



[2020] JMSC Civ 09

**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA
IN THE CIVIL DIVISION
CLAIM NO. 2012HCV05276**

BETWEEN	LOIS LAWRENCE	ANCILLARY CLAIMANT
AND	VANESSA WILLIAMS (Representative of the Estate of Headley Lawrence deceased)	1st ANCILLARY DEFENDANT
AND	VANESSA WILLIAMS	2nd ANCILLARY DEFENDANT
AND	WAYNE LAWRENCE	3rd ANCILLARY DEFENDANT

IN OPEN COURT

Mr. Alexander Williams and Miss Topazia Brown instructed by Alexander Williams & Company for the Ancillary Claimant

Ms. Gillian Mullings and Daynia Allen instructed by Naylor and Mullings for the Ancillary Defendants

HEARD: 26th, 27th and 30th of September and 11th October, 2019, 17th January 2020

Property Rights of Spouses Act- the family home, variation of the equal share rule, marriage extinguished by death, transfer

BROWN Y, J.

[1] The disgruntlement between Headley Lawrence and Lois Lawrence was first aired in the Supreme Court in the suit 2012 HCV 05276, filed on the 21st of September 2012.

[2] In response, Mrs. Lois Lawrence filed an Ancillary Claim on December 31, 2012. Headley Lawrence responded ultimately to the call of death and thus the case brought by him came to an end. This also led Mrs. Lawrence to obtain a court order on the 7th January 2014, whereby Mr. Lloyd Anderson, the executor of the estate of Headley Lawrence was substituted as the 1st Ancillary Defendant in place of Headley Lawrence. However, Mr. Anderson renounced his executorship, and by an order of the Court on 25th June 2014, Mrs. Vanessa Lawrence Williams was placed as the representative of the estate of Headley Lawrence. Consequently, the Ancillary Claim before the Court now names Vanessa Williams (personal representative of Headley Lawrence; deceased) as the 1st Ancillary Defendant; Vanessa Williams, the 2nd; and Wayne Lawrence, the 3rd. This is the matter, which the Court is tasked to resolve.

[3] It is the contention of the Ancillary Claimant Lois Lawrence, that she had contributed money and labour to the construction of the matrimonial home situate at Lot 22 Tranquil Heights, Norwich in the parish of Portland, and is thus entitled to one-half interest in the said property. Further to that, she indicated that on the 2nd of February 2012, without her knowledge or consent, Mr. Headley Lawrence transferred the subject property to himself and his children, Vanessa Williams and Wayne Lawrence, as joint tenants. Those are the circumstances which propelled Mrs. Lois Lawrence to file the Ancillary Claim, seeking the following:

- (i) A one-half interest in the matrimonial home at Lot 22 Tranquil Heights, Norwich in the parish of Portland and registered at Volume 1445 Folio 391 of the Register Book of Titles.
- (ii) That the transfer #1744537 that was registered on the 2nd of February 2012 in respect of premises situate on Lot 22 Tranquil Heights, Norwich, in the parish of Portland and registered at Volume 1445 Folio 391 of the Register Book of Titles, to Headley Samuel Lawrence, Vanessa Williams and Wayne Lawrence is to be set aside pursuant to section 8(3)(a) of the Property Rights of Spouses Act.

- (iii) The premises at Lot 22 Tranquil Heights in the parish of Portland and registered at Volume 1445 Folio 391 of the Register Book of Titles, are owned by the Claimant and Defendant in equal shares.
- (iv) Alternatively, the Defendant Lois Lawrence has an equitable interest in the matrimonial home at Lot 22 Tranquil Heights, Norwich in the parish of Portland and registered Volume 1445 Folio 391 of the Register Book of Titles, such interest to be determined by this Honourable Court.
- (v) Further in the alternative, Lois Lawrence is entitled to compensation in the sum of \$10,000,000 for physical labour and financial contribution to the construction and maintenance of the marital home at Lot 22 Tranquil Heights, Norwich in the parish of Portland registered at Volume 1445 Folio 391 of the Register Book of Titles.

[4] Conversely, the Ancillary Defendants maintained that Mrs. Lois Lawrence has no legal or equitable entitlement to the subject property because she had made no contribution to its construction, neither in monetary nor labour terms. They also asserted that the transfer in ownership of the subject property had compounded the marital discord between Mr. Headley Lawrence and his wife Lois. Hence she is not entitled to the reliefs which she seeks.

