Civ App 36/2008

IN THE COURT OF APPEAL OF SIERRA LEONE

BETWEEN:

MADAM UMU NABBAY - APPELLANT

AND

ALUSINE JALLOH - RESPONDENT
(SUING by his Attorney Alhaji Borbor Jalloh)

CORAM:
THE HONOURABLE MR JUSTICE P O HAMILTON
JUSTICE OF THE SUPREME COURT (now deceased)
THE HONOURABLE MR JUSTICE N C BROWNE-MARKE
JUSTICE OF THE SURPEME COURT
THE HONOURABLE MR JUSTICE E E ROBERTS
JUSTICE OF THE SURPEME COURT

COUNSEL:
J B JENKINS-JOHNSTON ESQ (now deceased) for the Appellant
YADA WILLIAMS ESQ for the Respondent

JUDGMENT DELIVERED THE 21st DAY OF OCTOBER, 2020

BROWNE-MARKE, JSC

THE APPEAL

1. This is an appeal brought by the Appellant against a Summary Judgment of the High Court, the Hon Mr Justice A D KONOYIMA, Presiding, delivered on 13 June, 2008. That Judgment, as is well known, though summary in form and in substance, is indeed a final judgment on the merits of the claim brought by the plaintiff in the action in the Court below. The Notice and Grounds of Appeal were filed on 16 June, 2008 and are at pages 160 – 162 of the Record. We do not intend to set them out in extenso, as we have come to the conclusion that based on the facts presented to the Learned Trial Judge, he was duty bound to give judgment in favour of the Respondent. Whether or

not payments were made by the Appellant to Mr Christie Greene (hereafter, Mr C Greene), and to two other persons on his behalf, was and is irrelevant, simply because there was no evidence whether by way of affidavit or otherwise, that Mr C Greene had title to the property he purported to sell to the Appellant; or, that he represented to the Appellant that he was authorized by the true owners to dispose of the same. Mrs Amy Greene was at no time a party to the transaction between Mr C Greene and the Appellant. There was no evidence that she colluded with her husband, Mr C Greene in order to deceive the Appellant into parting with her money. There was also no evidence that at that point in time she was living in amity with Mr C Greene.

2. In the grounds of appeal, Counsel for the Appellant has contended that Mr & Mrs Greene ought to have been joined as parties to the action in the Court below, and that the Learned Trial Judge was wrong to have refused to hear the application to do so. As we will explain below, it is untrue that the Learned Trial Judge '*refused*' as contended by Appellant's Counsel in Ground (2) at page 161 to hear that application. Clearly, it was not heard. But it was not refused. Prolix as the grounds of appeal are, they really amount to nothing more than concentric circles, the centre-point being the payments made by the Appellant to, and for the benefit of Mr C Greene for property which he was not authorized to sell. That the Appellant chose to enter into such a transaction without proper or adequate legal advice may be a matter which calls for sympathy, but certainly, not for judgment on the facts presented to the Court below. Even when Mr Elvis Kargbo wrote on her behalf, he did not deal with the primary issue of whether due diligence had been done before payment was made to Mr C Greene.

FACTS OF THE CASE

3. By deed of conveyance dated 12 February, 2007, Graham Greene and Bjorn Greene, both of them sons of Mr Christie Greene and Mrs Amy Greene, through their Attorney, their mother, Mrs Amy Greene, sold their joint property situate at and known as 89 Main Motor Road, Wellington, Freetown in the Western Area of Sierra Leone, to the Respondent herein. The land is 0.1169acre in size and was and is delineated on survey plan LS2100/06 dated 9 November, 2006. The deed was duly registered as No. 376 at page 90 of

volume 618 of the Record Books of Conveyances kept in the office of the Registrar-General, Freetown. As there is no dispute as to the location of the property, or to its size, no further description is necessary. The Respondent paid a consideration of Le28m for the property.

