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IN THE PRIVY COUNCIL

No. 14 of 1972

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No. 14 of 1972

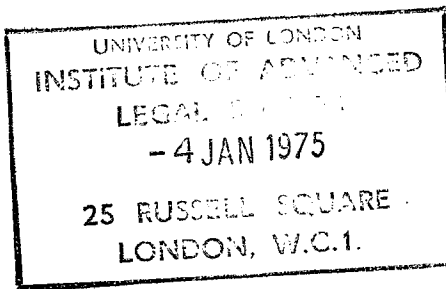
O N A P P E A L

FROM THE WEST INDIES ASSOCIATED STATES SUPREME COURT  
COURT OF APPEAL (ST. LUCIA)

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RECORD OF PROCEEDINGS

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Solicitors for the Respondent

O N A P P E A L  
FROM THE COURT OF APPEAL OF SAINT LUCIA

B E T W E E N :

JOHN BERTRAM GODDARD

Appellant  
(Plaintiff/Respondent)

-- and --

LAURENT JOHN

Respondent  
(Defendant/Appellant)

RECORD OF PROCEEDINGS

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ON APPEAL  
FROM THE COURT OF APPEAL SAINT LUCIA

B E T W E E N :

JOHN BERTRAM GODDARD Appellant  
(Plaintiff/Respondent)

- and -

LAURENT JOHN Respondent  
(Defendant/Appellant)

10

RECORD OF PROCEEDINGS

No. 1(a)

DECLARATION

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL)

NO. OF SUIT 137 of 1970

BETWEEN JOHN BERTRAM GODDARD of Vigie in the  
suburbs of Castries, Merchant Plaintiff

and

20

LAURENT JOHN of Laborie in the Quarter of Laborie,  
Shopkeeper Defendant

DECLARATION

1. By lease in writing by the Defendant to the Plaintiff executed before M.M. Mason, Notary Royal, on the 12th day of July 1965 and registered on the 17th day of July 1965 in Vol. 118a No.80074 the Defendant granted to the Plaintiff a lease for five years over the immovable property in the Schedule with an option on the part of the Lessee to renew the lease for a further period of five years.

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2. By clause 3 of the said lease the Plaintiff has

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

No.1(a)

Declaration  
30th July  
1970

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

          
No.1(a)

Declaration  
30th July  
1970

(continued)

the option at any time during the continuation of the said lease to purchase the said immoveable property in the Schedule from the Defendant and to pay for the same the sum of Three Thousand Dollars as well as all arrears of rental due for the remaining period of any of the five year periods.

3. By letter dated the 13th February 1970, when there were no arrears of rental due for the remaining period of the five year period ending on the 12th day of July 1970, the Plaintiff informed the Defendant that he was exercising his option to purchase the immoveable property in the Schedule for the said sum of Three Thousand Dollars and requested that a date be fixed to finalise the sale. The Defendant neglected to take any steps to conclude the sale. 10

4. On the 24th day of June 1970 when there were still no arrears of rental due for the remaining period of the five year period ending on the 12th day of July 1970, the Plaintiff at the Defendant's home at Laborie aforesaid informed the Defendant's wife who purported to be acting on behalf of the Defendant, that he was exercising the option to purchase the said immoveable property in the Schedule and tendered to the Defendant's wife the sum of Three Thousand Dollars in cash this sum being the agreed purchase price of the immoveable property in the Schedule hereto but the Defendant's wife wrongfully refused to accept the same and the Defendant has refused to transfer the immoveable property in the Schedule to the Plaintiff and the Defendant still refuses to honour the said option. 20 30

5. The Plaintiff has at all material times been and is now ready and willing to exercise the said option and to fulfil all his obligations under the said option. 40

And the Plaintiff claims -

(1) Specific performance of the option to purchase contained in clause 3 of the said lease

- (2) Further or alternatively Damages for breach of contract
- (3) Further or other relief
- (4) The costs.

In the High Court of Justice (Civil) Saint Lucia

No.1(a)

Dated this 30th day of July 1970.

Gordon, Salles-Miguella, McNamara & Co.

SOLICITORS FOR PLAINTIFF

Declaration 30th July 1970

(continued)

SCHEDULE

10 A small Estate situate in the Quarter of Laborie and known as "Petit Trou" being about five carres in area bounded on the North by lands now or formerly of Heirs Budin, on the South by the Sea, on the East by lands known as Anse Noires and on the West by lands formerly of one Widow Duchaussori.

No. 1(b)

No.1(b)

APPEARANCE

Appearance 6th August 1970

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL)

No. of Suit 137 of 1970

20 BETWEEN

JOHN BERTRAM GODDARD of Vigie in the suburbs of Castries, Merchant, Plaintiff

and

LAURENT JOHN of Laborie in the Quarter of Laborie, Shopkeeper, Defendant.

APPEARANCE.

We appear for the Defendant herein.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Dated 6th August, 1970

Floissac & Giraudy

per: E. Henry Giraudy

Defendant's Solicitors.

No.1(b)  
Appearance  
6th August  
1970  
(continued)

We accept service

Gordon, Salles-Miquelle McNamara & Co.

per: Gordon Salles-Miquelle McNamara & Co.

Plaintiff's Solicitors.

No.1(c)  
Defence  
18th August  
1970

No. 1(c)

DEFENCE

10

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL)

No. of Suit: 137 of 1970

BETWEEN

JOHN BERTRAM GODDARD of Vigie in the  
suburbs of Castries, Merchant Plaintiff

and

LAURENT JOHN of Laborie,  
Shopkeeper Defendant

DEFENCE.

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The defendant states :-

1. The defendant denies paragraphs 1 and 2 of the Declaration and states that he never executed or authorised to be executed the lease referred to in paragraph 1 of the Declaration.

2. The defendant admits paragraph 3 of the Declaration.

3. The defendant admits the tender and refusal alleged in paragraph 4 of the Declaration and denies that the refusal was wrongful in that there existed no option to purchase as alleged.

In the High Court of Justice (Civil) Saint Lucia

4. The defendant has no knowledge of the matters alleged in paragraph 5 of the Declaration.

No.1(c)

5. In July 1965 at the home of the defendant in the Village of Laborie in the State of Saint Lucia the plaintiff and the defendant, in the presence of the defendant's wife only, orally agreed a lease of the defendant's land described in the lease referred to in paragraph 1 of the Declaration.

Defence  
18th August  
1970

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(continued)

6. At the time and place aforesaid it was inter alia agreed between the plaintiff and the defendant that, in the event that the defendant determine to sell the said land, the defendant would first offer the same to the plaintiff upon whose refusal only the defendant would sell the land to another.

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7. The said oral agreement was thereupon reduced to writing by the plaintiff in original form only.

8. On the day aforesaid the plaintiff and the defendant executed the said written agreement and their signatures were attested by and at the home of the late Alcide P. Testanier, Justice of the Peace, in the said Village of Laborie, whereafter the plaintiff departed with the said agreement.

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9. It was not a term of the said agreement that the plaintiff was given an option to purchase the said land.

The defendant claims that the action be dismissed with costs.

Dated 18th August 1970  
FROISSAC & GIRAUDY  
Defendant's Solicitors.

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In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

No. 2(1)

JOHN BERTRAM GODDARD

MONDAY 15th MARCH 1971

Notes of  
Plaintiff's  
Evidence

137/1970

No.2(1)

JOHN BERTRAM GODDARD

John Bertram  
Goddard  
Examination  
15th March  
1971

V.