[5] Based on the conflict between the parties, the Court must determine whether:

- (a) Lot 22 Tranquil Heights, Norwich, in the parish of Portland is the family home.
- (b) Mrs. Lois Lawrence is entitled to any interest in the subject property; and
- (c) The effect of the transfer of the said property in relation to Mrs. Lawrence's interest; if any.

SYNOPSIS OF THE ANCILLARY CLAIMANT'S CASE

- [6] Mrs. Lois Lawrence's witness statement was allowed to stand as her evidence in chief. Therein, she stated that she was married to Mr. Headley Lawrence on July 16, 2011 and they took up residence at 22 Tranquil Heights, from November 2011 to December 21, 2012. Prior to their occupation of that premises, the couple lived together as man and wife, at Passley Gardens in Portland while they awaited the completion of the house at Lot 22 Tranquil Heights.
- [7] She intimated that her discovery of the transfer of the matrimonial home by Mr. Lawrence, precipitated the breakdown of their marriage and her subsequent eviction from the said home, by an order of the Court made on December 18, 2012.
- [8] Mrs. Lawrence maintained that her role in the construction of the subject premises included monetary contributions from her savings account as well as the joint account held in her name and Headley Lawrence's. In addition to that, she said that she provided labour by being engaged in the digging and laying of blocks on the side of the house for which construction began in October 2010. According to Mrs. Lawrence, the mason, carpenters, electricians and labourers who worked on the subject property, were brought there by her.
- [9] As she sought to concretize her position that she was involved in business with her husband, Mr. Headley Lawrence, she revealed that from March 2011, she was involved in the operation of the marl pit owned by him, and she also did the typing for the sale of lots in the subdivision at Norwich, in Portland.
- [10] Mrs. Lawrence disclosed that she did not take a salary for her involvement in those ventures, as the monies that were yielded were placed in the couple's joint account. She asserted that it was from that joint account that the house at 22 Tranquil Heights was constructed. She explained that her business partnership with Mr. Lawrence did not take on a formal hue as "*we did not sign anything because we were together.*"
- [11] In cross-examination Mrs. Lawrence agreed that the bank statements exhibited at pages 190 to 234 of the Claimant's Bundle, did not bear her name, however, she

offered the explanation that *“it is not shown here, but when I went to the bank, the bank pulled it up and I got multiple print-out with my name on it...I couldn’t go there and get statement if my name wasn’t on it, for this same account.”*

[12] A letter from First Caribbean International Bank in relation to the said joint account was introduced in re-examination of Mrs. Lawrence and this document (which is exhibited at page 55 of the Claimant’s bundle) stated the account number and indicated that Mrs. Lawrence was added to that account on January 11, 2011.

[13] As regards the bank statements aforementioned, it was disclosed that the account number 1002130913 appeared on those documents and the said number is identical to that stated in the letter from First Caribbean International Bank regarding the addition of Mrs. Lawrence to that account.

[14] She acknowledged that by virtue of the transfer of 22 Tranquil Heights, the said property was now owned by Vanessa Williams and Wayne Lawrence. However, she maintained that it was the matrimonial home and *“I am saying the transfer is to be cancelled. I know nothing about this transfer.”*

[15] It was suggested to her that she was being dishonest in her claim for 50% of the interest in the said property, because in an earlier statement she had assessed her interest in the (30 million dollar) property to be 10 million. In her response, Mrs. Lawrence stated: *“No your assessment is out of the view. You cannot take that out one little piece and not get the full understanding. This was prepared asking for my 50% share and informing the Court that the transfer was done on the 2nd day of February 2012. The premises is now owned by them but it was transferred illegally. The transfer was a joint tenancy so when he died it would automatically go to them, it was done behind my back... and I am asking that it be set aside.”*

[16] Mrs. Lawrence’s witness, Mr. Rupert Williams supported her stance regarding Tranquil Heights being the matrimonial home of the Lawrence’s. He testified that *“I recall the deceased telling me that the house was being built for them both to live in.”* He also gave testimony of Mrs. Lawrence’s involvement along with her husband in

the building of the house on the said property. According to him, during the construction of the house, the couple was present on the site and on various occasions “*doing work and supervising workers.*” He disclosed that: “*when it was time to buy tiles for the house, I transported Mr. Lawrence and Mrs. Lawrence to Kingston to purchase tiles at New Jamil on Hagley Park Road...I transported Mr, Lawrence and his wife at other times to the same location and to other places in Kingston to make other purchases for the house at 22 Tranquil Heights. Mrs. Lawrence and I travelled to New Jamil “by ourselves where she made other purchases of tiles.”*” Mr. Williams brooked no challenge on this aspect of his evidence. However, it was suggested to him, that it was Mr. Lawrence who was running the work site at Tranquil Heights. He disagreed with that assertion and advanced that it was the foreman and Mrs. Lawrence who ran the site. In respect of Mr. Lawrence, he said: “*he doesn’t really run the site but he run the money.*”

