



[2026] JMSC Civ 53

**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**CIVIL DIVISION**

**CLAIM NO. SU2023CV03058**

**IN THE MATTER OF an Application by  
Maureen Rose Waul**

**AND**

**IN THE MATTER OF a Claim Under the  
Partition Act.**

**AND**

**IN THE MATTER OF all that parcel of land  
part of ELTHAM FARM now known as  
ELTHAM VIEW the parish of Saint Catherine  
being the Lot numbered EIGHTY- NINE on  
the plan of Eltham Farm now known as  
Eltham View aforesaid deposited in the  
Office of Titles on the 20th day of February  
1990 of the shape and dimensions and  
butting as appears by the said being part of  
the land comprised in the Certificate of Title  
registered at Volume 1226 Folio 199 of the  
Register Book of Titles.**

<b>BETWEEN</b>	<b>MAUREEN ROSE WAUL</b>	<b>CLAIMANT</b>
<b>AND</b>	<b>COURTNEY OSBORNE WAUL</b>	<b>DEFENDANT</b>

**IN OPEN COURT**

**Ms Sediann Graham for the Claimant**

**Ms Tameka T. Menzie for the Defendant**

**HEARD: May 15, 2025 & May 4, 2026**

**REAL PROPERTY – SEVERANCE OF JOINT TENANCY– BENEFICIAL INTEREST**

**WINT-BLAIR J**

**Background**

- [1]** On September 28, 2023, the claimant filed a Fixed Date Claim Form seeking orders in relation to property at Lot 89 Pineapple Circle, Eltham View, Spanish Town, St Catherine, registered at Volume 1226 Folio 199. She seeks severance of the joint tenancy, the sale of the property, equal division of the legal and beneficial interests, carriage of sale, authority for the Registrar of the Supreme Court to sign the transfer if necessary, reimbursement of one-half of sums said to have been spent by her on maintenance, repairs and improvements, costs, and such further relief as the court considers just.
- [2]** The claimant and the defendant were married on June 1, 1985. They have three adult children. During the marriage, they acquired the subject property in their joint names. It was their family home. The claimant's evidence was that the purchase was financed by mortgage loans from VMBS and the NHT, and that her NHT points assisted the parties to qualify. The family moved into the house in or around November 1990.
- [3]** The claimant's case is that shortly after the family moved into the property, she travelled to the United States of America ("USA") to work. She said that the purpose of doing so was to help complete the house and support the family. Her evidence is that over the years she sent home money, assisted with household and school expenses, sent barrels of goods and supplies, and later paid for repairs, maintenance and renovations to the property.
- [4]** Her evidence was that the defendant kept the house in a deplorable condition and used the living room as his work area. She said that whenever she returned to Jamaica, she had to undertake extensive repairs and maintenance. She exhibited

receipts, mainly from 2020 onwards, for doors, tiles, plumbing, grilling, materials, cupboards, bathroom fittings, fencing and related labour.

- [5] The claimant said that upon returning to Jamaica in December 2022, she found the house uninhabitable and decided to sell the property. She contends that the parties are entitled to equal shares and that the defendant should contribute one-half of the sums she spent on repairs, maintenance and improvements.
- [6] The defendant's evidence is that he took the lead in acquiring the property. He paid the \$40,000.00 deposit from his own savings, serviced the mortgage, made annual lump-sum payments towards it with money from his Petrojam savings plan, and later used his redundancy payment to discharge the mortgage. He also said he maintained the property from the outset and paid its outgoings.
- [7] The defendant accepted that the claimant sent some money and barrels for the children, but he disputed the extent of her financial contribution. He said that many of the works later carried out by the claimant were done without proper consultation and were largely cosmetic.
- [8] The defendant does not oppose the sale of the property. However, he contends that the claimant is not entitled to one-half of the beneficial interest and that the property should be divided 80% to him and 20% to the claimant.

