

THE REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY SAN-FERNANDO**

CLAIM NO: CV2018-01756

BETWEEN

MICHAEL RAMNARINE

CLAIMANT

AND

**VADEWATEE RAMNARINE
also called VADEWATEE RAMSAWAK**

DEFENDANT

Before the Honourable Madame Justice Quinlan-Williams

Date of Delivery: 4th June 2019

Appearances: Mr. Jeevan A. Rampersad instructed by Mr. H. Stephen
Boodram for the Claimant
Mr. Shivan V. Seunarine for the Defendant

ORAL JUDGMENT

Background

1. The claimant by claim form filed on the 28th May 2019 claimed against the defendant the sum of \$58,000.00 being monies lent to the defendant at her request. It was alleged that various sums of monies amounting to \$58,000.00 were loaned to the defendant on four

different occasions between the periods 9th June 2014 to 7th May 2015 as evidenced by corroborative receipts.

2. The defendant in her defence vehemently denied all allegations against her and submitted that the claimant's receipts were a product of fraud as she never signed same. She contended that she has two ways of signing her name. At banking institutions, where her name was never changed after marriage, she signs using her maiden name "Vadewatee Ramsawak"; and at her place of employment, she would sign either as "Vadewatee Ramnarine" or "Vadewatee Ramsawak".
3. The defendant averred that she could not have signed those receipts because there were various discrepancies in the manner in which they were signed. On the receipt dated 9th June 2014, she alleged she would never sign using both her maiden and married name and the receipt was peculiar as it was purportedly signed by "Vadewatee", "Vadewatee Ramnarine" and "Vadewatee Ramsawak". Additionally, the receipt dated the 7th May 2015 was also strange for the same reason as it was signed "Vadewatee Ramsawak Ramnarine".
4. Whilst denying the claimant's version of events, the defendant admitted to have taken a loan from the claimant on the 22nd April 2014, as she was under financial constraints and was advised that he was a moneylender. The terms of the loan in the amount of \$15,000.00, was to be repaid within one month's time with interest in the sum of \$15,000.00.
5. On or about the 22nd May 2014, the defendant informed the claimant that she needed more time to repay the total sum inclusive of the principal sum and interest amounting to \$30,000.00 at that time. The claimant then threatened the defendant that the interest would double at the end of the month and continue to do so each passing month if the debt was not repaid.

6. The defendant averred that she had become fearful of the claimant due to continuous intimidation. Therefore, on the 23rd May 2014, the defendant received \$60,000.00 from her sister in Chicago in exchange for assigning to her sister, a portion of land they co-owned together.
7. On the 25th May 2014, the defendant met with the claimant to repay the outstanding sums. Since it was approximately five weeks from the date the defendant borrowed the sum of \$15,000.00, the claimant demanded the sum of \$45,000.00; the additional sum of \$30,000.00, deemed accrued interest on the principal sum. The defendant fearful and intimidated, conceded to the claimant's demand.
8. As a result of the defendant's feelings of bitterness that the claimant extorted the additional sum of \$30,000.00, on the 29th May 2014, she visited the claimant's home and demanded the said sum. In response, the defendant avers that he gave her the sum of \$15,000.00 as a second loan, on the same terms as the initial loan. However, the defendant treated the monies as an overpayment of interest made on the initial loan and refused to cave in to subsequent demands by the claimant relating to monies he considered a second loan.
9. Such failure resulted in threats meted out by the claimant, insinuating that he had recently almost chop of a person's hand who was indebted to him. Further, in 2015 the defendant was accosted by the claimant in full view of the public demanding the sum of \$40,000.00 in full settlement of the monies due to him. However, the defendant refused to succumb to his demands to extort further monies from her.