[17] Regarding the marl pit in Hope Bay, Mr. Williams stated that on the majority of occasions, Mrs. Lawrence was there by herself. He added that he would transport her to the marl pit about 3 or 4 times per week in the evenings to collect tickets. He explained that Mrs. Lawrence “*did not have anything to do with the work at the marl pit*” but came there to distribute the tickets to the truck drivers for them to be paid.

[18] The second witness for the Ancillary Claimant, Mr. Neville Dallas gave evidence that it was she (Mrs. Lawrence) who had engaged him to do steel work on the subject property. This he did for three to four months and according to him, whilst working on that site, he and his fellow workmen referred to Mrs. Lawrence as “*general manager because she was the one supervising all the workers.*” He indicated that on occasions he was paid by Mr. Lawrence and at other times, by Mrs. Lawrence. His evidence was unchallenged and in cross examination he revealed that he probably saw Mrs. Lawrence “*every day*” whilst he was working on the site.

The Ancillary Defendant’s case

[19] I will now summarize the Ancillary Defendant’s case, which began with the evidence of Vanessa Lawrence-Williams.

- [20] Her witness statement was accepted as her evidence in chief. Therein, she stated that the transfer document for 22 Tranquil Heights was prepared and signed before her father's marriage to the Ancillary Claimant, Lois Lawrence. She averred that the said transfer was signed by Mr. Headley Lawrence, Wayne Lawrence and herself in September 2011.
- [21] However, when cross-examined on the subject of the transfer, Mrs. Lawrence-Williams disclosed that the transfer document was signed "*shortly after*", the death of her mother, "*so it would be September 2010.*" She revealed that this transfer which was envisioned by her father, was effected in his quest "*to have a home for all his children to be together without having issues with their mothers.*" Having advanced that her father had summoned her and her two younger sisters to his office at Tranquil Heights to inform them that "*the house would be in my and my brother's name... because he wanted to make sure that we would take care of our younger siblings*", she indicated that that meeting happened shortly after her mother's demise in 2010, "*so it was in December 2010.*"
- [22] As regards the living arrangement of Mr. and Mrs. Lawrence, this witness testified that the couple had started their married life at the home in Passley Gardens, owned by Mrs. Lawrence. She claimed that Mr. Lawrence had moved into the Tranquil Heights property after having lived at Passley Gardens for a few months and that Mrs. Lawrence did not move in with him, initially. According to her, Mrs. Lawrence eventually moved into the Tranquil Heights home and lived there "*for less than a year.*" In offering her view that the marriage between Headley and Lois Lawrence was short-lived, about 9 months, Mrs. Lawrence- Williams described that union as "*a constant up and down*". She advanced in cross examination that "*upon his death on 28 January*" Mr. Williams had started divorce proceedings against his wife. "*He started first for a separation, then he went to Bert Samuels and that is when he asked for her to be removed from the premises because he was concerned for his safety,*" Mrs. Lawrence-Williams indicated.

