one being a portrait of the First Claimant and the one is a portrait of a woman.*

5.3 *The First Claimant's wedding dress.*

6. *The Defendant as Legal Personal Representative of the Deceased's Estate acknowledges that the debts stated at Account C of the Defendant's affidavit filed herein on November 30, 2018 being more particularly described as:*

6.1 *One Hundred Thousand Dollars (\$100,000.00) due by Chem Clean Limited; and*

6.2 *Two Million Dollars (\$2,000,000.00) due by Jeren Renee Birgit Limited are not owed to the Deceased's Estate.*

7. *The Defendant as Legal Personal Representative of the Deceased's Estate acknowledges that the one (1) preference share in Jeren Limited described in Account B of the Defendant's affidavit filed herein on November 30, 2018 was redeemed upon the death of the Deceased.*

8. *The Claimants and the Defendant are to bear their own respective legal costs.*

9. *Liberty to apply.*

4. On June 25, 2019, the claimant filed an application to commit the defendant for contempt of court for refusing to obey the consent order of February 14, 2019. The said application also sought alternative relief under the Liberty to Apply provision of the consent order or under Part 44.6 CPR for the claimant or someone appointed by the court to take possession of the property at Valsayn and sell same, that the funds held in the joint account by attorneys for both parties be used to liquidate the debts and expenses of the deceased and that a Certified Chartered Accountant be appointed by the court to compute and pay all taxes owed by the estate.

5. The parties made concerted attempts to settle all of the issues but were unsuccessful. As a consequence it was ultimately left to the court to determine the application which it did on June 14, 2021 and made the following order:

- a. The claimant's application for relief set out at paragraphs A, B, C and D of the Notice of Application of June 25, 2019 in relation to committal for contempt is dismissed.
- b. The claimant shall file and serve submissions on the application for relief pursuant to Part 44.6 CPR by July 5, 2021.
- c. The defendant shall file and serve submissions in opposition by July 26, 2021.
- d. The claimant shall file and serve submissions in reply on new matters raised only by August 9, 2021.
- e. The decision of the court on the application is thereafter reserved to be delivered by electronic issue.
- f. The costs of the proceedings on the points in limine are reserved.

6. The court therefore invited submissions on the Part 44.6 CPR application and this is the decision thereon. It should be noted that there is now agreement that the liberty to apply provision is inapplicable having regard to the terms of the order sought. The application seeks the following order:

- a. That pursuant to CPR 44.6, or under the Inherent jurisdiction of the Court, RENÉE ZAMORE, or alternatively some other person appointed by the Court, be permitted to take possession of the property situate at No. 16 Aruac Road, Valsayn Park, South and to take all such steps that are reasonably necessary to cause same to be sold on the open market or by private treaty

pursuant to the terms of Clause 1 of the Court Order dated 14<sup>h</sup> February 2019 for the breaches set out above of the Court's Order.

- b. Further or alternatively, an Order pursuant to CPR 44.6, and or under the inherent jurisdiction of the Court that the Attorneys-at-Law for the parties, being Shiv Anand Sharma and Shantal Jairam do liquidate all outstanding debts, fees, charges and/or expenses owed to Republic Bank Limited in respect of the existing mortgage related to Jeren Limited on the said property using the funds of the Estate of Edsel Vernon Reid, held in Unit Trust Account No. 6196384-2 in the joint names of Shiv Anand Sharma and Shantal Jairam being the account established pursuant to Clause 1.3 of the Court Order dated 14<sup>h</sup> February 2019;
  
  - c. Further or alternatively, an Order pursuant to CPR 44.6, that a certified chartered accountant be appointed by the Court, and that they be permitted to compute and to cause to be paid all taxes owed by the Estate of Edsel Vernon Reid, deceased in respect of emoluments earned by the Deceased from his association with Trinidad Aggregate Products Limited such payment to be drawn from funds of the Estate of Edsel Vernon Reid, held in Unit Trust Account No. 6196384-2 in the joint names of Shiv Anand Sharma and Shantal Jairam being the account established pursuant to Clause 1.3 of the Court Order dated 14<sup>th</sup> February 2019.
7. The compliant of the Claimant is that essentially little or nothing has been done by the Defendant to comply with the order and therefore she asks that she or another be permitted to perform the duties and obligations agreed to under the terms of the order of February 14, 2019.