Issues

10. The issue for the court's determination is whether there was a legally enforceable agreement between the parties.

Analysis and Findings

11. The evidence has satisfied the court, on a balance of probabilities, that there existed a legally binding agreement between the parties. There is no doubt that the defendant borrowed money from the claimant and that she knew the monies were owed. The defendant admitted a history of her having borrowed money from the claimant. She also admitted having paid back that earlier sum borrowed. The circumstances of the repayment are in dispute but what is not disputed is the defendant repaying what she borrowed. It is logical on the evidence and the court is satisfied that the defendant must have appreciated that the monies were to be repaid within a reasonable time. If not before, the service of the pre-action letter, amounted to a reasonable time for the repayment of the loan.
12. The court finds that the defendant could not have been operating under any belief that the claimant was gifting her the money. In light of her detailed explanation about the history between the parties, it seems reasonable and the court is satisfied that once the defendant received the sums of money from the claimant – they became monies due and owing.
13. The defendant has provided more than sufficient evidence to explain why she needed money at that time in her life. She testified about marriage problems, work related problems and a gambling habit. She has not provided any cogent explanation why the claimant would have chosen to gift her those sums of monies.
14. The defendant submitted and relied on *Balfour v Balfour* 1919 2 KB. 571. This case is distinguishable for the facts of the claim before the court. In *Balfour v Balfour* the court found that the circumstance fell into the category the ordinary domestic relationship between husband and wife. A family relationship, in that way or an analogous one, was

not pleaded and there was no evidence from which the court could conclude that the arrangements between the parties fell into that category of an ordinary domestic relationship.

15. The defendant's defence is premised on a fallout that occurred following the earlier loan. The defendant claims that after she repaid that loan and the interest the claimant charged, she later went and retrieved the sum of \$15,000.00 from the claimant. The defendant said she formed the opinion that she was overcharged and had overpaid interest on the earlier loan. The court does not find this evidence to be credible. The defendant has described the claimant as a man she believed had violent propensities. Yet she went, on her own accord and unaccompanied and recovered \$15,000.00. Further, the defendant's claim is that the claimant's chosen form of retaliation is to bring a claim for \$58,000.00. This evidence is illogical and the court has rejected it.

16. The defendant has denied signing the receipts exhibited to the claimant's claim. The court is satisfied on a balance of probabilities that the defendant signed all the receipts exhibited. Those receipts provided evidence of the monies loaned to the defendant. The defendant's major challenge to the receipts is the signatures appearing thereon. The receipts were purportedly signed by the defendant, sometimes using her maiden name and sometimes her married name. The defendant's evidence is that she would have signed using her maiden name. She further states that she uses her married name in school and for banking purposes she uses her maiden name.

17. This evidence was confirmed by the defendant, herself, that she signs her name differently. It would seem unusual for the claimant to know that fact. Further, if he was making fraudulent receipts – why would he choose to put different versions of her name? It is more reasonable to expect that fraudulent receipts would carry the same name. The

defendant signed the receipts differently because that had become her habit. Proof of this comes from the documents exhibited by the defendant herself. The bank documents were signed differently, some with her married name and some with her maiden name. Some of the school documents were signed differently, sometimes she used her entire first name, other times she used the initial of her first name.

18. In fact the defendant did not know how she signed her witness statement. At the commencement of her evidence in chief, she testified that she would recognize her statement by either Ramsawak or Ramnarine. The confusion was created by the defendant's habit of not having and using a consistent signature.

19. The defendant also claimed that the writing on the receipts were not hers. She submitted samples of writings. There was no evidence adduced from any expert. The only finding the court can make based on the evidence adduced by the defendant is, the writings submitted by her appeared similar to the writing on the receipts. The defendant's samples submitted did not disprove similarities. The findings the court made, outlined above, has satisfied the court on a balance of probabilities, that the defendant signed each and every one of those receipts.

20. The defendant has not pursued that part of the defence relating to the claimant not being a moneylender.

21. In this case, it is clear on the facts that the claimant agreed to forebear the use of his money for a reasonable period of time – he is entitled to be repaid the sum of \$58,000.00 by the defendant.

22. Based on the court's findings – It is **HEREBY ORDERED** that:

- a. there be judgment for the claimant against the defendant for the sum \$58,000.00;

- b. the defendant shall pay the claimant interest, at the rate of 1.5% per annum from the date of filing of the claim to the date of judgment;
- c. the defendant shall pay the claimant's costs in the sum of \$14,000.00, by consent; and
- d. there be a stay of execution for 28 days.

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Avason Quinlan-Williams

JRC Romela Ramberran