- [23] When it was suggested to her that Mr. Lawrence had not signed any documents pertaining to divorce proceedings, the Ancillary Defendant stated that her father (Headley Lawrence) had been making preparation to obtain his divorce but had *“died while in the process.”* Notwithstanding that bit of evidence, she admitted that she had not heard Mr. Lawrence’s lawyers mention any special circumstances relating to a divorce.
- [24] In refuting Mrs. Lois Lawrence’s claim regarding her financial input towards the construction of the Tranquil Heights home, the Ancillary Defendant (Lawrence-Williams) maintained that items such as tiles, windows and roofing material were purchased with credit and debit cards as well as cheques from Mr. Headley Lawrence and *“myself while Mrs. Lois was on the outside.”* She also said that other articles like cement, blocks and others used in the construction of the subject house, were funded from Mr. Lawrence’s *“chequing account...his pension and any business transaction that he gets into.”*
- [25] Mrs. Lois Lawrence testimony of being responsible for the typing of the sale agreements for the subdivision of lots at Norwich, Portland was also rebutted by the Ancillary Defendant, who asserted that that task was undertaken by *“Patrice Gray and Lanza Turner-Bowen, the Attorney-at-Law affiliated with the subdivision.”*
- [26] The other witness for the Ancillary Defendants was Mr. Jeremy Lawrence, son of the deceased Headley Lawrence and the brother of the 1st Ancillary Defendant. In his evidence he intimated that he was not aware of Mrs. Lois Lawrence’s involvement in the development or sale of the units at Norwich, Portland, for which he was both the engineer and project manager. This development he disclosed is now called Tranquil Heights. While stating that he had no accounting functions in respect of Tranquil Heights, Mr. Wayne Lawrence admitted under cross examination that he had formed a conclusion when he maintained in his witness statement that funds for the home at Tranquil Heights had come from his father’s own resources. He went on to say, that prior to the day of the trial, he was not aware that his father had operated a joint chequing account with Mrs. Lois Lawrence. Mr. Lawrence also acknowledged

that he could not say whether Mrs, Lawrence had supervised the construction at 22 Tranquil Heights because he “*was not there.*”

The Law and Analysis

[27] The primary issue to be addressed in this case is whether the property at 22 Tranquil Heights can be categorized as the family home.

[28] Section 2 of the Property Rights of Spouses Act defines the family home as:

“the dwelling house that is wholly owned by either or both of the spouses and used habitually or from time to time by the spouses as the only or principal family residence together with any land, buildings or improvements appurtenant to such dwelling house and used wholly or mainly for the purpose of the household, but shall not include such a dwelling house which is a gift to one spouse by a donor who intended that spouse alone to benefit.”

[29] This definition contains certain terms “only” and “principal” which are crucial to the determination of the family home. The case **Dalfel Weir v Beverly Tree** [2014] JMCA Civ. 12 at paragraph 39, offers that “only” means sole. Further to that, the Miriam Webster Dictionary indicates that “sole” denotes “having no sharer”. **Dalfel Weir’s** case also describes “principal” as “the main, most important or foremost.”

[30] So when one considers the definition of the family home, the question that arises is whether the home at 22 Tranquil Heights falls within that category. It thus becomes prudent at this juncture, to assess the evidence on this subject.

[31] No dispute arose on the evidence that Mr. Headley Lawrence and Mrs. Lois Lawrence were the only two persons residing at Lot 22 Tranquil Heights at all times up to December 18, 2012, when an eviction order was granted by the Court, removing Mrs. Lawrence from that premises. However, no evidence was forthcoming that anyone else had occupied the subject property with Mr. Lawrence

after December 18, 2012 and up to the time of his death in January 2013. Further to that, there is no challenge to the evidence that at all material times Lot 22 Tranquil Heights was Mr. and Mrs. Lawrence's principal place of residence. In respect of Passley Gardens, the couple resided there for a brief period (according to Mrs. Lawrence's unchallenged evidence, a couple of months) until 22 Tranquil Heights was habitable. As such Passley Gardens could not be deemed their principal place of residence due to their temporary occupation of same.

[32] The evidence pertaining to the occupation of Lot 22 Tranquil Heights would therefore satisfy one component of the legislative definition of the family home. Nevertheless, the Ancillary Defendants' contention that the said home had been transferred by Mr. Lawrence to himself and two of his offsprings, before he and his wife had begun residing there, brings into focus, the other element of the PROSA definition of the family home; this concerns the issue of ownership.

[33] Section 2 of PROSA indicated that to qualify as the family home, the abode must be "*wholly owned by either or both of the spouses*". Thus, in the case at bar, the question of the transfer of 22 Tranquil Heights must be resolved before a determination can be made as to whether the said premises was in fact the family home.