4. Prior to the execution of this deed, the father of the Vendors, Mr C Greene, it seems, had purported to agree to sell the same property to the Appellant for the total sum of Le26,500,000. For this purpose, the Appellant had initially paid the sum of Le20million to Mr C Greene on 6 March, 2006. He acknowledged receipt of this amount of money. The Appellant is referred to in the receipt as Umu Bangura. As there has been no argument about this, this Court accepts that it is a reference to the Appellant, otherwise known as Umu Nabbay.
5. On 13 March, 2006, she paid an additional sum of Le1million, but this time, to one Joseph Bangura who issued a receipt to that effect. The Appellant contends that this was payment for the property at Wellington. There was no affidavit from Mr Bangura to verify this; nor was there any from Mr C Greene to the same effect. The receipt did not state that it was issued on behalf of Mr C Greene.
6. On 3 June, 2006, the Appellant claims she paid a further sum of Le500,000 to one Mr Melbourne Greene. So, in all, she paid, the total sum of Le21,200,000 for this property, with an outstanding balance of Le5million to be paid. There was no evidence in the Court below as to when the balance should have been paid off; nor, to whom it should be paid, as Mr C Greene had informed the Appellant that he would be travelling out of the country.
7. Based on these payments, the Appellant commissioned a survey plan, LS549/06 dated 4 April, 2006 in the names of Humu Bangura, i.e. herself, and one Isata Kanu. Isatu Kanu did not take part in the proceedings in the Court below. The Appellant proceeded to put up a structure on the land, and according to her, she was actively encouraged in this by Mr C Greene. There matters stood up to the end of 2006.
8. To her surprise, the following year, on 1 June, 2007, she received a letter from Shears-Moses & Co dated 10 May, 2007 who stated that they were acting on the instructions of Mr Christie Greene. She was told that since she had defaulted in making full payment for the property, the same had been sold to a third party, and she was invited to go and collect her money. She

was warned also to cease all acts of trespass on the land, as the new owner of the property, i.e. the Respondent herein, was not happy about it. The Solicitors acted as if Mr Christie Greene was indeed the true owner of the property, when evidently he was not. The Appellant instructed her then Solicitors, Betts and Berewa to respond on her behalf. The Solicitors replied by letter dated 1 June, 2007. In that letter, the Appellant's claim to the property was re-stated. The purchase price quoted by the Solicitors was Le26.5million. The last paragraph will be set out in full, because it bears on the decision which this Court has arrived at. "*...We have therefore advised our client that since you are now representing the vendor, she should make the balance payment of Le4,500,000 to you and/or your office. Meanwhile, we have further advised our client to ignore your letter as your client's and (sic) intention (we think 'and' should be omitted) of abdicating his original agreement is unlawful.....*"

9. The stance taken by the Appellant's then Solicitors was obviously mistaken. Their first enquiry should have been about the ownership of the property. The Appellant did not say whether she consulted a lawyer before making payment to Mr C Greene. But it was not too late in the day for these Solicitors, Betts & Berewa, to have done so. Our understanding of legal practice is that where one's client proposes to buy property, a lawyer's first obligation is to request the putative vendor's title, and to investigate the same at the Registry. Bearing this in mind, it was rather high-handed and perhaps foolhardy for the Solicitors to put down in writing that they had advised their client to ignore a timely warning from another set of Solicitors that the purported vendor had nothing to sell anymore.
10. The next development as found in the Record of the trial, is a letter dated 28 November, 2007 from Messrs Shears-Moses & Co, to Messrs Yada Williams & Associates. It refers to an earlier letter from Yada Williams & Associates dated 3 August, 2007 on behalf of the respondent herein, addressed to Mrs Greene on whose behalf, Shears-Moses & Co were acting on this occasion, and not on behalf of Mr C Greene. The position now taken was that if the Appellant herein had completed payment of the full purchase price, that paid by the Respondent would have been returned to him. But, claimed Shears-Moses & Co, she was unable to do so for a period of about two months. As such, the Respondent was free to take possession of the

property as he was then the true owner. Nothing was said in this letter about the status of Mr C Greene, vis-à-vis the true owners of the property, Messrs Graham and Bjorn Greene respectively. Mrs Greene was copied in. However, Shears-Moses & Co did not purport, nor hold themselves out as acting on behalf of Messrs Graham and Bjorn Greene, respectively.

