

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2018-01855

BETWEEN

JASMINE ALEXANDER

Claimant

AND

NICOLA TESSA ALEXANDER-SLOANE SEALE

First Defendant

REPUBLIC BANK LIMITED

Second Defendant

Before the Honourable Mme. Justice Jacqueline Wilson

Date of Delivery: June 28, 2019

APPEARANCES:

The Claimant appearing in person

Ms. Tsian Rodulfo Attorney at law for the First Defendant

Ms. Marcelle Ferdinand and Mr. Keston Mc Quiklin Attorneys at law for the Second Defendant

RULING

1. By claim form filed on 24 May 2018 the claimant, an unrepresented litigant, instituted proceedings against the first and second defendants. The claimant alleges that the first defendant has failed to properly discharge her functions as an executrix under the will of Nellie Eunice Alexander (the deceased) and that the second defendant has facilitated the actions of the first defendant.

2. The claimant seeks damages in the sum of \$2,784,765.46 as against the first defendant and in the sum of \$12,770,519.13 as against the second defendant.
3. In her statement of case the claimant provides details of the circumstances in which the claim is brought. She states that she and the first defendant are daughters of the deceased and are named as the executrices under her last will and testament. The claimant alleges that the first defendant has failed to provide an inventory of the assets of the deceased's estate and has refused to distribute the assets in keeping with the provisions of the will. The claimant seeks an accounting by the first defendant of the steps taken towards the distribution of the estate.
4. The claimant states that the deceased maintained accounts with the second defendant and that the second defendant has unlawfully disbursed sums from the deceased's accounts. The claimant seeks information and records from the second defendant on its dealings with the accounts.
5. On 29 August 2018 the first defendant filed her defence. The first defendant denies that she has acted in breach of any power conferred by the deceased's will and denies that her actions have caused any of the beneficiaries under the will to suffer loss.
6. The first defendant asserts that the assets that are the subject of complaint by the claimant did not form part of the deceased's estate and that no action was required for their distribution pursuant to the deceased's will.
7. On 15 October 2018 the second defendant filed its defence. The second defendant denies the claimant's allegations of wrongdoing and asserts that the claimant has no standing to bring the claim as she has not applied for or obtained a grant of probate on behalf of the deceased's estate. The second defendant states that no cause of action

lies against it in respect of its actions and that the steps taken in respect of the deceased's accounts were duly authorised and lawful.

8. The matter first came on for hearing before me on 20 February 2019. I inquired of the claimant whether she proposed to obtain legal representation in the proceedings and whether she had sought to obtain legal aid. The claimant indicated that she did not qualify for legal aid and did not propose to retain Counsel as she had retained Counsel in the past and was dissatisfied with the quality of their representation.
9. I informed the claimant that while the court and Counsel in the matter would provide every assistance to facilitate the conduct of the proceedings, there were procedural requirements to be followed in which she would benefit from the assistance of Counsel. The claimant remained steadfast in her decision to proceed unrepresented. Having urged the claimant to reconsider her position, I gave directions for the filing of a reply.
10. Included in the directions was a requirement for the claimant to serve a draft reply on the defendants on or before 25 March 2019 and for the defendants to serve a response to the draft reply on or before 24 April 2019. The case management conference was adjourned to 1 May 2019.
11. On 1 May 2019 Counsel for the defendants indicated that they had sent e-mail communication to the court setting out their comments on the claimant's reply. They provided the court with copies of the correspondence. The claimant indicated that she had not seen the defendants' comments. At the previous hearing the defendant had indicated that she did not have internet access at her residence and does not receive mail delivery there.
12. The claimant's reply was filed on 7 March 2019. It spanned some twenty-six (26) pages together with exhibits. The reply raised new causes of action against the defendants and sought to strike out averments made by them. Notwithstanding the wide-ranging

and diffuse nature of the reply, it fell short of providing a substantive response to matters raised in the defendants' defences.

13. Although conscious of the need to afford considerable indulgence to the claimant, as an unrepresented litigant, there was a corresponding disadvantage to the defendants if the reply were to be allowed. In addition, substantive legal issues arise on the defences which put the claimant in an extremely difficult position as an unrepresented litigant.
14. It has not been suggested by the claimant that she is unable to afford the services of an Attorney. Therefore the question of the court seeking to appoint an Attorney to represent her *de bono* does not arise. My understanding of the claimant's position is that she is reluctant to retain an Attorney as she is not confident that she would obtain appropriate representation.
15. In all the circumstances and having regard to the claimant's failure to meaningfully address the matters raised in the defences, the reply was struck out.

Jacqueline Wilson

Judge