### Submissions of the Claimant

8. The Claimant submits that the intention of the application is not that of usurping the functions of the Defendant as Administrator of the Estate in that the orders sought are limited in certain aspects that are crucial to the preservation of the assets of the estate as a whole. Central to the administration is the sale of the Valsayn property in respect of which the agreement was that same be sold forthwith. The intention of the application is to ensure that the property is sold at the maximum possible value, leaving a greater surplus for distribution amongst the beneficiaries after payment of the debts and liabilities. That could only be to the benefit of the estate, it is argued by the Claimant.
9. Further, that verification of the debts and liabilities must occur for the estate to be properly administered but that the Defendant has failed so to do. Therefore the interests of the administration of justice demands that the Court intervenes to appoint someone to take certain steps with a view to preserving the estate as a whole and protecting the assets from harm occasioned by the delay of the Defendant. The Claimant also prays in aid the overriding objective of the CPR.

### Submissions of the Defendant

10. The Defendant submits firstly that the application is an abuse of the process of the court in that the Claimant has obstructed the Defendant from performing her administrative duties by refusing to permit her to reimburse herself for legal fees and other expenses she has personally paid in an attempt to partially distribute the Estate. The court notes that the Defendant has since filed an application on April 23, 2021 seeking an order that she be reimbursed. The argument is therefore that the Claimant has misused the process by use of the consent order to behave oppressively towards the Defendant.
11. Additionally, the Defendant submits that the application is simply a another way of effectively removing the Defendant as administrator of the estate.



12. That the Claimant is attempting to use Part 44.6 to substantially change the terms of the consent order without filing a fresh claim.
13. That the Defendant has in fact complied with every provision of the consent order and the failure to have the property sold is of no fault of the Defendant.
14. That in determining the application, consideration must also be given to the Covid 19 Pandemic, the state of emergency, the down turn in the economy and that the Defendant retained two of the Claimant's realtors (Massy and Terra) to sell the property but they have failed so to do despite their efforts. Further that even the Claimant has been unable to secure a sale for the property.
15. Finally the court should consider that the Claimant is entitled only to a 25% share in the estate, so too is her brother Jerome who appears to be in urgent need of funds. The Defendant is entitled to a 50% share and she has nonetheless vacated the property since July 2019 so that she has nothing to gain from delay.

### **Abuse of the Process**

16. The defendant argues that the application falls into the category of abuse of the process on three bases. Firstly that of ulterior purpose, secondly an attempt to change the consent order and thirdly an attempt to remove the Claimant as LPR.
17. In relation to ulterior purpose, the court accept the law as set out by the Defendant in its submissions as being applicable. In particular the court has taken note of the dicta of Jamadar J in ***Danny Balkissoon v Roopnarine Persaud and J.S.P Holdings Limited*** CV2006-00639 at page 8 under the rubric Three common categories of abuse of process as follows:

“While the categories of abuse of process of the court are many and depend on the particular circumstances of any case, it is established that they include ; (i) litigating issues which have been investigated and decided in a prior case; (ii) inordinate and inexcusable delay and (iii) oppressive litigation conducted with no real intention to bring it to a conclusion”

18. This court takes guidance also in relation to the exercise of the court to dismiss for abuse of process from Halsbury’s Laws of England 4<sup>th</sup> ed., (2001) Reissue Vol.37, page 295 paragraph 931 which describes the power as;

“a power which, it is emphasised, ought to be exercised sparingly and only in exceptional cases. It will be exercised where proceedings are shown to be frivolous, vexatious or harassing or to be manifestly groundless or in which there is clearly no cause of action in law or equity...”