[34] According to the Ancillary Defendant Vanessa Lawrence Williams, who is the daughter of the deceased Headley Lawrence, the latter had vested interest in 22 Tranquil Heights to himself, Wayne Lawrence and her, when they all signed the transfer document in Christmas of 2010. She testified that in December 2010 "*shortly after*" her mother's death, Mr. Headley Lawrence, "*summoned myself and my two younger sisters to the office at Tranquil Heights to let everyone know that the house would be in my and my brother's name... because he wanted us to make sure that we would take care of our younger siblings.*" This snippet of her evidence putting forward the reason for the transfer, was incongruent with that stated by Mr. Headley Lawrence in his affidavit filed on September 12, 2012 and which was referred to in this case as Exhibit 1. At paragraph 17 of that document Mr. Lawrence

stated *“pursuant to the financial assistance provided by my children I gave instructions for the transfer of the title to Lot 22 into the joint names of myself and my said children Vanessa Williams and Wayne Lawrence as joint tenants.”*

[35] Notwithstanding the varied reasons offered for the transfer, the question that is of relevance, is whether this transfer was effected to defeat the interest of the Ancillary Claimant in the subject property. This is the argument advanced by Counsel Mr. Williams. In his view, the transfer was done surreptitiously and Mrs. Lawrence was never told by Mr. Lawrence that the home was the subject of an earlier gift to his children and himself. Counsel Mr. Williams suggested that it was Mrs. Lawrence’s discovery of this clandestine transaction which led to the breakdown of the marriage and Mrs. Lawrence’s subsequent expulsion from the property at 22 Tranquil Heights. He further contended that this transfer was Mr. Lawrence’s attempt to deprive his wife of her interest in the said home.

[36] As regards the signing of the instrument of transfer, Mrs. Lawrence-Williams stated in cross-examination that she did not sign the said document in September of 2011. Of note though, is the fact that this document which was exhibited, bore the dates 21st September 2011 albeit a second date was crossed out and this change or amendment was not initialled. Further to that, Mrs. Lawrence-Williams disclosed in cross examination that she did not date this document when she affixed her signature to it. Her exact words were: *“where I have signed does not speak to a date”*, she also indicated that she had no idea why the transfer document was dated 21st September 2011.

[37] Her responses brought into question, the issue of the execution of the transfer document. Firstly, two dates are noted on the transfer document and one was crossed out without being initialled. This, in my view, defies the protocol pertaining to the execution of legal documents. Additionally, in the execution of a document, the usual course is for the signatories to that document, to affix to it, not only their names, but the date of the execution as well. In the case at hand, Mrs. Lawrence Williams did not only aver that where she had signed in the document did not speak

to a date, but she also indicated that she was unable to say why the date September 21, 2011, appeared on the said document. Of significance too, is Mrs. Lawrence Williams' evidence that *"I signed the transfer shortly after my mother died, so it would have been in September 2010... my mother died in August 2010."* If that were so, why then would the transfer document bear the date September 21 or 27, 2011, a year later? This issue has been left unresolved by the Ancillary Defendants.

[38] Besides that, a further contradiction arose on Mrs. Lawrence Williams' evidence. in examination-in-chief she said that her father had summoned herself and her 2 younger sisters to inform them that the house would *"be in my and my brother's name..."* She said it was shortly after her mother's death, and so it was *"in December 2010."* Nevertheless, in cross examination she repeated that she had signed the transfer after her mother had died *"so it would have been in September 2010. My mother died in August 2010."* When the two dates offered by her regarding the signing of the documents and the date she was summoned by her father are pitted against each other, it would reveal that she would have signed the transfer prior to the discussion with her father about the said transfer to her brother and herself.

[39] Notwithstanding that, the transfer document states that same was entered in the Register Book of Titles on February 02, 2012. This would therefore serve as the effective date of the transfer and would virtually defeat the Ancillary Defendant's position that the transfer was effected prior to the married couple's occupation of 22 Tranquil Heights.

[40] This question of the effective date of the transfer of the subject property, cannot be divorced from the date of occupation of the said premises by Mr. and Mrs. Lawrence. The evidence that has remained unchallenged is that this couple had started to live at 22 Tranquil Heights on November 22, 2011, while construction of same was ongoing, and that they had lived together at no other place during or after that time (except when Mrs. Lawrence was evicted). So, in essence, they had resided there before any transfer of that property was effected.

[41] Furthermore, in his 2nd Affidavit filed on December 14, 2012 and dated December 13, 2012, Mr. Headley Lawrence, in responding to Mrs. Lawrence's application for relief under PROSA had described Tranquil Heights as "*our home*", although he was advancing his reasons for the deterioration of their marriage.

[42] In cross examination, Mrs. Lawrence Williams, appeared to have buttressed her father's view of the home, when she conceded that the said property was the family home. The following transpired in cross examination on that subject:

Question: Do you still deny that 22 Tranquil Heights was the family home?

Response: It is the family home

Question: The family home for Mr. Headley Lawrence and Lois Lawrence?