### **The Submissions**

- [9] The claimant submits that, because the property was purchased in joint names as the family home, legal and beneficial ownership are presumed equal. She says the defendant has not rebutted that presumption. She relies on the parties' common intention at the time of acquisition, their conduct during the marriage, her financial contribution to the household and property, and the fact that the property was always treated as the family home.
- [10] The claimant further submits that the money she spent on repairs, maintenance and improvements was spent on the jointly owned property for the benefit of both

parties. She therefore says that the defendant should contribute one-half of the proven expenditure.

**[11]** The defendant accepts that a sale may be ordered, but argues that equal shares should not automatically follow. He relies on evidence that he paid the deposit, made larger mortgage payments, made lump-sum payments, discharged the mortgage, and maintained the property over the years.

**[12]** The defendant also contends that the claimant's significant engagement with the property began much later. He submits that her later works do not warrant reimbursement because they were largely unilateral and cosmetic, and because there was no agreement that he would bear any part of those costs.

### **Issues**

**[13]** The issues for determination are:

- a. Whether the property should be sold under the Partition Act;
- b. Whether the legal and beneficial interests in the property are equal or whether the defendant has displaced that position; and
- c. Whether the claimant is entitled to contribution for monies spent on maintenance, repairs and improvements.

### **The Law**

**[14]** The parties hold the property as joint tenants. There is no express declaration as to how the beneficial interest is to be held. The starting point is therefore that equity follows the law.

- [15] The legal position was stated by McDonald-Bishop JA (as she then was), in **Raymond Lincoln Oliver Johnson v Angella Eunice Johnson**,<sup>1</sup> where the Court of Appeal considered the authorities, including **Stack v Dowden**,<sup>2</sup> **Whitter v Whitter**,<sup>3</sup> **Jones v Kernott**,<sup>4</sup> **Gissing v Gissing**,<sup>5</sup> **Murdock v Murdock**,<sup>6</sup> and **Nixon v Nixon**.<sup>7</sup>
- [16] The salient principles are as follows. Where there is joint legal ownership, the starting point is joint beneficial ownership. Equity follows the law. The parties are presumed to be joint tenants in law and in equity. That presumption may be displaced by showing either that the parties had a different common intention at the time they acquired the home, or that they later formed a common intention that their respective shares would change.
- [17] The relevant intention is not merely what one party privately thought. It is the intention objectively deduced from the parties' words and conduct. In **Gissing v Gissing**, Lord Diplock stated that the relevant intention is the one reasonably understood by the other party to be manifested by that party's words and conduct, even if the party did not consciously formulate that intention or acted with some different uncommunicated intention.
- [18] The court can consider various factors, with financial contribution being relevant but not decisive, and context is important. A family home bought in joint names by both parties who share responsibility for the mortgage is different from a property

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<sup>1</sup> [2023] JMCA Civ 10

<sup>2</sup> [2007] 2 AC 432

<sup>3</sup> (1989) 26 JLR 185

<sup>4</sup> [2012] AC 776

<sup>5</sup> [1971] AC 886

<sup>6</sup> (1981) 18 JLR 215

<sup>7</sup> [1969] 3 All ER 1133

bought solely in one party's name. In cases involving joint ownership, the exact amount paid is less significant.

- [19] Cases in which joint legal owners are to be taken to have intended that their beneficial interests should be different from their legal interests will be exceptional. The onus is on the party asserting unequal beneficial ownership to prove it.
- [20] In **Jones v Kernott**, the Supreme Court confirmed that the presumption of joint beneficial ownership may be displaced by evidence that the parties' common intention was different at the outset or changed later. The court may infer that intention from the whole course of conduct. The court can proceed with a fair division only if it is satisfied that the parties did not intend equal ownership and that the evidence does not permit a definite determination of their intended shares.
- [21] The court in **Jones v Kernott** also made clear that it is not possible, at one and the same time, to have a starting point of joint beneficial interests and a presumption that the parties' beneficial interests are in proportion to their respective financial contributions. That would defeat the starting point that equity follows the law.
- [22] There is also an important distinction between beneficial ownership and accounting. Unequal payments after acquisition, including mortgage payments, repairs, or maintenance, do not, by themselves, change the beneficial shares. They may, however, give rise to an accounting exercise between the parties.
- [23] In **Forrest v Forrest**,<sup>8</sup> Forte JA stated that where the parties' common intention at acquisition and up to separation was equality, later payment of mortgage arrears by one party does not alter the beneficial interests in the absence of evidence of

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<sup>8</sup> (1995) 48 WIR 221

an express or implied agreement to vary those interests. The paying party may, however, recover the other party's share of the payment.