11. It seems this response may have spurred the Respondent herein to commence recovery proceedings as the Appellant was indeed in occupation of the property.
12. He did so by way of writ of summons issued on 25 April, 2008. The Respondent's claim was for a declaration that he was the owner of the property hereinbefore described; recovery of possession of the property; the sum of Le1.5million as special damages; Damages for Trespass; An Injunction; consequential relief; and the Costs of the action. By way of Notice of Motion dated 25, but filed on 29 April, 2008, the Respondent applied, inter partes, for an Injunction to restrain the Appellant from dealing with the property
13. On 1 May, 2008, the Appellant entered appearance to the writ of summons through her new Solicitors, Messrs Jenkins-Johnston & Co. The Respondent's said application filed on 29 April, 2008, was heard by KONOYIMA, J on 8 May, 2008. The Ruling, according to the drawn up Order on page 91 of the Record, seems to have been delivered on 14 May, 2008, the adjourned date of hearing, though no date is stated on pages 146 - 147 in the minutes of proceedings. The Ruling at page 146, was unfortunately, incorrect in paragraphs 1 and 2 thereof. The Learned Trial Judge said, as follows: "*1. There existed a valid contract in respect of the land in contest between the Greenes and the plaintiff/applicant (i.e. the Respondent herein) on one hand, and also between the Greenes and the defendant/respondent herein (i.e. the Appellant in this appeal) on the other hand. Both parties are only interested in the land and there has been considerable performance by the defendant and complete performance on the part of the plaintiff. 2. It is also my considered view that the possession of a conveyance by the plaintiff/applicant herein which is properly executed does not at this stage of hearing confer on him a special advantage, as the defendant/respondent had already entered upon the land and carried out a survey and erected a wall fence.*"

14. At that stage, with the greatest respect to the late Learned Judge, there was no evidence by way of an affidavit, or otherwise, that the Appellant herein had a valid contract with the Greenes. She had a contract with Mr C Greene only; but Mr C Greene was not the owner of the land, nor was he authorized by the true owners to dispose of the same. Nor was there any evidence before the Learned Judge that Mr C Greene was in the position of a trustee for both of his sons, who were the true owners of the property. However, His Lordship ended up granting the Injunction prayed for to the Respondent herein. Later, Mr J B JENKINS-JOHNSTON was to place much reliance on the two paragraphs of the ruling quoted above, in support of the Appellant's contention that the Learned Judge ought to have dismissed the Application for final judgment. His position was, we hold, untenable.
15. The Respondent pressed on, and on 6 May, 2008, filed a Judge's Summons pursuant to Order 16 of the High Court Rules, 2007 for final judgment on his claim. Readers of this judgment might find it strange that though this motion was filed on 6 May, 2008 it was not mentioned at all during the hearings on 13th, 14th and 16th May, 2020 respectively - see page 147 of the Record. This was because of a peculiarity which then existed in our administration. Even though a case file may have been assigned to a Judge for hearing, or, for trial, any further application filed, had to be returned to then then Chief Justice for that application to be assigned afresh. Thus, it happened that two different judges might end up hearing, and presiding over two different interlocutory applications in the same cause, with the attendant possibility that they might each give contradictory rulings. Fortunately, that way of doing things was abandoned when that particular Chief left office.
16. The Respondent's Application for summary judgment was finally heard on 21 May, 2008. It was supported by the respective affidavits of the Respondent deposed and sworn to on 5 May, 2008; and that of Mr Yada Williams deposed and sworn to on 20 May, 2008. The matters deposed to in both affidavits have been sufficiently set out above and need not be repeated here. I would only emphasise that the title deed of both Graham and Bjorn Greene, and the Power of Attorney granted by them to their mother, Mrs Amy Greene, were also exhibited. The special damages claimed were in the sum of

Le1.5million for sand and stone allegedly taken away forcefully by the Appellant.

17. The position taken by Mr J B Jenkins-Johnson as Counsel for the Appellant in those proceedings was that there was an issue to be tried as between the Appellant and the Respondent. In fact, there was no 'lis' as between the Appellant and the Respondent. The only remedy the Appellant had at that stage was to seek for a refund of the payments made to Mr C Greene, and to the other two gentlemen. Those payments had nothing to do with the Respondent's right to the property he had bought lawfully from the true owners of the same.
18. The Learned Trial Judge's judgment is at pages 151 - 154. It was delivered on 13 June, 2008. He gave judgment for the Respondent on his claim.
19. The Application for summary judgment was opposed vigorously by the Appellant. She deposed and swore to an affidavit on 13 May, 2008. She exhibited to her affidavit a copy of her statement of defence and counterclaim, apparently dated the same day, but actually, only filed on 19 May, 2008. In several respects, the matters deposed to in that affidavit, are incorrect, and irrelevant to the issues in dispute. In respect of her paragraph 3, there was no supporting evidence that Mr C Greene instructed her to make payment to Messrs Bangura and Garber, respectively; nor is there independent evidence, other than the photocopies of the receipts, that such payments were indeed made, and that they eventually reached Mr C Greene. But that would be a matter for the Respondent and Mr C Greene. She disputes the allegation that she was called upon by Shears-Moses & Co, to go and collect a refund of the payments she had made. Her paragraph 8 is inaccurate: Mr C Greene did not get his wife to sell the property to another person. There was no evidence before the Court that both Mr C Greene and Mrs Amy Greene were in amity. And if they had been, it would have been a simple matter to prove. Further, there was no evidence that Mr C Greene owned the property. In all the documentation filed by the Respondent, not once was it mentioned that Mr C Greene provided her with evidence of his ownership. If she did not ask for it, nor sought the services of a lawyer to assist her as to what was necessary to be done when buying property, she has herself to blame.