Response: It is the family home

[43] On the totality of the evidence regarding the occupation as well as the transfer of 22 Tranquil Heights, I accept on a balance of probabilities that the transfer of the said property was effected after Mr. Headley Lawrence and Mrs. Lois Lawrence had begun living at that premises after their marriage in July 2011. I also find that the premises was the only dwelling place for the said couple and both had resided there together up until the eviction of Mrs. Lawrence in December 2012.

[44] Based on the foregoing, I am satisfied that 22 Tranquil Heights was the family home of Mr. Headley Lawrence and Mrs. Lois Lawrence.

[45] Hence the next issue to be resolved is Mrs. Lawrence's share in the said property. By virtue of section 6 of PROSA, each spouse is entitled to one half of the family home. Notwithstanding that, section 7 of the said legislation stipulates as follows:

"where in the circumstances of any particular case the Court is of the opinion that it would be unreasonable or unjust for each spouse to be entitled to one half of the

family home, the court may upon application by an interested party make such order as it thinks reasonable taking into consideration such factors as the Court thinks relevant, including the following:

(a) That the family home was inherited by one spouse;

(b) That the family home was already owned by one spouse at the time of the marriage or the beginning of cohabitation and

(c) That the marriage is of short duration.

[46] The Ancillary Defendants, have urged the Court to consider subsections 1(b) and 1(c) of section 7 of PROSA in the event that the Court finds that 22 Tranquil Heights was the family home of Mr. and Mrs. Lawrence. Through Counsel Ms. Mullings, they argued that those factors would warrant a variation of the 50/50 entitlement.

[47] There can be no contradiction that the marriage was of short duration, that is, between July 2011 and January 2013, the said marriage having been extinguished by the death of Mr. Headley Lawrence.

[48] Despite Mr. Lawrence's death, the Ancillary Defendants contended that the marriage would not have persisted had Mr. Lawrence survived, because apart from the eviction of Mrs. Lawrence from the subject premises, he (Mr. Lawrence) had intended to divorce his wife.

[49] Mrs. Lawrence Williams painted a picture of disharmony in her father's marriage and indicated that "*upon his death on 25th January 2013 he had started the proceedings of divorce.*" She disclosed that the said proceedings were commenced in "*February and he died in January suddenly.*" This she said was in 2012. However, she conceded that there was no evidence of any commencement of divorce proceedings in the Court by Mr. Headley Lawrence and that her knowledge of that pursuit by her father, had been gleaned from him.

[50] In his submission, Counsel Mr. Williams has urged the Court to resist the finding that the marriage was of a short duration. According to him, "the deceased or his estate

cannot by his own actions, shorten a marriage and then pray in aid, the fact of a short marriage to oust the 50 share rule. As a general principle nobody ought to derive advantage from his own injurious behaviour.”

[51] Having examined the arguments advanced by both Counsel Ms. Mullings and Mr. Williams regarding the applicability of subsection 1(c) of section 7 of PROSA, I am of the view that there can be no viable argument to counter the fact that the marriage was of a short duration. Death intervened in this marriage at a particular time and resulted in its shortened life. However, the viewpoint that that marriage would have been abbreviated by a divorce, is also without merit, since there was no evidence to solidify that position.

[52] Although Mrs. Lawrence Williams opined that her father’s marriage was marred by episodes of disharmony, she accepted that this was a part of the “wear and tear” of any marriage. Furthermore, her attempt to show that Mr. Lawrence was frustrated with his marriage, also failed. She recounted one incident when Mr. Lawrence had come to her home in Manchester at night “*because he could not take what was going on at home.*” However, Mrs. Lawrence later showed up and the couple left together for Portland. Now this could be seen, as an act of reconciliation.

[53] This matter of short duration of marriage was explored in a plethora of cases including **Stewart v Stewart (supra)**, **Margaret Gardener v Rivington Gardener** [2012] JMSC Civ. 54, **Gregory Duncan v Raquel Duncan** [2015] JMSC Civ. 75.

[54] The principle garnered from those cases is that the existence of PROSA section 7 factor, such as short duration of marriage does not automatically guarantee that the entire interest in the family home is vested in one spouse. They suggest instead, that the Court should be mindful of the purpose of the statutory rule, which was enunciated in Stewart v Stewart in this way:

“...marriage is a partnership in which the parties commit themselves to sharing their lives on the basis of mutual trust in the expectation that the relationship will endure.”