[24] In **Paul Wayne Barnes v Marjorie Richard-Barnes**,<sup>9</sup> Langrin JA stated that where husband and wife purchase property in their joint names intending that the property should be a continuing provision for them both, the law leans towards equal beneficial ownership even if their contributions are unequal.

[25] The same approach is reflected in **Raymond Lincoln Oliver Johnson v Angella Eunice Johnson**. Without more, unequal mortgage payments do not displace the presumption of equal beneficial ownership. Repairs and maintenance after separation are ordinarily matters of accounting and refund. They do not, by themselves, alter the shares.

[26] The authorities on improvements are to the same effect. In **Muetzel v Muetzel**,<sup>10</sup> Edmund Davies LJ stated that where the matrimonial home has been acquired by joint efforts, the fact that one spouse spends money on an extension does not mean that the other can claim no part of the increased value. In the absence of a specific agreement, the extension is to be regarded as an accretion to the respective shares and not as affecting the distribution of the beneficial interests.

[27] In **Wessell George Patten v Florence Edwards**,<sup>11</sup> the Court of Appeal, following **Brickwood v Young**,<sup>12</sup> recognised that the value of each undivided share may increase, but the proportion in which the parties hold their shares remains unchanged. The money expended by one co-owner to effect the

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<sup>9</sup> unreported, Court of Appeal, Jamaica, Supreme Court Civil Appeal No 77/2001, judgment delivered July 5, 2002

<sup>10</sup> [1970] 1 WLR 188

<sup>11</sup> unreported, Court of Appeal, Jamaica, Supreme Court Civil Appeal No 29/1995, judgment delivered December 20, 1996

<sup>12</sup> [1905] 2 CLR 387

improvement may be recovered in a suit for partition or on distribution of the value of the property.

- [28] A joint tenancy may be severed by an act affecting a joint tenant's own share, by mutual agreement, or by a course of dealing indicating that all concerned treated their interests as separate. That remains the accepted rule from **Williams v Hensman**,<sup>13</sup> as applied in Jamaica.
- [29] Under sections 2(2), 4 and 5 of the Partition Act, a claim for partition includes a claim for sale and distribution of the proceeds. Where a party with the requisite interest seeks a sale, the court shall ordinarily direct a sale unless there is good reason to the contrary.
- [30] In **Cynthia Stephens v Clemenston Stephens**, despite competing accounts as to acquisition and mortgage payments, the court held that there was no credible evidence sufficient to rebut the presumption that equity followed the law. The case is a useful reminder that the burden of displacing joint beneficial ownership is not met by assertions alone.
- [31] **Crooks-Collie v Collie** is distinguishable, as that case arose under the **Property (Rights of Spouses) Act** in relation to property acquired by one spouse before marriage. The court was concerned with whether later contributions justified any share at all. That is not the present case. This case concerns a property acquired in joint names during the marriage and held as the family home.

### **Findings of Fact**

- [32] I make the following findings from the evidence. The parties acquired the subject property on November 12, 1990, when a transfer was registered in their joint

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<sup>13</sup> [1861] 1 J & H 546

names. On the certificate of title, the claimant was registered as a stenotypist and the defendant as a mechanical technician. Mortgage no. 644250 was registered on November 12, 1990, to VMBS. The VMBS mortgage loan account ending 106 was closed on September 30, 1997.

