JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO. 49/2009

BEFORE: THE HON. MR JUSTICE PANTON, P.
THE HON. MRS JUSTICE HARRIS, J.A.
THE HON. MR JUSTICE BROOKS, J.A. (Ag)

BETWEEN	ALFRED CHAMBERS	APPELLANT
AND	SARAH BROWN	RESPONDENT

Alando Terrelonge, Miss Audré Reynolds and Miss Kristina Exell instructed by Patrick Bailey and Co. for the appellant

Lawrence Haynes for the respondent

20, 21 July and 20 December 2010

PANTON, P

I have read the judgment of my learned brother, Brooks, JA (Ag). I agree and have nothing to add.

HARRIS, JA

I too agree with the judgment of my learned brother and have nothing to add.

BROOKS, J.A. (Ag)

[1] On 9 April 1984, Mr Alfred Chambers entered into an agreement to sell an interest in land to Mrs Sarah Brown. The agreement was embodied in document drafted by Mr Chambers. The agreement was not completed and there is conflict as to the rights of each party thereto. Mr Chambers brought a claim in the Supreme Court against Mrs Brown. The claim was for, principally, a declaration that the agreement had been rescinded and an order that the purchaser deliver up possession of the subject parcel of land. The claim was tried and judgment, with an award of damages, given for Mrs Brown on her counter-claim. Mr Chambers is dissatisfied with that judgment and has appealed. Mrs Brown has, herself, filed a counter-notice of appeal.

The facts

[2] On the date of the agreement, Mr Chambers was one of the registered proprietors of the land in question; No. 22 Cedar Valley Road in the parish of Saint Andrew. At that time, Mrs Brown was Mr Chambers' tenant at the premises. She had leased a "house spot" from him, there.

[3] The agreement is sufficiently short to justify quoting it in full. What appears below, including the underlining, is a faithful reproduction of the relevant portion.

> "Agreement for sale of the back of the premises over the Gully known as 22 Cedar Valley Road Kingston 6.
>
> To Mrs. Sarah Brown who is at present Leasee to Mr. Alfred Chambers
>
> The Agreement for the sale of the portion of the land of the back of the land over the gully, known as 22 Cedar Valley Road which Mrs Sarah Brown has now occupied.
>
> The Sale Price of the said Spot is Three Thousand Five Hundred Dollars (3,500.00) which have been paid off by the said Mrs Sarah Brown. Mr. Alfred Chambers as agreed to cut off that portion of land which Mrs Sarah Brown was a leasee at a later date, when a proper document will be drawn up and Survey done."

The document was signed by both parties. It was stamped, as an agreement for sale, by the Stamp Commissioner, on 1 September 1987. Mrs Brown paid the purchase price, in instalments, over the course of two years.

[4] The subsequent correspondence between the parties reveals, that by March 1996, the survey required to have the land subdivided had not been done. Mr Chambers was, by that time, resident in Canada and had, by then, numerous complaints about the state of affairs concerning the property. Among those complaints were the allegations that Mrs Brown's children had built structures on the property without his permission and that bills for water consumption were being incurred but were not being paid. Apart from her status as purchaser, Mrs Brown was also his agent, up until 1995, in respect of matters concerning the land.

[5] Mr Chambers informed Mrs Brown in a letter of 26 March 1996 that government permission would not be given for the transfer of title to her. In April 1997, he sent her, through his attorneys-at-law, a cheque (bearing date 11/4/97), purporting to refund to her the purchase price which she had paid. The covering letter for the cheque is said, by the Statement of Claim, to have been dated 14th April 1997. Mrs Brown did not negotiate the cheque and remained in possession of the land.

[6] In August 1997, Mr Chambers filed a plaint in the Resident Magistrate's Court for the Corporate Area to recover possession of the land from Mrs Brown. The claim failed. It was determined on 2 June 1998 with "Judgment for the Def." according to the relevant page of the court sheet for that date.

The Claim

[7] It was on 31 August 1998 that Mr Chambers filed his claim in the Supreme Court. In that claim he averred that he had rescinded the contract for sale and requested possession of the land, but despite that the purchaser "has failed to treat the contract as rescinded and has failed to redeliver possession of the house spot to" him. He sought, among other remedies, a declaration that the contract had been rescinded and an order for recovery of possession of the property.

