

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN EQUITY

CLAIM NO. E 573/2001

BETWEEN	DENTON HAUGHTON	CLAIMANT
A N D	ANTIONETTE HEATH	1 ST DEFENDANT
A N D	MABEL ALLEN	2 ND DEFENDANT
A N D	ERWIN ALLEN	3 RD DEFENDANT
A N D	MILTON ALLEN	4 TH DEFENDANT
A N D	PAULINE ALLEN	5 TH DEFENDANT

Miss Audrey Clarke for Claimant.

Miss Stacey Kong Quee for Defendants.

HEARD: 21ST and 22ND October, 2003, 11TH and 28TH November, 2003

D. O. MCINTOSH, J.

Denton Haughton of Johnson Town and Antionette Heath of Brissett, adjoining districts of Hanover, were in a common law relationship from about 1984. They did not live together but visited at each other's home. In January 1987 Antionette gave birth to their son Denton jnr.

Claimant left for Switzerland to reside in about October of 1986 having first visited that country in 1985. He would return to Jamaica from October to November each year for periods of four weeks.

In 1996 Antionette began constructing a house on family lands. Claimant avers that this house belongs to both himself and Antionette. He seeks:

- (a) A Declaration that he is entitled to an interest in property situated at Johnson Town, bearing Valuation Number 92002006010.
- (b) A Declaration as to the value and extent of his entitlement in the house constructed on the said land by him with his personal funds.
- (c) An Order that the said house be valued by a reputable valuator.
- (d) An Order that the Defendants pay to the Claimant a sum equivalent to the value of his entitlement in the said house constructed on the said land.

CLAIMANT'S CASE

The Claimant gave evidence on his own behalf and called no witnesses.

Relationships

The Claimant and the First Defendant became intimate friends about 1984 but shared a visiting relationship while they both lived in their respective mothers' homes. Mabel Allen, mother of the First Defendant was like a mother to the Claimant.

In January, 1987 when their son Denton Haughton (jnr.) was born the Claimant was residing in Switzerland.

The Claimant first visited Switzerland in 1985 and returned there to reside in October 1986. When he left, Antionette was pregnant but they corresponded. Their relationship was a good one on yearly visits, the parties would stay together at either mothers' house. When he was leaving to live in Switzerland in October, he told Antionette he would have to get married if he was to live in Switzerland and she consented to this.

Over the years the relationship continued until a house was built on lands belonging to the Second Defendant.

The relationship broke down in 2000 when he was locked out of the house where Antionette lived with their son. He was advised by the police not to return there as Antionette had claimed he was abusive to her.

In 2001 when he visited Jamaica he stayed at the house of Mabel Allen. In 2002 he stayed at an hotel. In 2003 he filed suit against her.

He knew the other Defendants, Erwin, Milton and Pauline Allen as brothers and sister of Mabel Allen. He got on well with them. Erwin Allen taught him to fish.

Property:

In 1995 Antionette told him she wanted to build her own house and she showed him some lengths of steel and other house building material. He enquired of her where she intended to build and she informed that it was on her mother's land.

These lands were owned by four Defendants, Mabel, Erwin, Milton and Pauline who apportioned the land. It is on that portion claimed by Mabel that the house was built.

Claimant claims he asked and got Mabel's permission to build a house for himself and Antionette on that land. Further, Erwin, Milton and Pauline knew of his intentions and were also in agreement.

Construction of House:

Claimant claims he suggested that Antionette build a "Right House" and in October 1996, they started construction. The builder was Lloyd Walker who had been a schoolmate of his.

Walker started to line up the house in October 1996 and raised the house to window height [about 5 feet above ground] by the time he was about to leave in November, 1996.

Antionette paid the builder from funds claimant provided. First, he gave her \$100,000 cash and told her she could use monies from their "joint account". On another occasion in 1997 he gave her \$50,000 cash.

When he next visited in 1997 there were two completed rooms, which were habitable. Antionette lived in one room with her son. The other was mainly a storeroom for building materials. He stayed at the house during that visit.

