

**IN THE SEYCHELLES COURT OF APPEAL**

**[Coram:** F. MacGregor (PCA), A. Fernando (J.A), M. Twomey (J.A)]

**Civil Appeal SCA15/2015**  
**(Appeal from Supreme Court Decision CS 211/2011)**

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Marie-Claire Lesperance

Appellant

Versus

Jeffrey Larue

Respondent

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Heard: 29 November 2017

Counsel: Mr. B. Hoareau for the Appellant

Mr. N. Gabriel for the Respondent

Delivered: 07 December 2017

**JUDGMENT**

**A. Fernando (J.A)**

1. The Appellant has appealed against that part of the judgment of the Supreme Court whereby the Court stated that it “declined to grant the order prayed for, namely issue a mandatory injunction against the Defendant (*the Respondent in this case*) ordering him to vacate parcel V 5247 and the house situated thereon. The reason for my refusal [was] that in the circumstances the Defendant may have acquired a right as a statutory tenant and as such it [would] fall for the Rent Tribunal to assess the situation in finer details and to consider whether an order for eviction [was] warranted.” The reason stated by the learned

Trial Judge for reaching this conclusion is that: “the Defendant has been and is still in occupation of the house thereon”. (verbatim). The Respondent has not cross-appealed against the learned Trial Judge’s finding that he “has no claim as a successor to the estate of late Venance, either through her mother or grandmother and as such has no claim of right in the co-ownership of parcel V 5247.”

2. The Appellant had filed a Plaint in the Supreme Court in her capacity as fiduciary of land parcel V5247 and the house situated thereon, which was co-owned by her and M. S. Y. Esther, M. Constance, L.E. Bethew and Georgis Etienne Constance, by virtue of having inherited a half share of the said parcel from their mother, Maud Ingelburge Constance, and a half share from their uncle, Francois Venance Laurette. The Respondent had been in illegal occupation of the said parcel V5247 and of the house situated thereon according to the Appellant. The Appellant had brought the action before the Supreme Court seeking a mandatory injunction against the Respondent ordering the Respondent to vacate land parcel V 5247 and the house situated thereon.
3. The Respondent in his Defence filed before the Supreme Court had admitted that the Appellant was the fiduciary of land parcel V5247 and the house situated thereon but challenged how she became the representative of one of the four persons mentioned by the Appellant, namely Georges Etienne Constance and also as to how the Appellant and the four others became co-owners of the half share of their deceased uncle. It had been the position of the Respondent that he is not in illegal occupation of the said land parcel V5247 and the house situated thereon and that the Appellant has no right to have him evicted as he had inherited the share of his mother Marie-Therese Larue, the daughter of one Jeannette Larue who was beneficiary of a last will and testament executed by Francois Venance Laurette, the owner of a half share of parcel V 5247. The Respondent had therefore prayed for the dismissal of the plaint. It is clear therefore that the Respondent had claimed ownership to land parcel V 5247 and the house situated thereon on the basis of succession and not on the basis of statutory tenancy.