[8] The defence to the claim was that the parties did indeed have a contract; that based on the contract Mrs Brown had converted her wooden dwelling house to a concrete structure; that she had had "long continuous and undisturbed possession for many years and [had] exercised such rights of ownership since [the time of the Agreement for Sale]"; that Mr Chambers did not seek to obtain subdivision approval and as a result was not entitled to rescind the contract; that she was ready, willing and able to complete the contract; and that by virtue of the judgment in the Resident Magistrate's Court Mr Chambers was estopped from pursuing the Supreme Court claim against her. She counter-claimed for specific performance of the agreement for sale and in the alternative for damages for breach of contract and other consequential orders. It is apparent that in the court below there was also a question of fact concerning whether the land, which was the subject of the contract, was just a 'house spot' or was the entire rear section of the registered land.

The judgment

[9] The learned trial judge dismissed Mr Chambers' claim and gave judgment for Mrs Brown on her counter-claim. He however refused her claim for specific performance and ordered that she be paid damages of $2.5M in lieu thereof. She was ordered to vacate the property within six months of receiving payment of the damages. The essence of the reasons behind the judgment was:

a. Mrs Brown had been in possession of the property in one capacity or another from 1974 to 2009 and in "undisturbed possession from 1984 to 1997, a period of 13 years";

b. Mr Chambers, having failed to obey an order of the Resident Magistrate to obtain subdivision approval of the land, was in "contempt of court";

c. as Mr Chambers was not the sole registered proprietor and there was no certainty that subdivision approval would be granted, an order for specific performance would not be practical and damages would "have to suffice".

The appeal

[10] Mr Chambers filed five grounds of appeal. They were:

> "(a) The Learned Judge commenced the trial having pre-determined the issues, and approached the trial with a closed mind.
>
> (b) The Learned Judge failed to consider and/or to properly consider the written submissions made on behalf of the Claimant.
>
> (c) The Learned Judge erred and/or misdirected himself in finding that the Respondent was entitled to Specific Performance, on the evidence before the Court.
>
> (d) The Learned Judge erred and/or misdirected himself in finding that the Respondent had earned rights to the property in question before the court, by way of adverse possession against the Appellant and/or his wife who were the registered owners of the property.
>
> (e) The Learned Judge erred and/or misdirected himself in finding that the Appellant was in contempt of court in regard to orders granted previously in the Sutton Street Resident Magistrate's Court."

[11] Mrs Brown filed two grounds for her appeal, namely:

> "(a) That the Learned Trial Judge erred in law when he directed that in lieu of Specific Performance the Claimant was to pay the Defendant the sum of Two Million Five Hundred Thousand Dollars ($2,500,000.00) in exchange for the Defendant giving up possession...to the Claimant. That having found that the Defendant had in fact dispossessed the Claimant of that portion of land over a period in excess of twelve (12) years it was no longer legally possible for the Trial Judge to award Specific Performance or damages upon a contract that was no longer subsisting.
>
> (b) That there was sufficient evidence before the Learned Trial Judge to make a finding that the contract between the parties had been discharged by substantial performance, the Defendant having paid the purchase price and the Claimant having placed her in possession. That the contract having been discharged no action could lie either by the Claimant or Defendant to enforce any term or condition which remained unfulfilled."

[12] In light of my views on grounds (c) and (d) of Mr Chambers' grounds of appeal, I need not consider the first two, which I would be reluctant to consider without the benefit of a response from the learned trial judge. It will also become evident that I need not consider ground (e) of Mr Chambers' grounds. Grounds (c) and (d) and both of Mrs Brown's grounds, may be conveniently considered together in the context of two issues, namely the status of the contract for sale and whether specific performance was available as a remedy.

The status of the written agreement for sale

[13] It will have been observed from the grounds of appeal filed that Mrs Brown has resiled from the position pleaded in the court below. At first instance she asserted that the contract was valid and subsisting and that she was entitled to specific performance. Before us, both parties have advocated that the contract was at an end. They have however arrived at that conclusion by different routes. Mr Chambers asserted that it was brought to an end when it was apparent that subdivision approval would not have been forthcoming. Mrs Brown stated that it came to an end by effluxion of time when the period of twelve years from the date of the agreement for sale expired. As it appears that the learned trial judge seems to have found that Mrs Brown had acquired a possessory title, I start with the submissions, made on her behalf, in this regard.