- [33]** There was evidence of the discharge of mortgage no. 928467 entered on the certificate of title on April 14, 1999. That entry bears a different mortgage number from the mortgage registered in favour of VMBS. It provides some support for the claimant's assertion that there were mortgage arrangements involving both VMBS and the NHT, although the entry does not expressly state that the interest was registered on behalf of the NHT. The evidence showed that the VMBS and Scotiabank accounts were joint accounts.
- [34]** I accept that the defendant paid the deposit. I also accept that he made mortgage payments, made lump-sum payments towards the mortgage, and made a final lump-sum payment to pay off the mortgage balance. Neither party produced the terms of the mortgage. The evidence, however, indicates that the loan was settled within approximately seven years.
- [35]** I find that the mortgage was paid from funds deposited into the joint account held at VMBS, with lump-sum payments also made by the defendant. The defendant made substantial contributions. That is not in dispute. The question is whether those contributions prove a common intention that his beneficial interest should be greater than the claimant's. I find that they do not.
- [36]** The parties agree that the claimant travelled overseas to work. I accept her evidence that she worked abroad for the benefit of the family and that the money and goods she sent assisted the household. Monies sent by the claimant were not merely voluntary gifts unrelated to home or family obligations.
- [37]** The defendant did not agree in cross-examination that he had consented to her travel, but he admitted that he had bought her plane tickets for a period and later

told her she should buy her own tickets with her earnings overseas. I find that he knew of and acquiesced in the claimant's working overseas.

**[38]** The claimant sent money and barrels home. The defendant accepted that she did so, although he disputed the extent of her contribution. I find that the claimant's contribution to the family and household was real and ongoing.

**[39]** I accept that the defendant maintained the property and cared for the children, particularly before 2000. I also accept that he resided in the property and remained in occupation.

**[40]** The defendant said he bought 600 blocks in 1991 and half a ton of steel on an unknown date. Beyond that, there no limited documentary evidence of other materials he bought or labour he paid for.

**[41]** The money sent to Jamaica by the claimant was used by the defendant as he saw fit. There was no evidence of any agreement as to the precise manner in which household outgoings were to be financed. The household was operated as a family unit, with each party contributing in different ways.

**[42]** I accept that renovation and repair works were carried out on the property. The claimant admitted in cross-examination that the defendant installed the grills himself before the renovation work began. I therefore reject the claimant's claim for \$220,000.00 for grill work on the windows, doors and fence.

**[43]** I do not accept the defendant's evidence that he was employed by Petrojam as a Mechanical Engineer. The certificate of title listed his occupation as Mechanical Technician. His own evidence was that a technician was of lower status than an engineer. That point does not determine ownership, but it is relevant to the court's assessment of aspects of his evidence.

**[44]** There was a court order in place for the maintenance of the children and the house. Most importantly, there is no evidence of any express agreement between the parties that their interests in the property would change, either at separation or

after. There is also no sufficient course of conduct from which such an agreement may properly be inferred.

**[45]** Neither party gave satisfactory evidence of how much each earned over the relevant period or whether either party alone earned enough to cover the mortgage. No reasonable inference can be drawn that only one party paid the mortgage entirely from that party's own earnings.

**[46]** The claimant relied on documentary evidence to substantiate expenditure on repairs, maintenance and improvements. There was no specific challenge to each item of expense in paragraph 13 of her affidavit, including the removal and replacement of doors, tiles, blocks, cement, steel, pipes, mesh, sand, pipe cocks, machine hose, tile strips, and plumbing repairs for the removal and replacement of the toilet and face basin. The receipts substantially support the fact that she had renovated the property as she had said.

## **Discussion**

### **Sale**

**[47]** The claimant seeks an order for the sale of the subject property. The defendant does not oppose that relief. The parties' marital relationship has ended. The property was acquired as the family home, and the common domestic purpose for which it was acquired no longer subsists. There is no evidence before the Court which would justify compelling the parties to remain co-owners in circumstances where one co-owner seeks a sale, and the other does not resist it.

**[48]** The jurisdiction under the Partition Act is therefore properly engaged. A claim for partition includes a claim for sale and distribution of the proceeds. Where a co-owner seeks such an order, the Court will ordinarily direct a sale unless there is some sufficient equitable or practical reason to refuse it. No such reason has been advanced. The appropriate order is therefore that the property be sold and that the

net proceeds of sale be distributed according to the parties' respective interests as determined by this judgment.