LAURENT JOHN

M. Gordon for the Plaintiff

H. Giraudy for the Defendant.

John Bertram Goddard, sworn saith: I am a proprietor and merchant. I live at Vigie, Quarter of Castries. I know the Defendant. I have known him since 1961. In those days I used to drive around the island selling goods in a truck. The Defendant carries on a rum shop. We used to meet every two weeks. I sold him goods. I sold to him and his wife. In July 1965 I had a conversation with Defendant concerning land. Sometime in 1964 Mr. John asked if I am interested in buying some land. At a later stage Defendant offered me some land. He carried me out and showed me the land. We walked on it. The land was in the Quarter of Laborie and is known as Petit Trou. He offered to sell me the land. I told him I was not in a position to buy; I suggested a lease, with an option to buy. I discussed it first. In the option I would give him permission to keep his animals and I would build wall building. A draft was drawn up. We discussed it and he agreed. We agreed to a lease with option to buy. I was to pay so much a year for five years, with an option to renew for a further five years, and an option to purchase. The option to lease was \$60 a year for the 5 years, and the purchase price of the land was \$3,000. The option to purchase was exercisable at my discretion.

The lease was drawn up by deceased Maurice Mason. The document shown to me is a copy of the document drawn up by Mr. Mason. I signed the

document. I know of my own knowledge that the Defendant signed. The signatures at the bottom of the document are mine and the Defendant's. I now produce document. (No objection from Mr. Giraudy). Admitted in evidence and marked "Exhibit JBGl". It reflected the agreement between the Defendant and myself.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Plaintiff's  
Evidence

No.2(1)

John Bertram  
Goddard  
Examination  
15th March  
1971

(continued)

10 By letter dated 13th February, 1970, I informed the Defendant that I intended to exercise my option to purchase. I asked Defendant to fix a date to finalize the sale. Defendant did nothing. On 24th June, 1970, when there were no arrears of rental. I tendered to Defendant's wife the purchase price of \$3,000 for the property. She refused the money. I dealt with both of them. Sometimes she would take the money, sometimes he would take the money. I am still able and willing to complete the purchase of the property.

20 It was never agreed that in the event Defendant wished to sell the land he would first offer it to me and if only I then refused to purchase he would offer it to a third person.

The agreement that was signed was not written in my handwriting. The agreement was drawn up by Mr. Mason.

I am asking for specific preference(sic?) of clause 3 of agreement, damages for breach of contract, such other relief as the Court may see fit and costs.

Cross-examined by Mr. Giraudy.

Cross-Examined

30 When Defendant and I had discussion we spoke in English. I do not speak patois. Around July, August, 1964, the Defendant's wife offered to sell me the land.

In 1965 I was living in Vigie. I was not living on Beane Field, Vieux Fort. I was living there in 1966, 1967.

40 When we were discussing I took notes. The draft was drawn up by the lawyer. I took the notes in the Defendant's shop. His wife was present during the discussions. I have the Defendant's ward Rosemary. She was never present at any conversation. She was about 5 or 7 at the time. I took the notes to

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Plaintiff's  
Evidence

No.2(1)

John Bertram  
Goddard  
Cross-  
examination  
15th March  
1971

(continued)

Castries to Mr. Mason. The Defendant did not sign or initial these notes. Before I took the notes to Mr. Mason, the Defendant and I did not go before anyone in the village of Laborie. I know the old schoolmaster Alcide Testanie. He was a J.P. He also dealt with me. The Defendant and I did not go to the home of Mr. Testanie on the day when these notes were written by me. The Defendant and I went to the home of Mr. Testanie. The Defendant signed the lease at the J.P.'s home after the J.P. had read the lease to the Defendant and had explained it to him. I then took the document to Castries to Mr. Mason's chambers. The paper I made the notes on came from my truck. The J.P. signed as well. Mr. Testanie did not give me any other document. I did not give Mr. Mason any other document but the one Defendant and I signed. The Defendant did not sign the lease in Castries.

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I never tendered the price to the Defendant. They asked for a copy of the lease. I obtained one from the Registry, paid for it and gave it to him. I got it about 3 years after. The Defendant and his wife did not constantly keep on asking me for a copy of the lease. I do not know what motivated them to ask me for a copy of the lease 3 years after. This is the first lease I have ever had in my life. I do not sign the copy of Deeds given to me by my lawyer.

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Exhibit JBGl was handed to me around July, August, 1965. I then signed in the Defendant's presence. The Defendant signed it also. I do not remember when the Defendant signed it. I had it signed as a precaution. Mr. Gordon objects to the question when it was put to the witness that he knew very well that the Defendant had not executed the lease. On the grounds of Article 1142 of the Civil Code.

Mr. Giraudy refers to Article 134 of the Code of Civil Procedure.

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Mr. Gordon refers to Auguste v. Monroe.

Cross-examined, continued. The lease was not executed before Mr. Mason. It was signed before Mr. Testanie. The name "Laurent John" written in

it as Exhibit JBGI was written by the Defendant. The Defendant and his wife own small shop - liquor in Laborie. The wife carries on the shop. It is about 10' x 10'. The Defendant speaks English well. He is fluent.

In the High Court of Justice (Civil) Saint Lucia

10 I did not initiate talk about land with the Plaintiff's wife. When we were discussing I said I wanted a spot to build a house for my children to spend holidays in. It is not true that when I saw the land I wanted all of it. It is not true that the Defendant said he could not let me have all the land as that is where he kept his animals. I cannot remember clearly who name the price of the rental. I might have suggested the rental and Defendant agree to it. It is not true that the Defendant said he did not want to sell. They wanted to sell and I didn't have the money to buy. It is not true the Defendant then said if he decided to sell he would give me the privilege of buying first and if I did not buy he would sell to anyone willing to pay his price. The Defendant's wife did not take a sheet from a writing pad. I did not sit down and write out the agreement on that sheet of pad paper. The Defendant and I did not then go to the home of Testanie with that sheet of pad paper. It is not true that the Defendant told Testanie I have agreed to lease my land at Petit Trou to Mr. Goddard for 5 years at \$60 a year look at this paper and see if it is in order for me. It is not true that Testanie then told the Defendant that was in order. It is not true that then the three of us signed a piece of pad paper. I did not then go away with a piece of pad paper.

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Notes of Plaintiff's Evidence

No.2(1)

John Bertram Goddard  
Cross-examination  
15th March 1971

(continued)

40 It is not true that for 3 years after that the Defendant's wife kept asking me for a copy of the paper that we had signed. It is not true that she said if I don't get the copy she will get her husband to give me back the rents and call the whole transaction off. I sent the copy of the lease on 2nd May, 1968. It is not true that from then Mrs. John has been asking me what is this thing about option I have been talking about. (Marked for identification "Exhibit A"). The paper signed by Defendant and I and Testanie was not like "Exhibit A". It was a document drawn up by Mr. Mason.

The price would have been suggested by me as I am the one who had the money to buy. I did not say

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

give me the option to buy for two thousand. Then I said three thousand. It is not true that the Defendant said he was not selling and that when he was ready he would sell me.

Notes of  
Plaintiff's  
Evidence

No.2(1)

John Bertram  
Goddard  
Cross-  
examination  
15th March  
1971

(continued)

Re-examined

Re-examined : I have only seen the Defendant sign his name once. The signatures on the documents shown to me are the Defendant's. I now produce the documents. (No objection by Mr. Giraudy). Admitted in evidence and marked "Exhibit JBG2".

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Case for the Plaintiff

Case and Court rise.

Mr. Giraudy submits that there is no case for the Defendant to answer.

From the evidence there is no document signed before Mr. Mason in Castries. The Plaintiff would have to bring document signed before Testanie. The signatures of the parties on Exhibit JBG1 were affixed after the document was registered.

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Mr. Giraudy is not electing.

Mr. Gordon: An interest in land need not be conveyed by a notarial document. All that is required is a commencement in proof in writing.

Article 1 (45) of Civil Code. Article 1163(7)(b) The Plaintiff carried Defendant to sign the copy. Document is in fact an agreement. It can be read by both parties. A lease of land is a movable right and does not need any formality.

Resumed.

31st MARCH 1971

JOHN BERTRAM GODDARD

V.

LAURENT JOHN

Appearances as before.

Mr. Gordon refers to Civil Code by J.J. Beauchamp, Vol. 2, First Part on P.12 article 1208.

10 Court rises to allow Plaintiff to get signed document. A photostat copy of original lease admitted in evidence by Court marked Exhibit "B".

