



SUPREME COURT OF NAURU

[CIVIL JURISDICTION]

Civil Suit No. 2 of 2017

Between: Ramanmada Kamoriki

PLAINTIFFS

**And: Sharon Sio Kamoriki
&
Preston Akibwib**

DEFENDANTS

Before: Judge R. Vaai

APPEARANCES:

Appearing for the Plaintiff: K. Tolenoa

Appearing for the Defendant: D. Cecil

Date of Hearing: 17 and 18 July 2017

Date of Ruling: 27 July 2018

Introduction

1. This case relates to an unfortunate bitter dispute between a mother, a widow of 65 years (plaintiff) and her 35 years old biological daughter and her husband (defendants) about a house occupied by the defendants. The plaintiff's husband, father of the defendant daughter, passed away in 1999.
2. The disputed house was built by the deceased father on land Ganekero portion 53 of which the plaintiff is a part owner. A few meters away from the disputed house is a family house (main house) occupied by the plaintiff and some of her other children and grandchildren.
3. The disputed house, as parties agreed to when this action was set down for trial, was fully financed by the deceased father.

Family Dispute

4. Several factors were advanced as the cause of the dispute. One factor which cannot be disputed is that the plaintiff is now living together as husband and wife with the defendant daughter first husband.
5. At the time of her father's death, the defendant daughter and her first husband (Breday) were all living together with the plaintiff. The defendant daughter alleges in her affidavit :
"That when my father died, my mother the plaintiff showed her real intentions by flirting and having an adulterous relationship with my then husband, Breday,
That because the three of us are living in the same house, my mother's jealousy became apparent and obvious as she will blame and wrong me for everything, even for trivial or minor matters."
6. The plaintiff on the other hand blamed the defendants for causing the disruption and challenging her authority as the landowner. Insults were levelled at her when she authorized one of her grandson to clear part of the land to build on.
7. With the defendants living closely to her the plaintiff seeks an order to evict the defendants from the land.
8. The defendant's children are disallowed by the plaintiff from going into the plaintiff's house and likewise the other children living in the plaintiff's house are also forbidden to enter the disputed house.

Mediation and Reconciliation

9. Court and counsels attempted to resolve the unfortunate differences of the parties through mediations and reconciliation meetings in line with the Nauru practices, custom and traditions that disputes should be settled by discussion, agreement, goodwill and conciliation.
10. Unfortunately the attempts by those concerned have all been in vain.
Whatever order the court will issue will not erase the bitterness within the family.
The most unfortunate consequence of the family war is the obvious confusion experienced by the grandchildren of the plaintiff who are witnessing the events. Unless sorted out the plaintiff

mother will leave behind a legacy of a divided disrupted family which may take years to rectify, as the wound may heal sooner but the scar will remain for years.

Evidence:

11. Evidence in this action has been given by the way of affidavits and by oral testimony.
12. A number of witnesses for the defendants provided affidavits but did not testify. They are mainly the female defendants' siblings and relatives. Their non appearance was understandable. Their affidavits will not be considered in this ruling.
13. Similarly deponents of affidavits in support of the plaintiff's claim who did not testify will likewise have their affidavits discarded.

Consent of the other Landowners.

14. In response to the plea by the female defendant for assistance concerning the plight within her family and in particular the attempts by the plaintiff to evict her from the land, the other shareholders signed the consent form expressing their consensus for the defendants to remain on the land.
15. The court was of the view that 75% or more of the landowners did sign the form. So did the parties in their written agreed facts signed and given to the court.
16. But alas! During his final submissions counsel for the defendants told the court only 69% of the landowners signed the form.

Ownership of the House

17. From the commencement of this action the defendants had maintained that the disputed house was built and financed by her father. The stance was supported by the female defendant's older brother who testified. It was also in the agreed summary of facts that the house was financed by the father.
18. However, when she testified, the female defendant was adamant the house belonged to her mother which therefore supports her mothers' testimony that she paid the loan for the construction of the disputed house.

Findings of Facts

19. The undisputed evidence from the oral testimonies of the witnesses is that the mother is part owner of the land upon which her main house and the disputed house stand. She is the owner of both houses.

Result

20. The defendants are therefore in occupation of the disputed house as licensees. A licence, being only a privilege unprotected by any right that it should not be revoked, is lawfully revocable at will by the licensor.

21. The plaintiff as licensor has revoked the license. The defendants have been notified and they must vacate the land.

Orders

22. The defendants and their family are ordered to vacate the disputed house on Ganekero, Portion 53 Ijuw District and remove all their personal belongings and possessions within 21 days from today.

23. Each party to pay its own costs.



Dated this 27th day of July 2018

Rapi Vaai

Judge Rapi Vaai