[14] Mr Haynes, on behalf of Mrs Brown, argued the point this way (I hope I do him no disservice by my synopsis of his submissions):

a. On the date that the contract for sale was signed, Mrs Brown became a purchaser in possession. She therefore acquired, at that time, an interest in the land adverse to Mr Chambers'. She was "an owner in possession, not only as against the world but as against Mr Chambers".

b. Time began running against Mr Chambers in favour of Mrs Brown, for the purposes of the Limitation of Actions Act, from the date of the contract.

c. At the expiration of twelve years, the contract came to an end and, it not having been performed, Mrs Brown was entitled to a

possessory title and Mr Chambers was barred by the Limitation of Actions Act, from recovering possession from her.

d. In the circumstances, the remedy of damages in lieu of specific performance was inappropriate.

[15] Mr Haynes' submissions, as I understand them, are based on at least two flawed premises. Firstly, a purchaser, who is placed in possession of the land the subject of the contract for sale, does not immediately acquire an interest adverse to the holder of the paper title. Such a purchaser not only becomes a mere tenant at the will of the vendor, but has also entered into possession with the consent of the vendor. In addition, the vendor has a lien on the land until the purchase money is fully paid. Each of these factors prevents the immediate accrual to the purchaser, of an interest adverse to the vendor.

[16] Authority for the point that a purchaser in possession is a tenant at will may be found in the case of ***Ball v Cullimore and Others***(1835) 2 Cr M & R 120. In that case, a man contracted to sell a parcel of land to his son and pursuant to the agreement, put him into possession of the land. A portion of the purchase money was paid, but after a number of years the rest of the purchase price remained unpaid. The father, thereafter, sold the land to someone else. The son sued, claiming that he had acquired an interest in the land. In his judgment, Lord Abinger CB said, in part:

> "There is no doubt that the father had contracted to sell the land in question to his son, and that the son had been put into possession under that contract; but the

> son had only a mere equitable interest, of which a Court of law cannot take notice; at law, he had no other title than that of a tenancy at will."

In concurring with that view, Parke B said, in part:

> "I am entirely of opinion that Withers the son was nothing more than a mere tenant at will. He had nothing more than a lawful possession; and must be considered as having that kind of legal title to the possession, which in law is recognised as a tenancy at will."

The merger of the jurisdictions of the courts of law and of equity does not affect this principle.

[17] As to the point concerning the vendor's lien, ***Macreth v Symmons*** (1808) 15 Ves. Jun. 329; 33 E. R. 778 may be cited in respect of its establishment and ***Bridges v Mees*** [1957] 2 All E.R. 577, for its discharge, upon payment of the full purchase price.

[18] Time does not begin to run as against the vendor, for the purposes of the Limitation of Actions Act until, in respect of the tenancy at will, one year from the date of the commencement of the tenancy (section 9 of that Act) and in respect of the lien, the date of the payment of the entire purchase money. The later of the two dates would be the relevant date for that calculation.

[19] In the instant case, although Mrs Brown stated in her witness statement that payment was completed in 1986, and receipts, appended

to the statement of defence, seem to suggest that that took place in April of that year, there is no direct evidence as to the date of that final payment. Mrs Brown's possessory title would have, at the earliest, commenced accrual sometime in 1986. Additionally, Mr Chambers plaint for recovery of possession, filed in August, 1997 in the Resident Magistrate's Court, would have caused time to pause until 2 June 1998, when judgment was delivered in that matter. Based on these factors, it cannot be said therefore that 12 years uninterrupted possession by Mrs Brown had expired prior to 31 August 1998 when Mr Chambers commenced the instant claim.

[20] If the foregoing reasoning is correct, it appears that the learned trial judge fell into error when he apparently took the view that Mrs Brown had secured a possessory title which was adverse to Mr Chambers' paper title. That impression is given by the learned trial judge's reference to the case of ***Wills v Wills*** [2003] UKPC 84; (2003) 64 WIR 176 (a case concerning possessory titles). In this context the learned trial judge at page 3 of his judgement, said:

> "...[Mrs Brown] has remained on the land to this day and has been in possession whether by way of lease or otherwise up to the filing of this suit in 1998. On the [other] hand it may be thought that her possession, adverse or otherwise was up to the filing of the [plaint] in the Resident Magistrate's Court in 1997...
> The Defendant was therefore in undisturbed possession from 1984 to 1997, a period of 13 years....

> This should be a complete answer to the claim even though the Claimant tried to refund the defendant's money...
> The possession and escalation of the property would be good against any claim by the wife of the claimant for the same reason."

