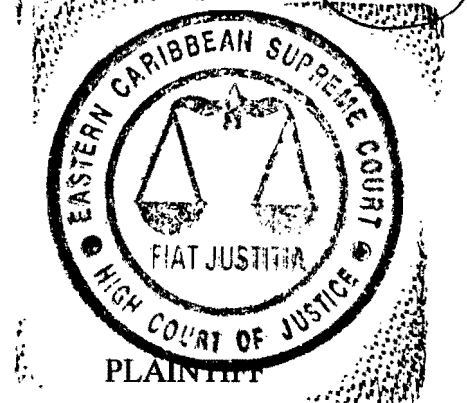


SAINT VINCENT AND THE GRENADINES  
IN THE HIGH COURT OF JUSTICE

SUIT NO.: 348 of 1993

BETWEEN: AUGUSTINE AGATHA LEWIS



V

MAXIAN ANDRE LEWIS

DEFENDANT

Ms KRA Bacchus-Brown for the Petitioner  
S Commissiong Esq for the Respondent

Mitchell J.

DECISION

This is a decision on proceedings in Chambers ancillary to divorce proceedings between the parties. The evidence was adduced partly by the affidavits of the parties and partly by their testimony on the witness stand. They were both cross-examined as to the contents of their affidavits. The matter was heard on 24 April and concluded on 13 June 1997. The wife by a notice of 22 March 1994 claimed maintenance, child support, custody, and an order for the transfer of the property at New Montrose. I thank both counsel for their extensively researched briefs on the law governing a wife's entitlement under the Matrimonial Causes Act of St Vincent and applicable case law. I very much regret that the facts peculiar to this case did not allow much scope for the further development of the law in this field.

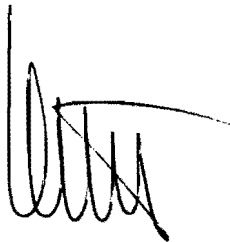
The facts as I find them are as follows. The parties are as they claim of humble origin in St Vincent. The wife emigrated first to Canada in 1977. The husband followed in 1979. They were married in 1979 in British Columbia. They have lived there since, save for visits back to St Vincent from time to time. They have sought and obtained a St Vincent divorce. The decree nisi was granted on 29 October 1993.

The wife never worked. She always lived on Canadian social security. The husband claimed that in his first two years in Canada he worked as a trainee boat builder. The wife's testimony is that she has always drawn child support and unemployment benefit from the Canadians. Since the year 1981 at the latest the husband has had no fixed employment. He has always lived on social security, supplemented by whatever else he could lay his hands on. According to his affidavit he receives social security and child support. There is no evidence that either of them has ever held a regular job since at least the year 1981. In 1980 the parties bought with their savings and with a mortgage a small house in British Columbia. This was a speculative venture, and not meant to be a lasting home. They sold it for a profit in 1981. They invested the proceeds of that sale in the property in question at New Montrose in St Vincent. They also saved enough

to invest subsequently in a boutique back in St Vincent. They had no business training or experience, and it soon failed. I have no doubt it failed because they were not competent to run the business. The boutique plays no further part in the story.

The support of the children of this family has been cheerfully undertaken over the past 20 years by the Canadian tax-payer. I see no need to complicate their efforts by making an order for additional payments by the husband. The custody of the children has been managed by the mother of the petitioner who resides as well in Canada. I am sure that she is with the generous assistance of the Canadians continuing to manage adequately. I award joint custody of the children to the parties. I make no order for maintenance of the wife. The property at New Montrose is, as the children, a joint product of the enterprise of the parties. This property is registered in the name of the husband alone, and he rents it out and keeps the proceeds. The husband has at present the sole benefit of the property, and that is not right. The husband and wife own it in equal shares, as I find that it is the proceeds of their joint ventures in Canada. I order that it be sold forthwith, and that the proceeds be used to pay off any legitimate bank loan secured by the property, relating exclusively to the purchase or repair of the property, the balance of the proceeds if any to be divided equally between the parties.

I make no order as to costs.



ID Mitchell QC

High Court Judge (Ag)

July 28<sup>th</sup> 1997