Mr. Gordon points out that Exhibit B shows that document was signed by only 3 persons, Plaintiff, Defendant and Maurice Mason. There is no requirement in Civil Code for a contract of this nature or indeed any contract to be completely set out in any particular form.

Court rules Defence called upon.

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No. 2(ii)

LAURENT JOHN

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Laurent John, sworn saith: I am a proprietor and I live at the Village of Laborie. I know the Plaintiff. My wife Catherine and my ward Rosemary Plantre live with me in Laborie. I own some land at Laborie called "Petit Trou". In July 1965, the Plaintiff and I had some talks about this land. We spoke in my rumshop at Laborie. That rumshop is part of my dwelling house. When the Plaintiff and I spoke no one else was present.

30 Rosemary and my wife were there. Mr. Goddard asked me to lease a piece of land for him for 5 years to build a house for his children to come and pass their holidays. He told me how much money I ask for leasing the land. I told him I don't know nothing about price for I never leased land for nobody. Then he told me let us put it \$60 per year.

In the High Court of Justice (Civil) Saint Lucia

Notes of Plaintiff's Evidence

No.2(1)

John Bertram Goddard  
Re-examined  
15th March  
1971

(continued)

Notes of Defendant's Evidence

No.2(ii)

Laurent John  
Examination  
31st March  
1971

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Defendant's  
Evidence

No.2(ii)

Laurent John  
Examination  
31st March  
1971

(continued)

He told me that will come \$300. He told me when that 5 years due if it is my intention to lease again for another 5 years, he will make another paper, and if I have to sell one day to give him the preference. Then he told me again, "suppose you are going to sell how much money you think you will ask." I told him "Mr. Goddard, I am not selling my land". He even told me again "even you are not selling you can put a price on it". He told me that does not mean nothing you can put a price on it. I said no. He told me again "let's put it two thousand dollars". I did not answer him. He said "two thousand dollars is too low?" Make it three". I did not answer him. I told him I am not selling. The wife took a sheet from a pad paper and gave it to him. He wrote on that sheet of pad paper. Mr. Goddard and I went to Mr. Testanie, the J.P. This was on the same day Mr. Goddard wrote on the pad paper. I went to Mr. Testanie to sign the paper. I told Mr. Testanie to look at the paper, see if it is good. If it is good sign it for us. I told Mr. Testanie what me and Mr. Goddard had agreed in the shop, I signed, Mr. Goddard signed and Mr. Testanie signed. We then went back home. When we reach home. Mr. Goddard asked me the paper. He said he will bring it to Castries, type it and bring it back. I gave it to him. He stayed three years before he brought it back to me. During those three years I asked him for a copy of the paper. My wife told him if he does not bring the paper she will refund him his money. Soon after that he brought it. I never told Mr. Goddard that if he wants to buy the land at any time in the five years I will sell it to him. Exhibit A resembles the paper that me Mr. Goddard and Mr. Testanie signed. I never at any time sign a document before the late Notary Maurice Mason. I never signed any type written document brought to me by the Plaintiff. I did not return to Mr. Testanie with Mr. Goddard and sign anything else. I was never after Mr. Goddard to buy my land. Mr. Goddard came to me first. My wife runs the rumshop and she has been dealing with Mr. Goddard for some time. Mr. Goddard never call me to make any Deed. Last year he came to me and told me under the agreement he could buy the land, here is the money. He took me to Petit Trou. When he saw

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the land he said lease all to me. He told me "feed your animals, do your garden that does not worry me, it is only a spot I want to build a house." I did not fix a price for the land.

Adjourned to 1.45 p.m.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Defendant's  
Evidence

No.2(ii)

Laurent John  
Examination  
31st March  
1971

(continued)

Continued.

Cross-  
examination

Appearances as before.

Laurent John sworn. Cross-examined by Mr. Gordon.

10 Rosemary is 18 going on to 19 years old. In 1965 she would have been about 13 years. I sell rum retail. There is a separation between my dwelling and my rumshop. You can come from my house outside and then into the rumshop. I recall I was ill in St. Jude Hospital. Whilst in hospital my wife ran the rumshop on her own. I stayed 5 months in hospital. This was a long time after the agreement with Mr. Goddard. About 2 years had passed. When I spoke to Mr. Goddard, me and my wife and my child were in the rumshop. It is 9 feet by 8 feet. I did not suggest to Mr. Goddard that he buy Petit Trou as I was in need of money. Mr. Goddard used to come down every week or fortnight to sell his rum; he used to give me credit. Every fortnight my wife paid him and he gave her further credit. We were on good terms. The lease was \$60 per year. He paid me \$300 in two times. I never asked him to pay quickly because I needed money. I have a house in Laborie Village. I did not offer that house to Mr. Goddard. I do not know how Plaintiff knows I had a house in Laborie. I do not know a man called St. Rose coming and offering to buy Petit Trou land and my saying I can't sell except to Mr. Goddard.

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I remember Mr. Goddard taking a sheet of pad paper and wrote on it. We went to Mr. Testanie the same time.



In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Defendant's  
Evidence

No.2(ii)

Laurent John  
Cross-  
examination  
31st March  
1971

(continued)

Mr. Testanie signed the same paper Mr. Goddard had written on. I know Mr. Testanie's signature. I recognise Mr. Testanie's signature on Exhibit A. Exhibit A is not the piece of paper Mr. Testanie signed in front of me. I did not sign "Exhibit JBG2". I did sign the second receipt part of "Exhibit JBG2". I witness shown signature on Exhibit B. I see my name on it. It resembles my signature. I have never seen Exhibit B before. I do not want to sell my land. I never promised to sell land to Mr. Goddard. 10

After I received the document I have not had any conversation with Mr. Goddard. He gave this copy to my wife. I was in hospital at that time. I met Mr. Goddard long before I signed the document. The lowest the land is \$2,000. Mr. Goddard agreed that I could plant my garden and graze my cattle. Mr. Goddard never used the land. I never made any agreement about Mr. Goddard could put a building on the land. I agreed that at the end of the lease, if Mr. Goddard wanted to lease the land I would make it my duty to lease the land to him. Five years ago I had 5 cows and 19 sheep, 1 donkey. The signature on Exhibit B is not mine, it is not different from mine but it is not mine. The signature on Exhibit JBGl looks like mine but it is not mine. 20

Re-  
examination

Re-examined: The building in which my rumshop is in is a little 4 room house on the eastern side of the Laborie High Street. There are 2 rooms on the High Street and 2 at the back. There is a door which leads from the rumshop to my drawing room. My wife runs the rumshop. It is in my wife's name. 30

No.2(iii)

Catherine  
John  
Examination

No. 2(iii)

CATHERINE JOHN

Catherine John, sworn saith: I am the wife of the Defendant. I live with him and Rosemary in Laborie. In 1965 I heard a conversation between the Plaintiff and Defendant in the rumshop. Rosemary was also present. My husband was leasing Petit Trou lands to Mr. Goddard. The lease was for 5 years. He offered \$60 per year. After 5 years if he wishes he will lease 40

again for 5 years. Mr. John Goddard told him if he is going to sell give him the preference. My husband said he is not going to sell land. Mr. Goddard asked me for a piece of paper. I went to a writing pad inside, gave him a sheet out of it and Mr. Goddard wrote on it. My husband took it and left. Mr. Goddard left also. Both of them came back. My husband asked him for a paper for himself and he would hold one for himself. He told my husband he was taking this paper up to Castries to get it print and he will send his for him. Mr. Goddard left with the paper. Years passed, three years, before Mr. Goddard gave me the paper. I told him if he is not giving me the paper I will give him back the money for the lease. He told me he would soon give it to me. Mr. Goddard did not tell my husband that if he wanted to buy the land at any time during the five years he would sell it to him. I run the rumshop. I never at any time go to Mr. Goddard and offer to sell Petit Trou to him. My husband never at any time in my presence offer to sell Petit Trou to Mr. Goddard.