At page 6 of his judgment, the learned trial judge paradoxically states that "the Defendant by virtue of her undisturbed possession, upon purchase of land between 1984 and 1997 should be entitled to Specific Performance". The peculiar circumstances of the case, led him, however, to award damages instead of specific performance. I shall, later in this judgment, consider the relief to which Mrs Brown is entitled. I return, for the moment, however, to assessing Mr Haynes' submissions.

[21] Mr Haynes' submission that a contract for the sale of land, which does not have time expressed as being of the essence, expires by effluxion of time, is also a bit of legal heresy. A contract may, broadly speaking, only be discharged by one of four means, namely, by performance, express agreement, breach or under the doctrine of frustration. The time within which remedies must be sought, begins to run from the date of discharge. It seems to me, clear, that the contract in the instant case has neither been performed nor terminated by express agreement. I shall presently discuss whether it has been discharged under the doctrine of frustration or by breach. It would first be convenient, however, to outline the submissions made on behalf of Mr Chambers.

[22] The submissions, in this regard, by Mr Terrilonge, were along the following lines:

a. There were "several bars to Specific Performance, being mistake in law, either mutual or unilateral, as the terms of contract is in dispute".

b. The contact was frustrated as a contract for sale of a 'house spot' cannot be completed in law "and in any event the sub-division approval could not be obtained in order to complete same. The contract was therefore frustrated at common law".

[23] On the issue of mistake in law, learned counsel submitted that the agreement for sale was void *ab initio* or voidable, because either one or both of the parties was mistaken as to the area of land to be sold. If it were voidable, Mr Terrilonge submitted, the refund of the purchase price, by Mr Chambers, resulted in the avoidance of the contract. It is not surprising that no authority was cited in support of this submission. In my view, the dispute as to fact, if there be one, does not introduce the concept of mistake in law to these proceedings. The submission is untenable.

Does Frustration apply?

[24] It is said that a "contract may be discharged on the ground of frustration when something occurs after the formation of the contract which renders it physically or commercially impossible to fulfil the contract or transforms the obligation to perform into a radically different obligation from that undertaken at the moment of entry into the contract". See

Chitty on Contracts 27th Ed. at paragraph 23-001. That is, in my view, a correct statement of a principle of the law relating to frustration of contracts.

[25] Also applicable is the principle that parties to a contract "cannot rely on their own default to excuse them from liability under the contract" (see ***Maritime National Fish, Ld v Ocean Trawlers Ld*** [1935] AC 524, 531). Lord Sumner, in ***Bank Line Ltd v Arthur Capel & Co*** [1919] AC 435, 452 put it this way:

> "I think it is now well settled that the principle of frustration of an adventure assumes that the frustration arises without blame or fault on either side. Reliance cannot be placed on a self-induced frustration; indeed, such contract might give the other party the option to treat the contract as repudiated."

[26] Mr Chambers sought to rely on, as the frustrating event, an indication by his attorneys-at-law that subdivision approval would not be given for the subject land. He gave this indication in the letter of 26 March 1996, mentioned above. It was not, however, until 1998 that there was any official indication to that effect.

[27] The Town Planning Department, in a letter of 10 June 1998, indicated that it could not support an application for approval of the proposed subdivision. It is to be noted, however, that the department was responding to an "Enquiry for subdivision at 22 Cedar Valley Road". It

is not in dispute that, to date, no application for subdivision approval has been made. It is also relevant that in a letter of 26 April 2005, the National Environment and Planning Agency (the authority which now seems to have the responsibility for town planning) indicated to Mrs Brown's attorneys-at-law, that it would be willing to support a subdivision of 22 Cedar Valley Road. It is not known what the terms of either enquiry to the Town Planner, were. What is clear, however, is that until an application is made and pursued with diligence by Mr Chambers, he cannot claim that there has been an occurrence leading to the frustration of the contract.

[28] Based on the application of the principles cited above, it is my view that Mr Chambers', could not, properly, in 1997 (when he sought to return the purchase price), have sought to rescind the contract on the basis of a frustrating event having occurred. This is because he had, up to then, not filed an application for subdivision approval. It seems to me that there has been no frustrating occurrence in the instant case. Mrs Brown, in refusing to negotiate the refund cheque, has not accepted the purported rescission and therefore, subject to there being any agreement to the contrary, the contract has not been discharged by way of frustration.