19. The issue therefore for the court is whether the Claimant’s application is one that if granted would be an act that is vexatious, oppressive or harassing towards the Defendant, one filed with an improper motive, amounts to wasteful litigation or is an attempt to change the consent order.

20. The evidence shows that by virtue of the consent order, the money belonging to the estate is held in the names of Instructing attorneys for both the Claimant and the Defendant. The Defendant says that as a consequence she is being prevented from being reimbursed for the all of the estate expenses which she has thus far financed out of her own funds.

21. The court is of the view that the application does not amount to an abuse of the process. In that regard the court finds that the consent order has not been used as an

instrument of oppression. The reimbursement of the expenses associated with the estate is fundamental but is consequent upon the calling in of the assets. It is also secondary to the payment of debts and liabilities of the estate so that in the order of priority, those expenses are not first in line. It therefore is not the case that the terms of the consent order are being used to oppress the Defendant neither does it follow that this application serves the same purpose.

22. Neither is the application in the court's view, one that is vexatious or one made for an ulterior purpose. To the contrary, the purpose of the Claimants appear to be quite clear, namely to have the estate administered without further delay. The abuse of process argument therefore fails.
23. In relation to the submission that the effect of the order would be that of removal of the LPR, the court does not accept that this will be the effect. The application is limited to the matters surrounding the sale of the property and the liquidation of the debts owing in relation to the property including the mortgage. The application also relates to the payment of taxes owing by the deceased on emoluments he would have received. The terms of the order sought does not affect the other matters agreed to in the consent order. It follows that the LPR would still be responsible for the terms of the order in so far as the administration of the estate is concerned in relation to the other matters. This finding is subject to the court's finding on the effect of the proposed order on the LPR later on.
24. The issue is whether the court should remove the obligations in relation to the sale of the house and the payment of taxes from the LPR and confer such duties on the Claimant. In determining whether to exercise such a discretion the court must examine the following matters:
  - a. The reason for non-compliance in relation to the sale of the property.
  - b. The reason for non-payment of the taxes on the emoluments and the effect of such continued non-payment.

- c. Whether the court can essentially vary the terms of the consent order without the consent of one party.

The Reason for non-compliance with the agreement to sell the property

25. The Defendant has set out in her evidence that several attempts were made to sell the property in keeping with the terms of paragraph 1 of the order. In that regard Massy Realty, Terra Caribbean and Marina Inalsingh were retained as agents to secure a sale but none of them have been able to secure such a sale for the agreed price of seven million dollars and the parties have failed to agree another price. The difficulty is that the Defendant cannot control the market forces of demand and supply and therefore whether a buyer is secured at a price that is reasonable is a matter that is in large measure out of the control of the Defendant. The Claimant submitted that all the efforts of the Defendant to sell the property were only made after the instant application was made before this court and there was no attempt so to do after entry of the consent order. The evidence of the Defendant appears in her affidavit of December 16, 2020 as follows:

*16. In response to the query raised in paragraph 7(a) of Ms. Zamore's affidavit with respect to the Valsayn property, I state that:*

*a. The Valsayn property was put up for sale with a realtor, Marina Inalsingh who was tasked to sell same. Ms. Inalsingh also specialises in the sale of exclusive properties in the Valsayn area based on her clientele.*

*b. In 2020, I agreed to adding more realtors to attempt to sell the Valsayn property i.e. Massy Realty and Terra Caribbean as they have wider access and use their wider network to sell same. Ms. Nalini Freeman of Massy Realty, for example, sold the vacant property across the Valsayn property for \$5.5 million in 2019.*

*c. The First Claimant also agreed to Massy Realty and Terra Caribbean being used as realtors for the said property.*

*d. During the period 2018 to date, numerous prospective purchasers were shown the Valsayn property by the aforesaid realtors. However, to date, we have not received a formal offer from any prospective buyer to purchase same. This is partially due to the downturn in the Trinidad and Tobago economy and the reduction in sales in properties across the country.*