Cross-examined by Mr. Gordon. I have stopped dealing with Mr. Goddard now. I stopped from the time I was told he had no licence to sell rum. My husband and Mr. Goddard agreed in July 1965. It was three years after. When I got the copy of the lease I read it. I read it for my husband. It said we were leasing for 5 years and a further 5 years and if he had to sell to sell to him. I told Mr. Goddard this is quite different from what we entered into at home. Rosemary helps me at times. Mr. Goddard always came on Sundays. My husband was in hospital. He spent almost 1 year. It was a hard time for me. I was worried. I was not short of money at that time. I used to buy on credit from Mr. Goddard. I know Mr. Goddard paid the 5 years rent in three years time. Mr. Goddard raised the question first of leasing the land. I went with them to see the land. The rumshop was closed. My husband went into hospital after the agreement. My husband did not ask Mr. Goddard to buy the land. I mentioned to Mr. Goddard many times that the lease was not what we agreed. I lease my other house to the Peace Corps.

Re-examined: Mr. Goddard used to come every fortnight. I gave him cash for what I had before, and he would give me a fresh lot of goods.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Defendant's  
Evidence

No.2(iii)

Catherine  
John  
Examination  
31st March  
1971

(continued)

Cross-  
examination

Re-  
examination

In the High Court of Justice (Civil) Saint Lucia

Mr. Goddard told me to tell my husband that he wanted a spot to put a little house for his children to spend their time.

Notes of Defendant's Evidence

No.2(iii)

Catherine John Re-examination 31st March 1971

(continued)

No.2(iv)

Rosemary Plantre Examination

No. 2(iv)

ROSEMARY PLANTRE

Rosemary Plantre, sworn saith: I live in Laborie with Mr. & Mrs. John. I am 18 years of age. I remember one incident in 1965 between Mr. Goddard and Mr. John. This was in the rumshop. Mr. Goddard wrote on a sheet of writing pad. My grandmother gave him the sheet. They both left with the sheet of paper. 10

Cross-examination

Cross-examined by Mr. Gordon: I was 13 in 1965. I will be 19 on 7th June this year. I wasn't sitting close to them so I couldn't hear what they were saying. I do not remember Mr. Goddard talking to my grandmother or Defendant. Mr. Goddard came every fortnight. Plaintiff used to come to beg my grandmother. I know what the dispute is about, because I have been told. The pad paper was ruled. Mr. Goddard wrote on it. He used a ball point. He wrote about three-quarters of the page. I was about 6 yards from them. I was behind the counter sitting down. The counter is about 4 feet tall. They were sitting at a table. I could not hear clearly what they said. I can't remember the year when Defendant went to hospital. I don't remember what year she got the copy from Castries. It had some stamps on it. 20 30

Exhibit A put in by Court.

Case for the Defence.

THURSDAY 1st APRIL 1971

JOHN BERTRAM GODDARD

V.

LAURENT JOHN

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Notes of  
Defendant's  
Evidence

1st April  
1971

Appearances as before.

10 Mr. Giraudy addresses. Essence of the defence is plea of non est factum. Plea is I did not sign the document at all. The document he signed is not the one before the Court. Evidence of Plaintiff is that Plaintiff, Defendant and J.P. Defendant agrees with this.

Document contains clauses that Defendant does not agree.

In this case there is a written lease.

Cites 918 of the Civil Code. States there is no consideration or cause stated.

Cites 923 of the Civil Code. Document was not in fact executed before the Notary.

Resumes the evidence.

Mr. Gordon Addresses.

20 Wild v. Gibson (1848) 1843 - 1860 Reprint All. E.R. 494. Fraud must be specifically pleaded. 491 B. Invalidity of document has not been pleaded. Article 918 simply excludes English laws of consideration.

Tandem v. Anglia Building Society 1970, 3 W.L.R.1075. Digest vol. 17 paragraph 449.

Why after receipt of copy did Defendant do nothing?

997 of Civil Code.

Chitty Vol. 23 paragraph 1524.

Woodfall, 27th Edition, Vol.1 paragraph 2091.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

Resumed.

FRIDAY 2nd APRIL 1971

JOHN BERTRAM GODDARD

Notes of  
Defendant's  
Evidence

V.

LAURENT JOHN

2nd April  
1971

Gordon for the Plaintiff.

Bledman holding papers of Giraudy for the  
Defendant.

Judgment delivered.

J.D.B. RENWICK

10

ACTING PUISNE JUDGE.

No.3

Judgment of  
the Court  
2nd April  
1971

No. 3

JUDGMENT OF THE COURT

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL)

Suit No. 137 of 1970

BETWEEN : JOHN BERTRAM GODDARD Plaintiff

and

LAURENT JOHN Defendant

M. Gordon for Plaintiff  
E.H. Giraudy for Defendant

20

1971 March 31st  
April 1st, 2nd

JUDGMENT

RENWICK J. (Acting)

I have found this case a very difficult one

and would have preferred some more time to consider it in all its aspects but, unfortunately, the exigencies of the Service demand that I give an early judgment.

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

          
No. 3

Judgment of  
the Court  
2nd April  
1971

(continued)

10 The plaintiff in this case is claiming, inter alia, specific performance of an option to purchase which, he says, is contained in a Lease made between the defendant as lessor and him as lessee. This lease was expressed to have been made before the late Maurice McClean Mason, Notary, at Castries on the 12th day of July 1965 and was registered on the 16th July 1965 in Volume 118A No.80074. Clause 3 of that lease states :

"The lessee has the option at any time during the continuation of the said lease to purchase the said immovable property and to pay for the same the sum of \$3,000, as well as all arrears of rental due for the remaining period, and any of the five years period".

20 This Lease, it is agreed, was in fact not signed before the Notary neither was it signed at Castries as it states. There is a great deal of conflict in the evidence which is as follows :

30 The plaintiff deposed that he had been doing business with the defendant's wife for some twelve years and that the defendant and his wife offered to sell him a parcel of land which is the subject matter of this action. He was unable for financial reasons to buy the property when offered, but that he agreed with the defendant to lease the property for five years at \$60 a year with an option to renew for a further period of five years; and also with an option to purchase the land for \$3,000. He stated that he made notes at the time of the negotiations. These he carried to his solicitor who then drew up the Lease. This document he took back to Laborie and he and the defendant went to Mr. Testanier a Justice of the Peace, who read over the Lease and explained its contents to the defendant, and that all three persons, 40 namely, the plaintiff, the defendant and Mr. Testanier signed the lease.

The defendant, on the other hand deposed that the plaintiff had approached him for a spot on which to build a house which he would use as a vacation home for his children during the school holidays. That he

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

—  
No. 3

Judgment of  
the Court  
2nd April  
1971

(continued)

and the plaintiff went to visit the land at Petit Trou and that the plaintiff then suggested that he should lease the whole area, allowing the defendant to continue to depasture his stock, and to cultivate his gardens thereon. The defendant continued that the lease was to be for five years at an annual rental of \$60; that if at the end of the five years the plaintiff wished to continue leasing his property, that they would draw up a new agreement. The defendant maintained that he refused to sell the property to the plaintiff, but that he did agree that if at any time he wished to sell the property, he would give the plaintiff first refusal. He stated that during their talks, the plaintiff had valued the land at \$2,000, but that he refused to sell. The plaintiff then suggested a figure of \$3,000. To this his only reply was that he was not selling.

10

According to the defendant, these arrangements were written by the plaintiff on a piece of paper, torn from a writing pad, and that, armed with this, the two of them went to Mr. Testanier who was asked by the defendant if the document was good. They then all three signed this document.

20

I have no doubt in my mind that the defendant did in fact sign the lease which was exhibited in this case. This finding, in my view, puts an end to the matter since it is admitted that all the covenants on the part of the plaintiff to be obeyed have been obeyed by him, and further that he validly exercised his option.

30

I therefore award judgment to the plaintiff and order specific performance of the option to purchase contained in clause 3 of the Lease with costs to be taxed.

J.D.B. Renwick

Ag. Puisne Judge.

---

21.