20. In paragraph 7 of her defence and counterclaim, she averred that Mrs Greene had full knowledge that the property she purported to convey to the Respondent, had first been sold to her. This is of course untrue. There was no scintilla of evidence that Mrs Greene was aware of the attempt by her husband to sell the property to another person.
21. In her counterclaim, she also made the rather astonishing claim that she was entitled to specific performance of a contract that she claimed existed between herself and a non-party to the action. There was some approbation and reprobation here. In one breath, she averred that she was yet to complete payment to Mr C Greene; in another breath she prayed for a declaration that though the legal estate in the said property was vested in the Respondent, the Court should declare that he held it on trust for her. She had no dealings with the Respondent and he could not therefore hold property he had lawfully bought from the true owners, on a resulting trust for the benefit of the Appellant.
22. The 5th prayer was that the '*added parties*' should specifically perform the contract of sale she had entered into with Mr C Greene. As has been pointed out above, there was no evidence that at any point in time, Mr C Greene gave the Appellant the impression that he was acting on behalf of his two children. The representation he made to the Appellant, by her account, was that the property was his. Since in the events that followed , it had become clear that he was not the owner of the property, nor had authority to deal with it in any way, the only remedy which was open to the Appellant at the time, was to sue for the moneys she had paid over to Mr C Greene, and allegedly to others for his benefit. A suit for specific performance would be pointless, as he did not have any title to pass on. The Learned Trial Judge's judgment is at pages 151 - 154. It was delivered on 13 June, 2008. He gave judgment for the Respondent on his claim.
23. Proceedings for a stay of execution of the judgment of the Court were taken by the Appellant; and so also, were proceedings for leave to issue a writ of possession taken by the Respondent. We are satisfied that the Learned Trial Judge was right in refusing the stay of execution of the judgment, and in granting leave to the Respondent to issue a writ of possession. It was clear that there was no issue in dispute between the Appellant and the Respondent. At the bottom of page 158, the Learned Trial

Judge records Mr J B Jenkins-Johnston saying as follows: "*.....Also consider that there has been no trial of this action. Also consider that the application to join Mr & Mrs Greene was not considered...*" We are not in a position to say why this was not done. I have already explained the peculiarities involved in the assignment of motions and summonses in those days. Even if the application had been heard and argued, we do not think it would have affected the outcome of the case: there was no lis between the Appellant and the Respondent.

ORDER 16 HIGH COURT RULES, 2007

24. We shall now turn to the Rules relating to the application which was before the Court below. The relevant rules are in Order 16 HCR,2007.

"Order 16

Rule 1(1) Where in an action to which this rule applies a defendant has been served with a statement of claim and has entered appearance, the plaintiff may, on notice, apply to the Court for judgment against the defendant on the ground that the defendant has no defence to a claim included in the writ, or, to a particular part of the claim except as to the amount of any damages claimed.

Rule 2(1) An application under rule 1 shall be made by summons supported by an affidavit verifying the facts on which the claim, or the part of the claim, to which the application relates is based and stating that in the deponent's belief there is no defence to that claim or part, as the case may be, or nor defence except as to the amount of any damages claimed.

Rule 3(1) Unless on the hearing of an application under rule 1, either the Court dismisses the application or the defendant satisfies the Court with respect to the claim or the part of the claim, to which the application relates, that there is an issue or question in dispute which ought to be tried or that there ought for some other reason to be trial of that claim or part, the Court may give such judgment for the plaintiff against that defendant on that claim or part as may be just having regard to the nature of the remedy or relief claimed.

Rule 4(1) A defendant may show cause against an application under rule 1 by affidavit or otherwise to the satisfaction of the Court."

