

IN THE COURT OF APPEAL OF THE SUPREME COURT OF  
JUDICATURE

APPELLATE JURISDICTION

G U Y A N A

CIVIL APPEAL NO. 114/2000

BETWEEN:

CHANDRA NARAIN DOOBAY

Appellant

- and -

ATTORNEY GENERAL

Respondent

BEFORE:

Hon. Madam Justice Desiree Bernard	-	Chancellor
Hon. Madam Justice Claudette Singh	-	Justice of Appeal
Hon. Mr. Justice Ian Chang	-	Justice of Appeal

Mr. R. McKay, SC with Mr. W. Murray & Mr. G. Elias for Appellant  
Mr. R. Ramkarran, SC and Mr. B. DeSantos, SC for Respondent

2003: January, 13  
June, 6

J U D G M E N T

BERNARD, C.:

In January, 1994 the Respondents instituted proceedings against the Appellant for possession of a portion of land being within Block B of Pln. Nootenzuil, East Coast Demerara, of which the Government of Guyana is the owner under transport No. 1447 of 1975. The said Block B was purchased from Sankar Bros. Ltd. for the purpose of housing development, and was allegedly not subject to any leases or other encumbrances.

The Appellant is owner of lots 120, 121, 126 and 127 of the said Block B, but the Respondent alleged that he was and still is illegally

occupying a portion situate between the public road and the railway reserve outside of the lots of which he is owner.

The Respondent alleged that the Appellant had sought approval of the then Prime Minister in 1990 to purchase or lease the said tract of land, but the Central Housing and Planning Authority to whom the letter had been referred and under whose administration Block B fell, refused the Appellant's request, and by letter dated 17<sup>th</sup> May, 1991 informed him that he should discontinue his occupation. At the hearing of the Respondent's action the learned trial judge made a declaration that the Appellant was not entitled to possession of the tract of land, and issued an injunction restraining him from continuing his occupation thereof after a period of nine months. The Appellant has appealed to this Court.

Counsel for the Appellant submitted that the learned trial judge fell into error in finding that the land was State land and that the State Lands Act Cap. 62:01 applied no evidence having been led that the land was in fact State land. He made reference to the Lands Department Act, Cap. 59:01 and "the Development of Land Law in British Guiana" by Dr. Fenton Ramsahoye. Further, the learned trial judge wrongly exercised his discretion in permitting the Respondent to reopen his case and lead evidence from one Harry Singh. He also failed to consider the Appellant's evidence about meetings with Minister Collymore, and so made no findings on this. Counsel submitted that the issue of promissory estoppel arose out of a letter of permission to occupy the land given by the late former President Burnham to the Appellant. He referred among others to the cases of Ramsden v. Dyson (1866), 1 H.L., 129, 170; Dillwyn v. Llewellyn (1861-1873) ALL ER Reprint, 384, 388; Errington & Errington v. Woods (1951) 1 ALL ER, 149; Inwards v. Baker (1965) 1 ALL ER, 446, 448 G;



Pascoe v. Turner (1979) 2 ALL ER, 945; Taylor Fashions Ltd. v. Liverpool Victoria Trustees Co. Ltd. (1981) 1 ALL ER, 897 and Gillett v. Holt (2000) 2 ALL ER, 288.

In his submissions Counsel for the Respondent contended that the Appellant ought not to be permitted to raise the issue of proprietary or promissory estoppel at this hearing as it was not raised in the Court below. He submitted that an application for amendment of a counterclaim cannot be regarded as raising the issue of proprietary estoppel, and there is no evidence that the Appellant acted on a promise by Minister Collymore to his detriment. Counsel made reference to the cases of The Owners of the Ship "Tasmania" & Another v. Smith & Others (1890) 15 AC, 223; Connecticut Fire Insurance Co. v. Kavanagh (1892) AC, 473 and Ramberran v. Mohamed (1964) 7 WIR, 142 among others and Spencer Bower & Turner on "Estoppel by Representation", 2<sup>nd</sup> Edition, p. 332.

The history of this matter began in 1975 when the Government of Guyana purchased from Sankar Bros. Ltd. Blocks A & B, Pln. Nootenzuil, East Coast Demerara, comprising approximately eighty-four (84) acres. The area was surveyed and sub-divided into house lots. The Appellant alleged that at that time he was in occupation of sixteen (16) acres which had been previously occupied by his parents. He was also in occupation of an additional nineteen (19) acres all of which formed part of the 84 acres owned by the Government of Guyana and which he claimed he was permitted to continue to occupy by the late President Burnham. From a letter dated 24<sup>th</sup> February, 1983 tendered in evidence it seems that the Appellant had spoken with President Burnham about his occupation of the 35 acres, and the letter was written permitting him to continue to occupy and cultivate the said lands which were east of his house. President Burnham, however, advised that he

initiate action to obtain a lease of the said lands. Pursuant to this the Appellant on 4<sup>th</sup> November, 1990 wrote then Prime Minister, Mr. Hamilton Green, indicating that he was willing to purchase or lease the said 35 acres and that he had applied to the Minister of Agriculture to do so, but was advised that the area was previously zoned for housing, and unless this was changed he could not obtain a lease for farming; he sought the Prime Minister's intervention for a change of the zoning. The result of this was a letter dated 17<sup>th</sup> May, 1991 from the Secretary of the Central Housing & Planning Authority to the Appellant indicating that the land was not available for sale or lease and hence his application could not be entertained. He was thereby requested to discontinue occupation of the land.

However, earlier on 24<sup>th</sup> September, 1990 the Commissioner of Lands & Surveys in his letter to the Minister of Agriculture had supported approval for the issue of a lease for twenty-five years to the Appellant for agricultural purposes, and had expressed the opinion that the area was never intended to form part of the assets of the agency NEOCOL which owns the rest of the land held under Transport No. 1447/1975.

On 22<sup>nd</sup> March, 1993 Mr. Clinton Collymore, a new Minister in the Ministry of Agriculture wrote the Appellant notifying him that he was to cease cultivation of rice on the lands. However, the Appellant testified that Minister Collymore in the presence of one Harry Singh later agreed on a settlement with him whereby he (the Appellant) would give up 16 acres and he would be granted a lease for 19 acres. As a result an occupational survey was carried out by the Lands & Surveys Department. Mr. Collymore was not called to either substantiate or refute this contention, but Harry Singh who was called by the Respondent with leave of the Court after the close of its case, denied that he ever met with the Appellant and Mr. Collymore.