*e. The first Claimant is now attempting to have another realtor, Mr. Ashan Kublalsingh, the son in law of Mr. Odai Ramischand, Attorney at Law and the husband of Ms. Samantha Ramischand who was on the news recently for publicly violating the Covid-19 regulations by being on a "private beach" list the property. However, I have refused to agree to the retainer of Mr. Kublalsingh since he has insisted on having an exclusive contract with the Estate to list the said property. This means that the other realtors above will have to be fired. I say that Mr. Kublalsingh or any other realtor can list the Valsayn property and they can sell same without having an exclusive contract, which has the effect of limiting access to potential sellers. Thus, the onus is on Mr. Kublalsingh to change the terms of his offer to sell the Valsayn property.*

*f. I wholly disagree that I am personally liable for the Valsayn property not being sold as I have no control over the market, and I have made attempts to sell the Valsayn property as stated in my previous affidavits.*

26. The court notes that the application for the relief set out under part 44.6 was made at the same time as the application for contempt on June 25, 2019 in the same application some four months after the consent order was entered in court. In that regard the explanation provided by the Defendant for her inability to sell the property in keeping with the terms of the order appears vague and lacking in sufficient particulars so as to give the court a clear and unequivocal commitment as to not only the steps that were taken since the date of the order by the dates on which such steps were taken. The evidence shows that the only agent who appeared to have been hired since 2018 was Marina Inalsingh as the Defendant deposed that she only involved the other real estate agents in 2020, that is almost one year after the order was entered. She also deposed

that during the period 2018 to date, numerous prospective purchasers were shown the Valsayn property by the “aforesaid realtors” which could quite simply not have been true as none of them except Inalsingh appear to have been engaged since that date. Two other timelines should be added to this so that the full context can be understood. Firstly, the deceased died on February 24, 2016, intestate, leaving the Defendant (his widow) and two children (who do not appear to be children of the Defendant as can be gleaned from the Certificates of Birth attached to the affidavit of the Claimant). The Defendant was granted Letters of Administration on November 11, 2016. This claim was begun by Fixed date claim form filed May 17, 2018. So that by the time the parties entered into the consent order in February 2019, if Inalsingh had in fact been engaged before that it could only have been at the behest of the Defendant as there had been no agreement to have the property sold at that stage.

27. The court therefore accepts the submission of the Claimant that the evidence demonstrates no real attempt to sell the property either before or immediately after the entry of the consent order. The evidence also demonstrates however that since the entry of the consent order several attempts have been made to sell but same have proven futile.
  
28. In that regard the court also notes two matters. Firstly, there is inherent in the terms of the consent order an impracticability that would no doubt have hindered performance. That impracticability is that of the requirement to sell the property “forthwith”. Bearing in mind that the issue of whether one can sell immediately is wholly dependent on the fact of having a purchaser who is already bound by an agreement to sale so as to facilitate a sale forthwith, the entry of such an order was an onerous undertaking incapable of compliance on the evidence in this case. It must therefore mean that the word “forthwith” must be taken to mean within a reasonable period for so doing having regard to the practicality of so doing.

29. The second impracticability has to do with the set price and the ability to obtain same or the ability to reach agreement on a new price as is demonstrated by the evidence above. The latter is of course well within the remit and control of the parties but the former is not.
30. In the court's view, there is no evidence that the Claimants will be better placed to secure a sale should they be granted possession of the property in order to sell same. The market simply is what the market is and there is only so much that can be done whether by the Claimants or the LPR. In any case, the Claimant is not prevented under the terms of the order from attempting to secure a sale on good terms so that handing over the sale to the Claimant is of no useful purpose in the court's view.
31. The difference is in this case however, that the duties of LPR go way beyond that of the sale of the property and the liability of the LPR is much broader. Upon grant of representation, the entire estate devolves on the LPR who then becomes liable for the proper administration thereof. This is an onerous duty imposed by law.