Rule 4(3) The Court may give a defendant against whom such an application is made leave to defend the action with respect to the claim, or the part of a claim to which the application relates either unconditionally or on such terms as to giving security or time or mode of trial or otherwise as it thinks fit."

WHETHER THERE WAS A SERIOUS ISSUE TO BE TRIED

25. It seems to us that there was a serious legal issue to be tried, but that was an issue between Mr C Greene and the Appellant; and not between the Respondent and the Appellant. Order 14 in the English Supreme Court Practice, 1999 – White Book,1999, is in very similar terms to our Order 16, and the notes to that Order, suggests what the practice should be. In note 14/4/5, the Learned Editors state: The defendant's affidavit must:

"condescend upon particulars", and should, as far as possible, deal *specifically with the plaintiff's claim and affidavit, and state clearly and concisely what the defence is, and what facts are relied on to support it. It should also state whether the defence goes to the whole or part of the claim, and in the latter case it should specify the part....".*

The Appellant's defence in this case was that there was a contract for sale of the property between herself and Mr C Greene. In the events that occurred, he had no title to pass on to her. It follows that her defence did not '*condescend upon the particulars of the Respondent's claim*'. It seems to this Court, that there was really no contention which ought to have been tried at a full hearing. The Learned Trial Judge was right to have given judgment in favour of the Respondent. The judgment in Order 16 proceedings is final, and due consideration has to be given to the law relating to the issue in dispute. It is our view that the Learned Trial Judge could not be faulted in this respect.

AMINATA CONTEH v APC

26. An instructive case is that of *S.C. Civ App 4/2004 – AMINATA CONTEH v APC, judgment delivered 27th October, 2005 by WRIGHT, JSC.* That case was decided on the precursor to the present *Order 16 HCR, 2007, i.e. Order XI, HCR, 1960.* It was a case for possession, and the respondent in that

appeal had sought to evict the appellant from the property at 27 Pultney Street. The respondent issued a summons for summary judgment in the High Court. It was successful. The Appellant appealed against that judgment to the Court of Appeal. That Court dismissed the appeal, not on the ground of whether the action was one fit for adjudication summarily, but rather, on the merits of the defence filed by the Appellant in the High Court. At page 3 of her judgment, the Learned Justice of the Supreme Court explained the purpose and purport of Order XI proceedings, thus:

"The object of the order is to ensure a speedy conclusion of the matters or cases where the plaintiff can establish clearly that the defendant has no defence or triable issues. This draconian power of the court in preventing the defendant from putting his case before the court must be used judiciously. A judge must be satisfied that there are no triable issues before exercising his discretion to grant leave to enter a summary judgment. The judge is also obliged to examine the defence in detail to ensure that there are no triable issues...."

Later, at the bottom of page 3, unto the top of page 4, she stated the position in English Law post the Lord Woolf reforms to civil procedure. She said this:

"However, recently the English Courts have gone one step further in their endeavor to ensure a speedy conclusion of matters under this order in the spirit of what is now commonly known as the Woolf reform. The test is not that there should only be a triable issue, but that the defence should have a real prospect of success as distinct from a fanciful prospect of success (See Swain v Hillman and another reported in 1 All England Reports [2001] page 91 at page 95 paragraph J). It is therefore the duty of the judge to examine the issues of Law and of facts raised and determine whether the defendant has a good chance of success."

27. Though the Learned Justice ended her judgment on page 5, stating: *"The Learned Justices of the Court of Appeal should not have gone into the substantive matter and also, not to have upheld the judgment since there were triable issues....."* we have reached the conclusion for the several

reasons given above that there was no lis, and as such no triable issues between the Appellant and the Respondent.

28. In this respect, the case of BANGURA v BANGURA [1974 - 82] SLBALR, 151, CA cited by Respondent's Solicitors in their synopsis, is also very instructive. At page 155, WARNE, JA, said this: "*.....The first duty of the vendor is to prove that he is owner of what he has agreed to sell...*" Neither the Appellant, nor Counsel acting on her behalf at all stages made any attempt to show that an enquiry was made into whether Mr C Greene had proper title to pass on to the Appellant.