### **Beneficial ownership**

- [49] The property is registered in the joint names of the claimant and the defendant. They are joint tenants at law. There is no express declaration on the title, nor any separate instrument before the Court, by which the beneficial interest is declared to be held otherwise than in accordance with the legal title. The starting point, therefore, is that equity follows the law. The parties are presumed to hold the beneficial interest jointly and equally.
- [50] That presumption is not displaced in this case by mere assertions, the occupation of one party, or a general comparison of financial contributions. It may be displaced only by evidence from which the Court can properly find either that, at the time of acquisition, the parties had a common intention that their beneficial interests would not correspond with their joint tenancy, or that, by subsequent agreement, words, conduct, or course of dealing, they later formed a common intention that their respective beneficial interests would change. The burden rests on the defendant, as the party asserting unequal beneficial ownership.
- [51] That burden has not been discharged. The evidence does not disclose any agreement, express or implied, or any contemporaneous representation, or course of conduct from which the Court may properly infer that, at the time of acquisition, the parties intended their beneficial interests to differ from the legal title. Nor does the evidence establish any subsequent agreement or shared intention, whether express or implied, by which the equal beneficial interests arising from the joint title were varied. The defendant's financial contributions do not prove that the common intention has been displaced.
- [52] The property in question was acquired during the marriage and was registered in both parties' names, serving as their family home for them and their children. The evidence does not show any commercial agreement, title convenience, resulting

trust, or arrangement indicating that the claimant's interest was only formal, nominal, or to be significantly reduced. The defendant testified that her name was added to the title because she was his wife and the mother of their children. This is evidence of a shared family and matrimonial pursuit, not evidence that the claimant's interest was meant to be limited to 20%. The percentage advanced is therefore not an inference from evidence the defendant adduced as to a proved common intention. It is a retrospective calculation urged by the defendant, based on the financial contributions he made towards the mortgage balance.

- [53]** In a concerning the family home held in both parties' names, the Court does not begin with an arithmetical audit and work backwards to ownership. It begins with the legal title and asks whether the evidence justifies a departure from it. Financial contribution is relevant but not dispositive. To treat direct financial payment as the measure of beneficial ownership in a jointly owned matrimonial home would be to substitute a resulting trust analysis for the common intention analysis required by the authorities. It would also be inconsistent with the principle that, in joint names cases, equity ordinarily follows the law.
- [54]** I accept that the defendant made substantial contributions. He paid the deposit, made mortgage payments, and made lump-sum payments towards the mortgage. He says that he applied his redundancy payment to discharge the mortgage. He remained in occupation and undertook maintenance of the property. Those matters form part of the context and have been taken into account. However, they do not alter the common intention.
- [55]** Neither party produced the mortgage terms. Neither party gave evidence of their respective earnings throughout the relevant period. The evidence showed that the VMBS and Scotiabank accounts were joint accounts. The evidence also supports the finding that mortgage payments were made from funds deposited into the joint account and that the defendant also made lump-sum payments. In those circumstances, the Court cannot safely conclude that the mortgage was paid solely

from the defendant's separate resources or that the claimant's contribution to the family economy was irrelevant to the payment and maintenance of the home.

- [56]** The claimant's contributions were of a different character, but they were no less material. I accept that she travelled overseas to work. I accept that she sent money and barrels. I accept that she assisted with household and school expenses and with the family's general support. The defendant accepted that she sent money and goods, although he disputed the extent. The evidence also shows that he was aware of, and acquiesced in, her travel and overseas work. He bought her airline tickets for a period and later told her that she should purchase her own tickets from her overseas earnings.
- [57]** The proper inference from that evidence is not that the claimant abandoned the property or her interest in it. The proper inference is that the parties adopted a family arrangement by which the defendant remained in Jamaica, and the claimant worked abroad, with her earnings and remittances contributing to the family budget. The Court is not entitled to disregard that contribution because it was not made in the same form as the defendant's contribution, or because it was not paid directly to the mortgage institution by her.
- [58]** The family home was obtained during the marriage for the purpose of family life. The parties managed their affairs together as spouses with children. The defendant's testimony highlights his direct financial contributions. The claimant's testimony emphasizes her overseas employment, remittances, support of the household, family expenses, and later investments in the property. These types of contributions are not mutually exclusive, nor should one be regarded as more significant than the other. In such cases, the overall conduct and dealings between the parties must be taken into account.
- [59]** Having considered that whole course of dealing, I find no basis upon which to infer that the parties intended unequal beneficial ownership at acquisition. The property was acquired in joint names during the marriage for use as the family home and

for the benefit of the parties and their children. Those facts strongly support the presumption that the beneficial ownership followed the legal title.