No. 4

ORDER OF THE COURT

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE (CIVIL)

No. of Suit 137 of 1970

BETWEEN:

JOHN BERTRAM GODDARD of Vigie in the suburbs  
of Castries, Merchant.

Plaintiff

10

and

LAURENT JOHN of Laborie in the Quarter of  
Laborie, Shopkeeper

Defendant.

Before: The Honourable Mr. Justice J.D.B. Renwick  
(Ag. Puisne Judge).

Michael Gordon, for the Plaintiff

E. Henry Giraudy, for the Defendant.

Dated: 2nd April, 1971.

JUDGMENT ORDER

20

This action coming up for hearing on the thirty-  
first day of March, and the First and Second days of  
April One thousand nine hundred and seventy-one; and

UPON READING the pleadings and

UPON HEARING Counsel for the Plaintiff and Counsel  
for the Defendant and the evidence adduced

IT IS HEREBY ORDERED:

30

1. That Judgment be entered for the plaintiff and  
specific performance of the option to purchase five  
carres of land known as "Petit Trou" situate in the  
Quarter of Laborie in the State of St. Lucia as  
contained in Clause 3 of the Lease by the Defendant to  
the Plaintiff.

2. That the Plaintiff be awarded costs to be taxed

BY THE COURT

Sgd. C.G.D. Meerabeux  
REGISTRAR

In the High  
Court of  
Justice  
(Civil)  
Saint Lucia

No. 4

Order of  
the Court  
12th July  
1971



In the  
Court of  
Appeal  
Saint Lucia

No. 5

NOTICE OF APPEAL

CIVIL FORM 1

Rule 12 (1)

No. 5

IN THE COURT OF APPEAL

Notice of  
Appeal  
28th April  
1971

NOTICE OF APPEAL

(State) SAINT LUCIA

Civil Appeal No. 2 of 1971

Between

LAURENT JOHN (Defendant) Appellant(s)

and

10

JOHN GODDARD (Plaintiff) Respondent(s)

TAKE NOTICE that the (Defendant) Appellant being dissatisfied with the decision/that part of the decision\* more particularly stated in paragraph 2 hereof of the HIGH COURT OF JUSTICE (Court) contained in the judgment/order\* of HIS LORDSHIP MR. JUSTICE J.D.B. RENWICK dated the Second day of April 19 doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

20

And the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

2. (Insert here whole or part of decision complained of) Whole decision.

3. Grounds of Appeal

(1) The Respondent's case constituted so radical a departure from his case as pleaded as to disentitle to succeed.

30

(2) etc. The decision is against the weight of the evidence.

4. (Insert here the relief sought from the Court of Appeal) That the decision of the Learned judge be reversed.

In the Court of Appeal Saint Lucia

5. Persona directly affected by the appeal:

No. 5

Name	Address
(1)	
(2) JOHN GODDARD	VIGIE, CASTRIES,
(3) etc.	SAINT LUCIA

Notice of Appeal  
28th April 1971

(continued)

Dated this twenty eighth day of April 1971

10

FLOISSAC & GIRAUDY

per HENRY GIRAUDY  
Solicitor for the Appellant

Strike out words inapplicable.  
If appealing against the whole decision insert "Whole decision".

No. 6

No. 6

AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL

Affidavit of Service of Notice of Appeal  
7th May 1971

CIVIL FORM 7            Rule 24(1)(i)(b)

IN THE COURT OF APPEAL

20            AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL

(State) SAINT LUCIA

Civil Appeal No. 2 of 1971

Between

LAURENT JOHN (Defendant) Appellant(s)

and

JOHN GODDARD (Plaintiff) Respondent(s)

I, TERRY HENRY of Castries Junior Clerk (occupation)  
do make oath and say:-

In the Court  
of Appeal  
Saint Lucia

No. 6

Affidavit of  
Service of  
Notice of  
Appeal  
7th May 1971  
(continued)

That notice of appeal in the above appeal  
filed herein on the fifth day of May 1971 was duly  
served upon JOHN GODDARD. The respondent herein.  
(here state mode of service) personally  
on the seventh day of May 1971 in accordance with  
the Court of Appeal Rules 1968. T. Henry

Sworn to at the Registry Office, Castries.

(address)

on the Tenth day of May 1971

Before me

10

Sgd. A. Hinkson

Commissioner of Affidavits.

This affidavit is filed on behalf of LAURENT JOHN

\*Strike out words inapplicable.

No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971

No. 7

JUDGMENT OF THE COURT OF APPEAL

IN THE COURT OF APPEAL SAINT LUCIA

Civil Appeal No. 2 of 1971

Between: LAURENT JOHN Appellant

and

20

JOHN GODDARD Respondent

Before: The Honourable the Chief Justice  
The Honourable Mr. Justice Cecil Lewis  
The Honourable Mr. Justice Louisy (ag.)

E.H. Giraudy for Appellant  
M. Gordon for Respondent

1971, September 10

JUDGMENT

LOUISY, J.A.

In the Court  
of Appeal  
Saint Lucia

No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971

(continued)

This is an appeal from the decision of Mr. Justice Renwick (Ag.) in which he gave judgment for the plaintiff/respondent and ordered specific performance of an option to purchase, contained in a lease dated 12th July, 1965.

10 The appellant is owner of a small estate in the quarter of Laborie known as Petit Trou. He is also a shopkeeper. The respondent is a proprietor and merchant. In the course of his business which took him to the village of Laborie he used to sell goods to the appellant and his wife.

20 In July 1965, the respondent had a conversation with the appellant concerning land. He states that some time in 1964, the appellant had asked him if he was interested in buying some land. At a later stage, the appellant he said, offered to sell him some land and took him to the land to look at it. The respondent at the time the offer was made said he was not in a position to buy the land but suggested that he be given a lease with an option to buy. On this point I wish to refer to the evidence of the respondent: "I was to pay so much a year for 5 years with an option to renew for a further 5 years to purchase and an option to purchase. The option to purchase was \$60.00 a year for the 5 years and the purchase price of the land was \$3,000. The option to purchase was exercisable at my discretion." 30 Some time after this conversation, a lease was drawn up by the late Maurice Mason, Notary Royal, and signed by appellant/respondent and the Notary. The respondent some time later, by letter dated 30th February, 1970 informed the appellant that he intended to exercise his option to purchase and asked the appellant to fix a date to finalize the sale. The appellant did nothing and on the 24th June, 1970 there being no arrears of rental, the respondent said he tendered to the appellant's wife the sum of \$3,000 the purchase price of the 40 property mentioned in the lease. The appellant's wife refused the money. Thereafter, the respondent issued a writ against the appellant for specific performance and damages for breach of contract.

The cross-examination of the respondent reveals that this lease produced was signed at the home of Mr. Testanier, a Justice of the Peace, at

In the Court  
of Appeal  
Saint Lucia

No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971

(continued)

Laborie. It was signed also by the appellant and the respondent and that lease was not signed before the Notary Royal Mason in Castries.

The appellant in his evidence states that some time in July 1965 he had a conversation with the respondent concerning this piece of land at Laborie and the respondent asked him to lease a piece of the land for 5 years to build a house for his children to come to Laborie and spend their holidays there.

10

I refer to the relevant part of what the appellant said took place at that conversation. This is what he said: "He told me how much money I asked for leasing the land, I told him I don't know nothing about price for I never lease land for nobody. Then he told me let us put is \$60.00 per year. He told me that will come \$300.00. He told me when that 5 years due, if it is my intention to lease again for another 5 years he will make another paper, and if I have to sell one day to give him the preference.

20

Then he told me again suppose you are going to sell how much money you think you will ask. I told him, 'Mr. Goddard, I am not selling my land'. He even told me again, 'even you are not selling you can put a price on it. He told me that does not mean nothing, you can put a price on it.

I said no, he told me again let us put \$2,000. I did not answer him. He said \$2,000.00 is too low, make it 3. I did not answer him. I told him I am not selling. The wife took a sheet from a pad paper and gave it to him. He wrote on that sheet of pad paper. Mr. Goddard and I went to Mr. Testanier, the J.P. This was on the same day Mr. Goddard wrote on the pad paper.