Has there been an agreement to discharge the contract?

[29] The matter of an agreement to discharge the contract is more easily dispensed with. There has been no express agreement between

these parties that the contract has been discharged. The applicable principle is correctly stated in ***Chitty on Contracts*** (*supra*):

> "Where a contract has been executed by one party only, that is to say, where only one party has fully performed his obligations under the contract and the other party has some obligations still outstanding, the contract may be discharged at any time before breach by release by deed. Also, where one party has committed a breach of the contract, it will be a defence for him to show that the other party has by deed released the cause of action accruing from such breach. The employment of a deed dispenses with the necessity for consideration...." (Paragraph 22-003)

Where there is no consideration provided for the discharge of the outstanding obligations, the absence of a deed renders an agreement to discharge, *nudum pactum* (see ***Foakes v Beer*** (1884) 9 AC 605).

[30] In the instant case, Mrs Brown contested the claim at first instance on the basis that the contract was still in force. She sought specific performance in the court below. I find that a change in her view of the law, through her counsel, concerning the status of the contract, cannot bring about an agreement with Mr Chambers that the contract has been discharged. There has neither been consideration provided for that position nor a deed of agreement releasing Mr Chambers from his obligations under the contract.

Has a breach resulted in the discharge of the contract?

[31] Finally, on the question of the status of the contract, I examine the question of whether there has been a breach of same. There is no

contest that there has been complete performance by Mrs Brown, of her obligations thereunder. She has paid the entire purchase price. The actions which could possibly constitute breach would be the failure of Mr Chambers to make the necessary application for subdivision approval, within a reasonable time, and his tendering of the refund of the purchase price with the indication, according to paragraph 7 of his statement of claim, that the contract was at an end.

[32] It has long been established that a contract is not discharged merely by a breach thereof, committed by one of the parties thereto. The learned editors of ***Chitty on Contracts*** *(supra)* define the term "discharge by breach" thus:

> "[t]he expression 'discharge by breach' is commonly employed to describe the situation where [the innocent party] is entitled to, and does, exercise [the right to treat both parties to the contract as discharged from performing any further obligations under the contract]". (Paragraph 24-001)

Although they stipulate that the expression is not wholly accurate, it is sufficient (and I accept its validity for present purposes) to make the point that Mrs Brown has not accepted, as terminating the contract, Mr Chambers' declared intention, in April 1997, not to perform his obligations under the contract.

[33] In ***Frost v Knight*** (1872) LR 7 Exch. 111, Cockburn CJ, at page 112, stated that if the innocent party elects to treat the notice of intention not

to perform as inoperative, then the contract remains alive for the benefit of the wrongdoer as well as the innocent party. The principle is relevant to these circumstances.

[34] Based on the above, I find that the contract between Mr Chambers and Mrs Brown is still in force. It has not been discharged by any of either the conventional or less usual methods of discharge. Mrs Brown's remedy for the breach is either specific performance or damages in lieu thereof. I now turn to the issue of whether she is entitled to specific performance.

Is specific performance available as a remedy?

[35] The general principle applicable to the selection of the remedy, for breach of a contract in respect of the sale of land, is that if specific performance is available, it is preferable to an award of damages. This is because a purchaser of land is deemed to have a specific interest in the land, the subject of the contract. In ***Adderley v Dixon*** (1824) 57 E.R. 239, Sir John Leach VC said, at page 240:

> "Thus a Court of Equity decrees performance of a contact for land, not because of the real nature of the land, but because damages at law, which must be calculated upon the general money value of land, may not be a complete remedy to the purchaser, to whom the land may have a peculiar and special value."

[36] Specific performance will not be granted, however, if there is an unwilling co-owner who is not a party to the contract (see ***Sears Properties***

Ltd v Salt (1967) 204 EG 359). That was also the finding of this court in ***Lamb and Lamb v Coulthard*** (1994) 31 JLR 658. In the latter case, Wolfe JA, as he then was, ruled that in those circumstances "the relief of specific performance...was not available against an unwilling co-owner who was not a party to the agreement".

[37] The learned trial judge in the instant case, quite properly in my view, pointed to "two problems which would have to be over come (sic)", before Mrs Brown could get title to the land. The first was the need to subdivide the property. This would entail securing subdivision approval and there was some uncertainty concerning that approval being forthcoming. The second problem was the evidence, which the learned trial judge seem to have accepted, that Mr Chambers' son, who is now the registered co-owner, did not wish to have severance of the land.