- [55] Counsel Mr. Williams alluded to that principle in his submissions and implored the Court to consider the special circumstances of the case at bar and thus do not depart from the 50/50 rule.
- [56] On the converse, Miss Mullings advanced that Mrs. Lois Lawrence was an opportunist whose purpose in the marriage was for self-aggrandisement through the acquisition of her husband's assets. She supported that stance by indicating Mrs. Lawrence's lack of knowledge pertaining to some important details of her husband's life; such as his job at the CARICOM Secretariat; his consultancy to the government; his farms in Portland and his occupation as a farmer. In essence, she concluded that Mrs. Lawrence knew very little about the man that she had married, signalling that the marriage was not a partnership of equals.
- [57] Nevertheless, in the English cases **Miller v Miller and McFarlane v McFarlane** [2006] UKHL at page 24, Lord Nicholls of Birkenhead stated at paragraphs 16 and 17: *"this equal sharing principle derives from the basic concept of equality permeating a marriage as understood today..."* He acknowledged that it is now widely recognised that a husband and wife are equal partners in marriage. He went on to say: *"the parties commit themselves to sharing their lives. They live and work together. When their partnership ends, each is entitled to an equal share of the assets of the partnership, unless there is good reason to the contrary... This principle is applicable as much to short marriages as to long marriages. A short marriage is no less than a long marriage. The difference is that a short marriage has been less enduring..."*
- [58] Based on the circumstances surrounding the duration of the marriage in the case under consideration, an assumption cannot be made that had Mr. Lawrence lived, his marriage would have been dissolved; and neither can it be said, that it would have survived. It is noteworthy that in the multitude of authorities on the issue of division of matrimonial property, the parties involved were all "in being" or alive, hence the question of duration of marriage was resolved. However, the same is not

true for the case at bar, and as such the likelihood of the duration of the marriage cannot be left to speculation or assumption: it is simply that one does not know.

- [59] It is for this reason, that I am disinclined to rely on the short duration feature of the marriage, to invoke a variation of the equal share rule, as provided by section 7(1) (c) of PROSA.
- [60] I submit to the guidance offered by Lord Nicholls of Birkenhead in relation to the equality of partnership in the marriage and as such, I will now assess what the evidence disclosed in that regard.
- [61] Concisely put, Mrs. Lawrence's evidence pertaining to her contribution to the marriage and, more specifically to the family home, involved her supervision of the construction of the said home; expending labour at the marl pit by distributing the tickets to the truck drivers employed there, so that they would be able to collect their pay; typing documents in relation to the sale of the subdivision at Norwich District, in Portland. Her testimony regarding those engagements was that she did not take payments because "I just trust it go into the house."
- [62] Her involvement in the construction of the house was supported by her witnesses and both men were unchallenged in their accounts pertaining to her presence at the house site and her supervision of its construction. In contrast, Mrs. Lawrence-Williams was unable to directly refute Mrs. Lawrence's testimony regarding her involvement at the marl pit. She indicated instead, that the marl pit had been "in and out of operation" and it would not have been the first time that it was operated.
- [63] Mrs. Lois Lawrence also testified the funds from the joint account held in the names of herself and her husband were used in the construction of the Tranquil Heights home. Documentary evidence by way of a letter from First Caribbean International Bank, dated October 31, 2012 indicated that Mrs. Lawrence was added to joint account no. 1002130913 in the names of Headley and Lois Lawrence.

- [64] Now, in the case of **Joycelin Bailey v Durval Bailey** [2016] JMCA Civ. 8 it is stated that *“the general principle in relation to joint accounts is that monies held therein belong to the account holders in equal shares.”*
- [65] This principle also found expression in the English case of **Jones v Maynard** (1951) CH 572, where Vaisey J said: *“when there is a joint account between husband and wife and a common pool in which they put all their resources, it is not consistent with that conception that the account should thereafter (in this case in the event of a divorce) be picked apart, and divided up proportionally to the respective contributions of husband and wife...”*
- [66] The thrust of these cases is that the sums in the joint account are to be equally distributed if the marriage is dissolved. Consequently, in the case at bar, it was established that the funds in the account at First Caribbean International Bank were held as the joint account of Mr. Headley Lawrence and Mrs. Lois Lawrence. Worthy of mention is that upon his death, she would have become the sole holder of this account, irrespective of her contributions to same, during the lifetime of her husband.
- [67] While Mrs. Lawrence was unable to provide the Court with any receipts evidencing payment towards the construction of the house at-22 Tranquil Heights-from the joint account, her evidence was that Mr. Lawrence *“specifically told me that he is adding my name to it, [joint account] so that we can use that account to do the work on the home.”* This assertion was left intact by the Ancillary Defendants and in fact, they were unable to offer an alternative source from which the funding for the construction of the home was taken.
- [68] Mrs. Lawrence’s testimony that the sums yielded from the operation of the marl pit went into the joint account, was countered by the Ancillary Defendant, (Mrs. Lawrence-Williams), yet the latter averred that *“I don’t know where the funds went, but given the fact that my father did not have excavation equipment, he would also have to pay the men who move the marl to the location, the residue would not be that great to build the house that now exists.”* This bit of Mrs. Lawrence- Williams’