30

I went to Mr. Testanier to sign the paper. I told Mr. Testanier to look at the paper to see if it is good. If it is good sign it for us. I told Mr. Testanier what me and Goddard had agreed in the shop. I signed, Mr. Goddard signed, and Mr. Testanier signed. We went back home. When we reached home, Mr. Goddard asked me for the paper. He said he will bring it to Castries, type it and bring it back. I gave it to him. He stayed 3 years before he brought it back to me. I never told Mr. Goddard that if he wants to buy the land at any time in the 5 years I will sell it to him. I never at any time sign a document before the

40

late Notary Maurice Mason. I never signed any typewritten document brought to me by the plaintiff."

Catherine Laurent, the wife of the appellant, gave evidence of a conversation she heard between the appellant and the respondent in the rum shop. This is what she said:

10 "My husband was leasing Petit Trou lands to Mr. Goddard. The lease was for 5 years; he offered \$60.00 per year. After 5 years, if he wishes he will lease again for 5 years. Mr. John Goddard told him if he is going to sell give him the preference. My husband said he is not going to sell the land. Mr. Goddard asked me for a piece of paper. I went to a writing pad inside, gave him a sheet out of it and Mr. Goddard wrote on it, My husband took it and left. Mr. Goddard left also. Both of them came back. My husband asked him for a paper for himself and he could hold one for himself. He told my husband he was taking this paper up to Castries to get it print and he will send his for him. Mr. Goddard left with the paper."

20

Now the respondent's action is founded on a lease in writing made by the appellant to the respondent and executed before M.M. Mason, Notary Royal on the 12th day of July, 1965. Whereby, the appellant granted to the respondent a lease for 5 years over the immovable property mentioned in the Schedule to the lease, with an option on the part of the respondent to renew the lease for a further period of 5 years. From the evidence of the respondent, the lease on which the respondent relies, was signed at Laborie by the appellant and respondent before Justice of the Peace Testanier; the lease was signed by Mr. Testanier also. But the lease, on the face of it shows that it was signed before M.M. Mason, Notary Royal, at Castries, and also signed by the appellant, the respondent and M.M. Mason, at Castries. This of course, is untrue. The lease purports to be a notarial instrument and as such to be an authentic writing. On this point, I refer to articles 1139, 1141 and 1142 of the Civil Code. 1139 reads as follows :

30

40

"A notarial instrument other than the will is authentic if signed by all the parties though executed before only one notary."

In the Court  
of Appeal  
Saint Lucia

\_\_\_\_\_  
No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971

(continued)

In the Court  
of Appeal  
Saint Lucia

No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971  
(continued)

It will be noted that the evidence proved that the lease in the action was not executed before a Notary and it cannot therefor be authentic. I now refer to article 1141.

"An authentic writing is complete proof between the parties to it and their heirs and legal representatives.

1. Of the obligation expressed in it, and  
2. Of what is expressed in it by way of recital if the recital have a direct refer-  
ence to the obligation or to the subject  
of the instrument. If the recital be  
foreign to such obligation and to the sub-  
ject of the instrument, it can serve only  
as a commencement of proof."

10

Since the lease is not an authentic writing, it cannot be complete proof between the appellant and the respondent. I now refer to article 1142.

"An authentic writing may be impugned and set aside as false in whole or in part upon an improbation in the manner provided in the Code of Civil Procedure and in no other manner."

20

Paragraph 1 of the defence reads as follows:

"The defendant denies paragraphs 1 and 2 of the declaration and states that he never executed or authorised to be executed the lease referred to in paragraph 1 of the declaration. "

The appellant by this paragraph impugned the lease and stated that he never executed or authorised it to be executed. This pleading is tantamount to an incidental improbation which by virtue of Article 134 of the Code of Civil Procedure need no longer be made by petition, but may be urged and relied upon by way of defence.

30

The issue between the appellant and respondent is whether or not the document was signed by the appellant. The document having been shown to be false would, if this had been prayed for by the appellant in his defence, have been set aside; but it is clear that the Court, even though it does not formally set aside cannot give it any authenticity nor found any judgment upon it.

40

In the circumstances, I would allow the appeal and set aside the judgment of the court below, and order that judgment be entered for the appellant. The costs of the appeal and of the court below to be the appellant's.

Allan Louisy  
JUSTICE OF APPEAL (Ag.)

In the Court  
of Appeal  
Saint Lucia

          
No. 7

Judgment of  
the Court of  
Appeal  
Louisy J.A.  
(Acting)  
10th Sept.  
1971

(continued)

LEWIS, C.J.

10 I agree, and wish only to add a few observations.  
The learned judge made a finding of fact that the  
lease was not signed before the Notary, neither was  
it signed at Castries as it states. That finding  
involves the authenticity of the document. It  
indicates that out of the mouth of the respondent,  
the deed of lease relied upon was proved to be a  
false document. The judge's subsequent finding that  
the lease was signed by the defendant, and that  
therefore he could grant specific performance of the  
agreement to sell, did not take account of the fact  
20 mentioned by Louisy, J., that the court could not  
found any judgment upon a document which had been  
proved to be false.

30 What I particularly want to say concerns the  
notarial system which by the law of this country is  
the approved method of executing deeds and wills.  
That no notarial system involves the integrity of  
the members of the legal profession. By the law of  
this country every member of the Bar is also a notary  
and is charged with the responsibility of carrying  
out the duties which the Code imposes upon notaries.  
The authenticity of a notarial instrument depends  
upon the fact that the conditions set out in the  
articles to which Louisy, J. has referred and other  
relevant articles of the Code have been truly and  
faithfully satisfied - that a notary has been present  
when a deed or a will is signed, and has seen the  
parties sign - when he puts his signature to it, and  
states that the deed was executed before him. If this

Judgment of  
Lewis Chief  
Justice  
10th Sept.  
1971



In the Court  
of Appeal  
Saint Lucia

          
No. 7

Judgment of  
Lewis Chief  
Justice  
10th Sept.  
1971

(continued)

case is any indication that a practice has been growing up of sending deeds out to be signed before persons who are not notaries, to be followed by a subsequent signature by a notary which testifies to an untruth, that practice, if it were to be established, would cut at the very root of the notarial system, and destroy the confidence which the public is invited by the law of this country to place in the profession. Therefore I appeal from this Bench to members of the profession to stop, and to insist upon the stopping, of any such practice and to ensure that the integrity of the profession and the confidence of the public in the notarial system are maintained. 10

Allen Lewis  
CHIEF JUSTICE

Judgment of  
Lewis J.A.  
10th Sept.  
1971

CECIL LEWIS, J.A.

I agree that the appeal should be allowed for the reasons given by my brother Mr. Justice Louisy. I had intended to make remarks of a similar nature to those the President has made in relation to the notarial system, but as he has already done so and as he is more conversant with the practice of the profession in St. Lucia than I am, I consider it unnecessary for me to do so now. I merely wish to say that I wholly and entirely support what he has said and I hope that no further attempt will be made to undermine the integrity of the profession or to evade the conditions laid down, in the Code for the protection of the notarial system. 20 30

P. Cecil Lewis  
JUSTICE OF APPEAL

CERTIFICATE OF THE ORDER OF THE COURT

CIVIL FORM 11

Rule 37

IN THE COURT OF APPEAL

(State) Saint Lucia

Civil Appeal No. 2 of 1971

Appeal from the Judgment of Renwick J. (Ag.)  
in the State of Saint Lucia dated the 2nd day of  
April 1971

10

No. 2/1971 Appeal No.

LAURENT JOHN (Defendant)\* Appellant

V

JOHN GODDARD (Plaintiff) Respondent

This appeal coming on for hearing on the 9th  
and 10th days of September 1971 before Lewis C.J.  
Lewis J.A. and Louisy J.A. (Ag.) in the presence of  
E.H. Giraudy for the Appellants and Michael Gordon  
for the Respondent.