29. As regards the true test in Order 16 proceedings, NATIONAL WESTMINSTER BANK plc v DANIEL & others [1994] 1 All ER 156, CA is also instructive. There, GLIDEWELL, LJ adopted the reasoning of ACKNER, LJ in BANQUE De PARIS etc (SA) v de NARAY [1984] 1 Lloyd's Rep 21 CA, at page 23 of the Report:

"*It is of course trite law that O. 14 proceedings are not decided by weighing the two affidavits. It is also trite that the mere assertion in an affidavit of a given situation which is to be the basis of a defence does not, ipso facto, provide leave to defend; the Court must look at the whole situation and ask itself whether the defendant has satisfied the Court that there is a fair or reasonable probability of the defendants' having a real or bona fide defence.*" Clearly, this was the mode of reasoning adopted in the Learned Trial Judge's Judgment in the instant appeal.

FINDINGS

30. Several authorities were cited, and relied on by Appellant's Solicitors in their synopsis in support of the appeal. None of them really dealt with the subject matter and peculiar facts of the present appeal. No issue of credibility arose. Appellant's Solicitors and Counsel were merely trying to use, as it where, a short cut, to obtain their objective. Rather than go after Mr C Greene for monies paid to him, it was safer to go after another who had bought the property from the rightful owners. This Court will not encourage, nor uphold such a strategy.

31. As a corollary to the conclusion this Court has reached in the present appeal, this Court is reminded of the course of events in CC17/11 - MARIATU KEITA v THE UNDER-SHERIFF and REGINA KAMARA. There, I was the

presiding Judge. Mr Solomon Jamiru was Counsel for the Plaintiff, and Mr J B Jenkins-Johnston was Counsel for the 2nd Defendant, Regina Kamara. The position taken by the Appellant's Solicitors in the instant appeal, brings to mind a similar attempt made in the case cited, by these Solicitors to wrench title to property which had been lawfully sold to one person, in order to have it conferred on another. It was a case which came before me in 2011. The facts of that case were that Rev Johnson had agreed to sell a piece of land to the 2nd Defendant, Regina Kamara. Full payment was incomplete when the Regina Kamara left for the UK. Whilst she was away, Rev Johnson sold the property to the Plaintiff therein, Mariatu Keita who proceeded to construct a building on the land. On her return to Freetown several years later, Regina Kamara took proceedings against Rev Johnson. The judgment of the Court, MATTURI-JONES, J Presiding was that Rev Johnson should pay over certain sums of money to Regina Kamara, or, offer her another portion of land. Mariatu Keita was not a party to those proceedings. Rev Johnson applied for a stay of execution of that judgment. By an unfortunate twist of events, the file was re-assigned to FOFANAH, J. Regina Kamara resisted the application. In her affidavit in opposition to the application, she deposed and swore, inter alia, that: "....*I hereby most respectfully ask the Court to make an Order revoking the conveyance to Mariatu Keita... and further ordering that the said land be conveyed to me by the Defendant, or the Master and Registrar.*" Without waiting for Mr Jamiru to proceed with his application, the late Justice Fofanah ordered that Mariatu Keita's conveyance be cancelled and that it be expunged from the books of conveyances kept in the Registrar-General's office, and granted possession to Regina Kamara. This is what gave rise to the action instituted by Ms Keita against Regina Kamara and the then Under-Sheriff. On 25 February, 2011, I overruled Mr Jenkins-Johnston's objection that I could not hear the matter as I had equal jurisdiction with Justice Fofanah. I reminded him that he had obtained the order in favour of his client ex parte, and without even moving an application. The boon had been conferred on his client without any action on her part. On 2nd May, 2011, I proceeded to set aside Justice Fofanah's Order made ex parte, and restored Ms Keita to possession of the property she had bought and had spent money on. Instead of pursuing her remedies against Rev Johnson, which was the proper thing to do, Regina Kamara made

use of a short cut which was no less than a gross abuse of the process of the Court.

32. In the instant appeal, there was never any chance of the Appellant obtaining an order for specific performance of the contract for sale in the action instituted by the Respondent herein against her. Mr C Greene had no title he could convey to her. The Respondent was an innocent purchaser for value without notice, and was therefore entitled to summary judgment without the necessity of a full-scale trial.

33. For all these reasons, we have come to the conclusion that appeal has no merit and ought to be dismissed. The Appellant's appeal filed on 16 June, 2008 is therefore dismissed with Costs, such Costs to be taxed if not agreed.

THE HON MR JUSTICE N C BROWNE-MARKE, JSC

THE HON MR JUSTICE E E ROBERTS, JSC