- [60] Nor is there sufficient evidence of any later common intention to vary the parties' shares. The claimant worked overseas, but returned to the property when she came to Jamaica. The defendant remained in occupation. The children lived there. The property continued to be treated as the family home. There is no evidence that the claimant agreed, expressly or impliedly, that her share was reduced because she was absent from Jamaica for work, or because the defendant made greater direct payments. Absence for the purpose of earning money for the family, nor occupation by one joint owner, on these facts, could not be construed as a basis for enlarging that joint owner's beneficial interest.
- [61] The defendant's contention, therefore, fails. He has not disputed the claimant's substantial financial contribution, nor has he proved a different common intention. The authorities do not permit the Court to infer an unequal beneficial ownership merely because one spouse claims to have paid more of the mortgage, especially where the property was acquired in joint names as the family home, and there is evidence of contribution by both parties to the family's expenditure.
- [62] The guidance found in the case of **Raymond Lincoln Oliver Johnson v Angella Eunice Johnson**, is that the starting point in this case is joint beneficial ownership. There is no evidence that this case is one in which joint legal owners are found to have intended that their beneficial interests should differ from their legal interests.
- [63] It is also consistent with **Forrest v Forrest** and **Paul Wayne Barnes v Marjorie Richard-Barnes**.<sup>14</sup> Those authorities make clear that where husband and wife acquire property in joint names as a continuing provision for both, unequal

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<sup>14</sup> unreported, Court of Appeal, Jamaica, Supreme Court Civil Appeal No 77/2001, judgment delivered July 5, 2002

contributions do not, without more, displace equality. Where payment by one party gives rise to a legitimate claim, the proper remedy is accounting, not alteration of the beneficial shares.

**[64]** I therefore find that the defendant has failed to rebut the presumption that equity follows the law. The claimant and the defendant are entitled to equal one-half shares in the legal and beneficial interests in the property.

### **Separation, later payments and expenditure on the property**

**[65]** It is necessary to distinguish the question of beneficial ownership from the question of contribution for expenditure. The fact that the defendant has not established an enlarged beneficial interest means that such payments must be addressed in their proper legal category. They are matters of accounting and refunds.

**[66]** The same principle applies to the claimant's expenditure on repairs, maintenance and improvements. Such expenditure does not increase the claimant's beneficial share. It cannot be used to say that she is entitled to more than one-half of the property.

**[67]** In **Muetzel v Muetzel**,<sup>15</sup> Edmund Davies LJ treated expenditure on an extension to a jointly acquired matrimonial home as an accretion to the parties' existing shares, and not as a matter altering the proportions of ownership. Similarly, in **Wessell George Patten v Florence Edwards**,<sup>16</sup> following **Brickwood v Young**,<sup>17</sup> the Court of Appeal recognised that while the value of each undivided

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<sup>15</sup> [1970] 1 WLR 188

<sup>16</sup> unreported, Court of Appeal, Jamaica, Supreme Court Civil Appeal No 29/1995, judgment delivered December 20, 1996

<sup>17</sup> [1905] 2 CLR 387

share may increase, the proportions in which the co-owners hold their interests remain constant. The expenditure may be recovered in partition or on distribution.

