

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. 2001/S183

BETWEEN EDITH CHRISTIANA STERLING CLAIMANT
AND ERIC SYLVESTER STERLING DEFENDANT

Mr. Sylvester Morris and Miss Gail English for the Claimant.

Miss Simone Jarrett for Defendant.

HEARD; 24TH May, 2007
CAV 15TH June, 2007

CORAM: D.O. MCINTOSH J.

REASONS FOR JUDGMENT

The parties to this action were living together before they got married on 16th August, 1980. Before they were married they purchased land in their joint names and built their matrimonial home.

During the course of their marriage, their son Dermaine and the mother of the claimant lived with them at Mount Pellier in the parish of St. Thomas. In March 1988, the claimant left the matrimonial home after being ordered to do so by the defendant. She had been the subject of physical abuse and the defendant did not want her or her mother in the house.

Their son Dermaine lived mostly at Mount Pellier but sometime with his mother at Aeolus Valley, also in St. Thomas.

The claimant contends that: [Wills v Wills – Privy Council 50/2002] should not apply to this case as in this instance the claimant was forcefully evicted and did not leave voluntarily.

There is no doubt that on the evidence Edith Sterling never returned to the matrimonial home and did nothing to secure her title thereto until she filed this action on the 8th November, 2007, over thirteen (13) years later and after the divorce and remarriage of her husband.

Unfortunately, this passage of time has erased her entitlement to a share in the property.

See

The Limitation of Actions Act of Jamaica – sections 3, 4 (a) and 12.

As also the cases of:

Paradise Beach and Transportation Co. Ltd vs. Cyril Price-
Robinson and others.
[1968] A C 1072.

And

Myra Wills v Elma Wills
Privy Council Appeal 50/2002.

For these reasons this court dismisses the claimant's claim with costs to the defendant to be agreed or taxed.