The reason for non-payment of the taxes on the emoluments and the effect of such continued non-payment

32. In relation to the taxes, by affidavit of September 20, 2019, the Defendant deposed at exhibit C.D.R.1, namely Schedule of Payments, Receipts and Liabilities for the period February 2016 to July 15, 2019, that Taxes have been paid for the years 2015 and 2016 in the sums of \$24,897.00 and \$135,300.00 respectively so that the payment of the taxes is no longer an issue. However the court could find no reasons provided by the Defendant for having taken so long to pay the taxes and particularly for having only paid it after the present application was filed.

Can the court vary the consent order on the application of only one party

33. In the court's view, the effect of the grant of the order sought would not be that of substantive changes to the order as the order to sell remains in place along with the other terms. The effect would be that of removing the duty to ensure that the sale is conducted in a proper form as agreed from the hands of the LPR and placing them in the hands of the beneficiaries.
34. Ordinarily, a court ought not to vary the terms of an order made by consent after perfection on unilateral application. This is so for several reasons. Firstly the order has already been perfected. Secondly such an order having been made by agreement may in some circumstances be reflective of a contract between the parties, therefore a fresh action is required to assert the rights acquired on the order. Thirdly, such an application can be for the purpose of working out the manner in which the order is to be given effect but not for one that changes the substantive order. In some cases, the court may vary the terms of its order by the consent of both parties but it is to be noted that those cases more often than not fall into the third category.
35. Essentially therefore the application of the Claimant is to vary the order entered into by agreement between the parties to place the burden and responsibility of sale on the shoulders on the Claimants as opposed to the Defendant. The court is of the view that to so do would create an untenable position on the part of the LPR as the LPR would nonetheless be liable in law for the conduct of the sale and distribution of the proceeds of sale by virtue of the grant of representation issued by the High Court whereby the estate devolved unto the LPR. This is entirely inconsistent with the beneficiaries having the conduct of the sale and distribution without the requisite liability. To burden the LPR with such liability for the actions of the beneficiaries would be to fetter the rights and duties of the LPR. This is so even though the application relates to part only of the administration of the estate.
36. While therefore the court is of the view that the law on variations of orders notwithstanding, it is possessed of the inherent jurisdiction to act in matters of this type



so as to protect the estate of the deceased, the court is also of the view and finds that in the circumstances of this case so to do would place the lawfully appointed LPR in an untenable position which may ultimately rebound to the detriment of the estate. Put another way it is not in the interest of the estate to alienate some of the powers of the LPR while leaving the LPR saddled with the liability.

37. The court also finds that for Part 44.6 to be applicable to the facts of this case, the Claimant must show that the court ordered the Defendant to do an act but the Defendant did not do it. In this case, it was nigh impossible for the act of sale of the property to be done forthwith due to the fact that there seemed to have been no one interested in purchasing. To that end the court accepts the evidence that Inalsingh had been hired to find a purchaser. It also notes that the order did not require that anyone be hired to obtain a sale but that the Defendant sell or cause the property to be sold. In the court's view therefore the Claimant has not shown that the Defendant failed to comply with the order. Failure to comply must in the court's view include with it as a matter of both logic and law, some step on the part of the party accused either by way of action or omission taken with the intention of disobeying the order. This is not the case and could not have been the case in this case having regard to the terms of the order.

38. In closing the court wishes to reiterate that which it has urged these parties to do on several occasions in relation to this dispute as it lies in the best interest of the administration of the estate so to do. The real issue in this application is that of working out the sale of the property at the best price obtainable in the circumstances the real estate market as presently obtains in Trinidad and Tobago. The difficulty in that regard appears to be that of agreement between the Claimants and the Defendant in respect of that sale. This is the nub of the problem. But for the consent order, the Defendant would not be required to obtain the permission from the beneficiaries to sell at a particular price but would be empowered to sell at the best price obtainable on the market having regard to the value of the asset. The parties having confined themselves

to an agreement whereby the property can only be sold with the consent of all, they must now adhere to their agreement. In so saying the court also recognizes that it may be vested with the inherent jurisdiction to approve any sale so long as all parties are heard thereon and it is in the best interest of the administration of the estate.

39. The application is dismissed and the costs of the application are reserved.

Ricky Rahim

Judge