20

I HEREBY CERTIFY that an Order was made as  
follows :-

Appeal allowed. Judgment entered for the  
Appellant. Costs of this Appeal and of the  
Court below to be paid by the Respondent.

Given under my hand and the Seal of the Court  
this 13th day of September 1971

(Sg) C.G.D. Meeradeux

Deputy Registrar

\*Strike out words inapplicable.

In the Court  
of Appeal  
Saint Lucia

No. 8

Certificate  
of Order of  
the Court  
13th Sept.  
1971

In the West  
Indies  
Associated  
States Supreme  
Court of  
Appeal (Civil)

No. 9

NOTICE OF MOTION FOR LEAVE TO APPEAL TO HER  
MAJESTY IN COUNCIL

IN THE WEST INDIES ASSOCIATED STATES SUPREME  
COURT

No. 9

Notice of  
Motion for  
Leave to  
Appeal to Her  
Majesty in  
Council  
30th Sept.  
1971

COURT OF APPEAL (Civil)

SAINT LUCIA

Motion No. of 1971

CIVIL APPEAL NO. 2 of 1971

IN THE MATTER of an application 10  
for leave to Appeal to Her  
Majesty in Council against the  
decision of the Court of Appeal  
delivered on the 10th day of  
September, 1971, and  
IN THE MATTER of Section 99 of  
the Constitution Order in Council.

BETWEEN:

JOHN B. GODDARD of Vigie Plaintiff/  
Castries, Merchant Respondent/ 20  
Applicant.

and

LAURENT JOHN of Laborie Defendant/  
Shopkeeper. Appellant/  
Respondent.

TAKE NOTICE that the Court of Appeal at  
Saint Lucia will be moved on the 6th day of  
October, 1971, at 8.45 o'clock in the forenoon  
or as soon thereafter as the Plaintiff/Respondent/  
Applicant can be heard in person for an Order 30  
granting leave to appeal to Her Majesty in Council  
against the decision of the said Court of Appeal  
given at St. Lucia on the 10th day of September,  
1971, and the Order of the said Court of Appeal  
dated the 10th day of September, 1971.

AND FURTHER TAKE NOTICE that the grounds of  
this application are :-

(1) That the matter in dispute on the Appeal to Her Majesty in Council is of the value of upwards of Fifteen Hundred Dollars and involves directly or indirectly a question respecting property of the value of over fifteen hundred dollars.

In the West Indies Associated States Supreme Court of Appeal (Civil)

(2) that the questions involved in issue and on Appeal concerns :-

No. 9

10

(i) validity of a Lease contained in a Notarial Deed duly registered in Vol: 118a No.80074 on the 16th day of July, 1965, which speaks for itself as against the oral Testimony on Oath of the Plaintiff/Appellant/Applicant, purporting to contradict the "Whereof Record Clause" therein.

Notice of Motion for Leave to Appeal to Her Majesty in Council  
30th Sept.  
1971

(continued)

(ii) The finding of the Court of Appeal that the said Deed was FALSE contrary to:-

20

(a) the Auditor Alteram Partem Rule in favour of the executing Notary, the late Mr. Maurice M. Mason who was not a Party to the issue of its FALSITY;

(b) the maxim Rule that Equity will not assist the dilatory.

(c) The Rule that Falsity or Fraud must be specially pleaded as an issue.

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(iii) The Rule of Estoppel by Deed against the Defendant/Respondent who signed a Receipt dated the 16th day of August, 1965, which incorporated by reference the said Deed.

(iv) The Court of Appeal's failure to unhold the decision, Order, Judgment of the Learned Trial Judge.

Dated this 30th day of September, 1971

Applicant in Person

John B. Goddard whose address for service is  
Vigie, Castries, St. Lucia, Applicant in Person

40

To: Laurent John of Laborie, St. Lucia,  
Shopkeeper.

In the Court  
of Appeal  
Saint Lucia

No.10

Order of  
Court  
Granting  
Conditional  
Leave to  
Appeal  
6th October  
1971

ORDER GRANTING CONDITIONAL LEAVE TO APPEAL TO  
HER MAJESTY IN COUNCIL

SAINT LUCIA

IN THE COURT OF APPEAL

Civil Appeal No. 2 of 1971

BETWEEN:

LAURENT JOHN of Laborie  
Shopkeeper Defendant/Appellant

and

10

JOHN BERTRAM GODDARD of  
Vigie, Castries,  
Merchant Plaintiff/Respondent

NOTICE OF MOTION FOR LEAVE  
TO APPEAL TO HER MAJESTY  
IN COUNCIL

JOHN BERTRAM GODDARD - Applicant

BEFORE: The Honourable The Chief Justice  
The Honourable Mr. Justice Cecil Lewis J.A.  
The Honourable Mr. Justice Louisy J.A.(Ag.)

20

K.A.H. Foster for the Applicant/  
Appellant/Plaintiff

E.H. Giraudy for the Respondent/Defendant.

DATED: 6th October, 1971

O R D E R

UPON HEARING K.A.H. FOSTER for the Applicant  
and E.H. Giraudy for Respondent/Defendant, and

UPON READING the Notice of Motion, the  
Affidavit in support thereof by the Applicant and  
being satisfied that the property in dispute is  
of value of Fifteen Hundred Dollars and upwards.

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IT IS ORDERED that leave to appeal to Her

Majesty in Council be granted to the Appellant upon the following conditions :-

In the Court  
of Appeal  
Saint Lucia

            
No.10

10 (a) that within a period of ninety (90) days from the date of this Order the Appellant enter into good and sufficient security to the satisfaction of the Court, in the sum of Two Thousand four hundred dollars for the due prosecution of the Appeal and the payment of all such costs as may become payable by the Applicant in the event of his not obtaining an Order granting him final leave to Appeal, or of the Appeal being dismissed for non-prosecution, or of the Judicial Committee ordering the Appellant to pay the costs of the Appeal; and

Order of  
Court  
Granting  
Conditional  
Leave to  
Appeal  
6th October  
1971

(continued)

20 (b) that the Appellant shall within four months of the date hereof take the necessary steps for the purpose of procuring the preparation of the record and the despatch thereof to England.

The costs of this application to be costs in the cause.

C.G.D. Meeradeux

Deputy Registrar Court of Appeal

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SECURITY FOR COSTS

In the West  
Indies  
Associated  
States  
Supreme Court  
Court of  
Appeal(Civil)  
Saint Lucia

IN THE WEST INDIES ASSOCIATED STATES SUPREME COURT  
COURT OF APPEAL

BOND FOR COSTS ON APPEAL

No.11

TO

Security for  
Costs  
4th January  
1972

HER MAJESTY IN COUNCIL

(Territory) St. Lucia

Civil Appeal No. 2 of 1971

BETWEEN:

10

JOHN GODDARD Claimant-Appellant

and

LAURENT JOHN Respondent

Know all men, by these presents, that I,  
JOHN B. GODDARD of Vigie, Castries is held and  
firmly bound to LAURENT JOHN of Laborie in the  
State of Saint Lucia in the Sum of TWO THOUSAND  
FOUR HUNDRED DOLLARS (\$2,400) of lawful money  
to be paid to the said LAURENT JOHN for which  
payment well and truly to be made, I bind  
myself, in the whole my and every of my Heirs,  
executors and administrators, firmly by these  
presents.

20

J.B. Goddard (Claimant-Appellant).

Dated the 4th day of Januaryk in the year of  
our Lord, 1972.