[38] In light of the evidence concerning the stance of the son and based on the finding in ***Lamb v Coulthard***, mentioned above, I find that specific performance is not available to Mrs Brown as a remedy for Mr Chambers' failure to deliver that which he had contracted to deliver. She is, therefore, only entitled to damages in lieu of specific performance. The method of calculating the damages depends on the view taken of the reason for Mr Chambers' inability to complete the contract.

[39] The normal measure of damages, where a vendor is in breach of the contract for sale, is the difference between the contract price and the market value, as at the date of the breach. This method of calculation is used where the purchaser is to be compensated for the loss of his bargain.

[40] Where, however, the failure to complete is due to a defect in title, the purchaser cannot recover damages for the loss of his bargain. He may, generally, only recover (with interest) the money paid to the vendor, as well as his expenses incurred in investigating the title. The latter principle is the rule approved by the House of Lords in ***Bain v Fothergill*** (1873-4) L.R. 7 H.L.C. 158 and applied in this jurisdiction.

[41] Unlike the vendor in ***Lamb v Coulthard,*** Mr Chambers has not been shown to have entered into the contract in bad faith. This is despite the fact that his wife was the then co-owner. Further, there has been no claim for damages for deceit. It is my view, therefore, that Mrs Brown may only recover damages in accordance with the rule in ***Bain v Fothergill.***

[42] Here, the amount of the purchase price is not in dispute. There has, however, been no evidence tendered concerning interest rates on commercial transactions. It is not unreasonable to expect that such evidence would have been tendered below; Mrs Brown did include a claim for interest in her counterclaim. In light of the failure to provide that

evidence she will only be entitled to interest at the rate payable in respect of judgment debts over the period from the date of the contract. I would not take into account the fact that the payment of the purchase price was made in instalments up to 1986. This is partially to compensate for Mrs Brown's inability to secure interest at commercial rates and partially due to the difficulty of the accounting involved in using another procedure.

[43] There was no evidence concerning any expense in respect of investigating Mr Chambers' title. No award may therefore be made in respect of that entitlement under the principles in ***Bain v Fothergill.***

Mesne Profits

[44] Before concluding this judgment it perhaps should be mentioned that although Mr Chambers included a claim for *mesne* profits, he did not adduce any evidence concerning that aspect of his claim. In light of the fact that he contributed to the failure of the contract it would not have been appropriate, in any event, to have made such an award.

Conclusion

[45] Based on the reasons stated above, I find that although the learned trial judge did err with respect to the basis on which he decided on the question of liability, he was, nonetheless, correct in finding that Mrs Brown was entitled to judgment in her favour. I also find that the learned trial judge was correct in finding that damages and not specific performance,

was the appropriate remedy to which Mrs Brown was entitled. In terms of a time for delivery up of possession, I do not consider six months to be excessive.

[46] In the circumstances, Mrs Brown must have her costs, both here and below, paid by Mr Chambers.

[47] As a consequence I would order that:

a. The respondent Mrs Sarah Brown shall quit and deliver up possession of all that parcel of land known as number 22 Cedar Valley Road Kingston 6 in the parish of Saint Andrew to the appellant Mr Alfred Chambers on or before 31st March 2011;

b. Judgment for the respondent in the sum of $3,500.00 together with interest thereon as follows:

   i. at the rate of 6% per annum from 9 April 1984 to 30 June 1999;

   ii. at the rate of 12% per annum from 1 July 1999 to 22 June 2006; and

   iii. at the rate of 6% per annum from 23 June 2006 to date;

c. Costs to the respondent both here and below, to be taxed if not agreed.

PANTON, P

ORDER

Appeal dismissed:

a. The respondent Mrs Sarah Brown shall quit and deliver up possession of all that parcel of land known as number 22 Cedar Valley Road Kingston 6 in the parish of Saint Andrew to

the appellant Mr Alfred Chambers on or before 31st March 2011;

b. Judgment for the respondent in the sum of $3,500.00 together with interest thereon as follows:

   i. at the rate of 6% per annum from 9 April 1984 to 30 June 1999;

   ii. at the rate of 12% per annum from 1 July 1999 to 22 June 2006; and

   iii. at the rate of 6% per annum from 23 June 2006 to date;

c. Costs to the respondent both here and below, to be taxed if not agreed.