assertion amounted to no more than a speculation and did not diminish Mrs. Lois Lawrence's version.

[69] Additionally, the unchallenged evidence of the existence of the joint account held by Headley and Lois Lawrence leads to the inevitable conclusion that that account was intended for both parties in equal shares. This court also accepts that it was the said account which yielded the major funding for the construction of the Tranquil Heights home.

[70] There is no dispute that the land on which the house in question was built, was purchased and owned by Mr. Headley Lawrence prior to his involvement with Mrs. Lawrence. Even in cross examination Mrs. Lois Lawrence acknowledged that the title of the said property bore the name Headley Lawrence and was issued in the 1990s.

[71] Although the subject of the land itself was not prolonged by Counsel Ms. Mullings in her cross examination of Mrs. Lawrence, it is necessary in my view, to state the legal position of the land being owned by Mr. Lawrence vis-à-vis the house thereon, trite as that may be. In **Holland v Hodges** (1872) LR 7CP 328, Blackburn J said: "*there is no doubt that the general maxim of law is, that what is annexed to the land become part of the land...*"

[72] Thus, in the case at bar, the house which is on the land becomes a part of it and the two cannot be separated. It therefore stands to reason, that the title to the land cannot be seen as distinct from any title to the house thereon; both are deemed as one entity.

[73] Having considered the evidence, in total, I accept that Mr. and Mrs. Lawrence lived together at 22 Tranquil Heights and they both offered service in the construction of same; and further to that, the joint account held in both their names, was utilized in the construction of the house on the subject property.

[74] Notwithstanding the short duration of their marriage I consider Mr. and Mrs. Lawrence to have been in a "partnership of equals." Therefore, each is entitled to an

equal share in the joint assets and there is nothing to sway the Court to divert from the 50/50 rule posited at section 6 of PROSA.

[75] And so, based on the foregoing I make orders as follows:

- i. That Lot 22 Tranquil Heights, Norwich in the parish of Portland, registered at Volume 1445 Folio 391 of the Register Book of Titles is the family home of Headley Lawrence (deceased) and Lois Lawrence.
- ii. Lois Lawrence is entitled to a one-half interest in the said family home situate at Lot 22 Tranquil Heights, Norwich in the parish of Portland and registered at Volume 1445, Folio 391 of the Register Book of Titles.
- iii. That transfer no. 1744537 registered on the 2nd day of February 2012 in respect of premises situate at Lot 22 Tranquil Heights, Norwich, in the parish of Portland and registered at Volume 1445 Folio 391 of the Register Book of Titles, to Headley Samuel Lawrence, Vanessa Williams and Wayne Lawrence as joint tenants, is hereby set aside.

Consequential orders are:

- iv. That a valuation of the family home situate at Lot 22 Tranquil Heights, Norwich in the parish of Portland be done by a reputable valuator to be agreed by Mrs. Lois Lawrence and the representative of the Estate of Headley Lawrence. The cost of the valuation is to be borne by each party in equal shares.
- v. The said family home situate at Lot 22 Tranquil Heights, Norwich in the parish of Portland, registered at Volume 1445 Folio 391 of the Register Book of Titles is to be sold and the net

proceeds of sale divided between Lois Lawrence and the estate of Headley Lawrence (deceased) in equal shares.

- vi. The Registrar of the Supreme Court is empowered to sign all documents necessary to give effect to the sale of the said property in the event of any of the parties refusing to sign.
- vii. Cost to the Ancillary Claimant, Mrs. Lois Lawrence to be agreed or taxed.
- viii. The Ancillary Claimant's Attorney-at-Law is to prepare file and serve the orders made herein.