- [68]** The claimant's claim for reimbursement must therefore be approached as a claim for contribution. The issue is not whether her expenditure changed the ownership of the property, as it could not have done so. The issue is whether she has proven expenditure, whether that expenditure was referable to the jointly owned property, whether it was reasonably incurred, and whether the defendant has had the benefit of it.
- [69]** The claimant produced receipts and gave evidence of work done to the property. The works included doors, tiles, plumbing, bathroom fittings, cupboards, fencing, materials and labour. Those items relate to the condition, use, security, sanitation, habitability and value of the property. They cannot be properly dismissed as cosmetic as on the evidence, they were works done to preserve, repair, maintain or improve the jointly owned property.
- [70]** The defendant's evidence did not contest the expenditure incurred for the renovation work carried out by the claimant. His principal complaint was that he was not properly consulted and that they were unnecessary cosmetic additions to the house. The absence of consultation may be relevant where expenditure is extravagant, unnecessary, unrelated to the property, or undertaken solely for the personal preference of one co-owner. The evidence shows that the expenditure also involved a storeroom for the defendant.
- [71]** It is also material that the defendant remained in occupation of the property and benefited from the works. He cannot, consistent with equitable accounting between co-owners, retain the benefit of the expenditure incurred on the jointly owned property while denying any obligation to contribute to it. The claimant has shown that the expenditure was referable to the property and beneficial to the jointly owned asset; the defendant provided no answer in his affidavit evidence and is

taken to have accepted it. It is difficult to understand his claim for 80% given that stance.

**[72]** I reject the claimant's claim for \$220,000.00 for grill work, as the claimant admitted in cross-examination that the defendant had installed the grills himself before the renovation work began. That item has therefore not been proved to be an expenditure recoverable by the claimant. Subject to that exclusion, I am satisfied that the claimant has proved expenditure in the sum of \$1,602,693.23. The defendant is liable to contribute one-half of that sum, which amounts to \$801,346.62.

**[73]** The claimant is therefore entitled to a contribution in the sum of \$801,346.62. That sum is awarded as a matter of accounting between co-owners. It does not alter the equal beneficial ownership of the property.

### **Conclusion**

**[74]** The property was acquired in the joint names of the parties during the marriage. It was acquired and used as the family home. There is no express declaration of unequal beneficial ownership. There is no agreement, document, conversation, representation or course of dealing from which the Court may infer that the claimant was to hold only 20% of the beneficial interest or any share less than one-half.

**[75]** The defendant's financial contributions to the mortgage were substantial. They are accepted. However, they do not prove the common intention necessary to depart from the title. The claimant also contributed to the family economy and to the property. Her work overseas, remittances, household support, family contributions and later expenditure on the property are inconsistent with the suggestion that she held only a nominal or diminished interest.

**[76]** The presumption that equity follows the law has not been displaced. The claimant and the defendant are entitled to equal one-half shares in the legal and beneficial interests.

**[77]** There is no good reason to refuse the sale. The property will be sold. The claimant is also entitled to contribution in the sum of \$801,346.62 in respect of proven expenditure on maintenance, repairs and improvements to the jointly owned property. That award is made as a matter of accounting and does not affect the parties' equal beneficial interests.

### **Orders**

**[78]** It is hereby ordered as follows:

1. The joint tenancy in the property at Lot 89 Pineapple Circle, Eltham View, Spanish Town, St Catherine, registered at Volume 1226 Folio 199, is severed.
2. The Claimant and the Defendant are declared to hold the legal and beneficial interests in the property in equal one-half shares.
3. The property shall be sold on the open market.
4. The sale price shall be guided by a current valuation of the property, unless the parties agree in writing to proceed on the valuation report dated February 9, 2023, prepared by Property Dynamics Limited.
5. The Certificate of Title held by Golding and Golding, Attorneys-at-Law shall be collected by the claimant's Attorney-at-Law, and any outstanding sum required for its release shall be paid from the proceeds of sale.
6. The Claimant's Attorney-at-Law shall have carriage of sale.

7. The Registrar of the Supreme Court is empowered to sign any and all documents necessary to effect a transfer of the property in the event that either party is unwilling, unable, or fails to do so within the time required.
8. From the net proceeds of sale, after payment of the ordinary expenses of sale, the Claimant and the Defendant shall each receive one-half.
9. The Defendant shall pay to the Claimant the sum of \$801,346.62 as contribution towards maintenance, repairs and improvements carried out by the Claimant on the jointly owned property.
10. Costs to the Claimant, to be agreed or taxed.

Wint- Blair, J