In 1998 he stayed at the house in his son's room. The house was then finished to the content of kitchen, bathroom, 2 bedrooms and hall. Not all windows of the hall were in place. He told her to build behind and upstairs, as two bedrooms were not enough. In 1999 the area for the stairs was dug out but the house was at the same stage he had left it in 1998 and he did not know why. He stayed in the house. He estimated value of house at \$2,000,000.

Finances:

Antionette and Denton had three joint accounts. All three were opened by Antionette and he signed later when he came to Jamaica.

One was from the proceeds of a fishing boat, which Claimant had bought and one was a US account from the earnings of a bus, which Antionette had bought with the Claimant's money. The third account came about when the bus was sold by Antionette for \$1.5 million.

The Claimant had made money on his first visit to Switzerland in 1985 and had sent it to Antionette to purchase the bus.

After he went there to live he would bring money on his visits to Jamaica and sometimes he would send money. It was his wife in Switzerland who handled his finances and gave him pocket money, paid all bills, bought his ticket to Jamaica and gave him any money he brought with him.

When he visited he spent money on his sound system and on himself and his common-law family. He trusted Antionette with his money.

DEFENDANT'S CASE

Three witnesses gave evidence for the defence. These were:

Antionette Heath, Lloyd Walker and Mabel Allen.

Relationship:

Antionette and Denton had a good common-law relationship from about 1984. Her mother Mabel accepted him as a son. When Denton left to live in Switzerland he did not tell her that he intended to get married. Instead he told her to wait for him.

In 1994 she found out he was married from a photo he sent her, in which she noticed a wedding band on his ring finger. When he came in October 1994 she asked him about it and he told her he had got married to get his stay but was looking after his divorce and she must wait on him for three more years.

Their relationship continued until 1997. He then asked her to wait four more years but she refused. She told him she had her life to live and he should live with his wife.

In 1998 he stayed in their son's room. He threatened to shoot up the place if he could not stay with her. As a consequence she made a report to the police.

In 1999 she was again threatened and again she made a report to the police. She did not allow him to stay at her house thereafter.

Property:

The property on which her house was built was on that part of her grandfather's land, which was apportioned to her mother, Mabel Allen.

In 1995 she asked her mother's permission to build on her land. The Claimant was not then in Jamaica. With her mother's permission she started her construction of the house.

Initially, she hired Lloyd Williams to do the construction of two bedrooms, bathroom, kitchen, hall and verandah. She started accumulating building materials in 1995 and construction started in June, 1996.

She did not tell Claimant of her plans or about the building until he came in 1996 because she was angry with him, as he had gotten married without telling her.

In 1996, Claimant first saw the construction when it was about 5 feet high from the ground. He said, "wow you start build man".

Antionette's cousin, Rupert also worked on house. She gave all instructions for work to be done. She paid all the bills. She estimates value of house at \$1.2 million.

Finances:

To build the house she got monetary assistance from her mother and used her own savings. With the permission of Denton she drew \$185,000 from the bus account to build a room for their son.

She never withdrew money from any of the three joint accounts unless told to do so by Denton.

At all relevant times she was employed.

On all material issues of the case, the evidence of Antionette Heath was corroborated by Mabel Allen and Lloyd Walker. These two witnesses were out of Court at all times when she gave her evidence and Lloyd Walker was never in Court before he gave evidence.

COURT

Claimant adduced no evidence against the 3rd, 4th and 5th Defendants. There is no evidence that he spoke to them about the land. In any event they have no interest in the particular piece of land or the house built thereon.

Both Antionette and Mabel deny that Claimant ever asked Mabel for permission to build on land.

The evidence of Antionette relating to how house came to be built, corroborated by two witnesses, is more probable than the evidence of the Claimant.

On the issue of credibility this Court found the defence witnesses more credible than the Claimant.

This Court accepts that only \$185,000 of the Claimant's money was used in the construction of the house and that this sum was a gift to their son. That is, to build a room for their son on the house.

On a totality of the evidence, Court finds that the Claimant has not proved his case. His claim is dismissed with costs to the Defendants to be taxed if not agreed.