WHEREAS a suit is now depending in the  
Court at St. Lucia wherein the above-bounded  
JOHN GODDARD is Claimant-Appellant and the said  
LAURENT JOHN of St. Lucia is Respondent;

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AND WHEREAS Leave to Appeal to Her Majesty  
in Council was given by Order of the Court therein,  
on the 6th day of October, 1971;

10 AND WHEREAS by this said Order dated the 6th day of October, 1971, the Claimant-Appellant was granted Leave to Appeal on condition that within a period of ninety days from the date thereof the Claimant-Appellant enter into good and sufficient security to the satisfaction of the Court in a sum not exceeding £500 sterling (\$2,400) for the due prosecution of the appeal and the payment of all such costs as may become payable by the Claimant-Appellant in the event of his not obtaining an Order granting him final leave to Appeal, or of the Appeal being dismissed for non-prosecution or of the Judicial Committee ordering the Claimant-Appellant to pay the costs of Appeal (as the case may be);

20 Now the condition of this obligation is such, that if the said JOHN GODDARD shall duly prosecute the Appeal and pay all such costs as may become payable in the event of his not obtaining an Order granting him final Leave to Appeal, or on the Appeal being dismissed for non-prosecution, or on the Judicial Committee ordering him to pay the cost of the Appeal (as the case may be) this obligation shall be void, otherwise remain in full force.

J.B. GODDARD

Signed and delivered in the presence of  
C.G.D. MEERADEUX  
Deputy Registrar Court of Appeal.

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In the West Indies Associated States Supreme Court Court of Appeal (Civil) Saint Lucia

\_\_\_\_\_  
No.11

Security for Costs  
4th January  
1972

(continued)



In the West  
Indies  
Associated  
States  
Supreme Court  
Court of  
Appeal(Civil)  
Saint Lucia

ORDER GRANTING FINAL LEAVE TO APPEAL TO HER  
MAJESTY IN COUNCIL

SAINT LUCIA

IN THE WEST INDIES ASSOCIATED STATES  
SUPREME COURT

No.12

COURT OF APPEAL (CIVIL)

Order  
Granting  
Final Leave  
to Appeal to  
Her Majesty  
in Council  
8th March  
1972

MOTION No. 1 of 1972 in

CIVIL APPEAL No. 2 of 1971

BETWEEN:

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JOHN B. GODDARD Plaintiff/Respondent/  
Applicant

and

LAURENT JOHN Defendant/Appellant/  
Respondent

BEFORE: The Honourable The Chief Justice  
The Honourable Mr. Justice P.C.Lewis J.A  
The Honourable Mr. Justice E.St.Barnard  
J.A

The Plaintiff/Respondent/Applicant in person  
The Defendant/Appellant/Respondent absent

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DATED the 8th day of March, 1972.

O R D E R

UPON READING the Motion and Affidavit in support  
thereof, and

UPON HEARING the Plaintiff/Respondent/Applicant,  
and

UPON IT APPEARING that the Plaintiff/Respondent/  
Applicant has complied with the conditions of  
the Order of this Court dated the 6th day of  
October 1971, granting conditional leave to  
Appeal to Her Majesty in Council

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IT IS HEREBY ORDERED

- 1. That the Plaintiff/Respondent/Applicant be granted final leave to Appeal to Her Majesty in Council
- 2. That costs be costs in the cause.

BY THE COURT

(signed)G.C.D.Meerabux

DEPUTY REGISTRAR COURT OF APPEAL

In the West Indies Associated States Supreme Court Court of Appeal(Civil) Saint Lucia

No.12

Order Granting Final Leave to Appeal to Her Majesty in Council 8th March 1972

(continued)

EXHIBITS.

Exhibits

EXHIBIT 'A' - CERTIFICATE OF A.P. TESTANIER

Exhibit 'A' Certificate by A.P. Testanier

10 Whom it may concern.

Is to certify that I, Alcide Philip Testanier witnessed signing of this document by Messrs. Laurent John and J.B. Goddard.

A.P. Testanier, J.P.

EXHIBIT 'B' - COPY LEASE BY LAURENT JOHN TO JOHN

Exhibit 'B'

B. GODDARD

Copy of Lease by Laurent John to John B. Goddard 12th July 1965

Amount Duty \$ 60  
Reg. No. 2517  
Date 16/7/65  
Treasurer

20

Dated 12th July, 1965

Exhibits

Exhibit 'B'  
 Copy of  
 Lease by  
 Laurent John  
 to John B.  
 Goddard  
 12th July  
 1965  
 (continued)

LEASE

by

LAURENT JOHN

to

JOHN BERTRAM GODDARD

of

A small estate situate in the Quarter of Laborie and known as "Petit Trou" being about five carres in area

For a period of five years

10

THESE PRESENTS made this twelfth day of July One thousand nine hundred and sixty five

BEFORE: MAURICE MCLEAN MASON Notary Royal practising in the Island of Saint Lucia residing in the town of Castries in the said Island

BETWEEN: LAURENT JOHN of Laborie, Shop-keeper, (hereinafter called the Lessor) of the one part

AND: JOHN BERTRAM GODDARD of Vigie, Castries Merchant, (hereinafter called the Lessee) of the other part

20

WITNESS AS FOLLOWS :-

1. The Lessor hereby leases and demises unto the Lessee thereof accepting the immoveable property described in the Schedule hereto

2. The said lease shall be for a term of five years computed from the date of these presents with an option of renewal on the part of the Lessee for a further period of five years at the expiration of the initial period of five years as aforesaid

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3. The Lessee has the option at any time during the continuation of the said lease to purchase the said immoveable property and to pay for the same the sum of THREE THOUSAND DOLLARS as well as all arrears of rental due for the remaining period of any of the five years periods

4. The Lessee shall have the right to erect immoveable as well as moveable structures on the said property leased

5. The Lessor hereby undertakes to compensate the lessee for all improvements made on the said land if at any time the lease is terminated

6. The Lessee undertakes to pay to the Lessor by way of rental the sum of Three Hundred Dollars for the full period of five months

Exhibits  
Exhibit 'B'  
Copy of  
Lease by  
Laurent John  
to John B.  
Goddard  
12th July  
1965  
(continued)

10 7. The Lessee agree to permit the Lessor to keep cows on the land during the continuation of the said lease

WHEREOF RECORD

IN WITNESS WHEREOF these presents after due reading thereof have been signed at Castries aforesaid on the day, month and year first above written by the parties and by the said Notary

SCHEDULE

20 A small Estate situate in the Quarter of Laborie and known as "Petit Trou" being about five carres in area bounded on the North by lands now or formerly of Heirs Budin, on the South by the Sea, on the East by lands known as Anse Noires and on the West by lands formerly of one Widow Duchaussori

TITLE:- Sale by Anne Elizabeth Raymond et. al. to the Lessor executed before Garnet H. Gordon Notary Royal on the 19th August, 1931, and registered in Vol. 84 No. 49841

30 Thus signed on the original:- Laurent John, John B. Goddard, Maurice M. Mason Notary Royal

Compared with and certified to be a true copy of the original

Maurice M. Mason  
NOTARY ROYAL

Laurent John  
J.B. Goddard

SAINT LUCIA Office of Deeds & Mortgages  
RECORDED Seventeenth day of July 1972  
Vol. 118a No. 80074 at 2 p.m.  
(sgd) A.G.Hinkson  
Registrar

Exhibits

EXHIBIT C(1)

Exhibit C(1)

Laborie

Receipt  
16th August  
1965

16th August 1965.

Received by cash the sum of Sixty dollars and no cents (60) from Mr. John B. Goddard for lease of land known as "Petit Trou" (Reg.No.2517) for one year from 16/7/65 to 15/7/66.

Laurent John

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Exhibit C(2)

EXHIBIT C(2)

Receipt  
3rd October  
1966

3rd October 1966

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Received from John B. Goddard the sum of Sixty dollars on a/c Lease of "Petit Trou" lands. 60.

(Sgd) Laurent John

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IN THE PRIVY COUNCIL

No. 14 of 1972

IN THE PRIVY COUNCIL

No. 14 of 1972

O. N      A P P E A L

FROM THE WEST INDIES ASSOCIATED STATES SUPREME COURT  
COURT OF APPEAL (ST. LUCIA)

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RECORD OF PROCEEDINGS

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DURRANT PIESSE,  
73 Cheapside,  
London, EC2V 6ER

MICHAEL COHEN, ROSENBERG & CO.,  
103, Kings Cross Road,  
London, W.C.1.

Solicitors for the Appellant

Solicitors for the Respondent