

Privy Council affirms landlord's rights in T&T case

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A Privy Council ruling has allowed a landlord to sell his land at 100 per cent of its market value.

The judgment will become a precedent in this country, the broader Commonwealth and in England.

In its judgement in the matter of landlord Mohan Jogie versus Angela Sealey, the Privy Council reviewed the law from 1603 with respect to the rights of intended representatives of a deceased person's estate prior to obtaining a grant of letters of administration from the High Court.

The judgment, containing decisions from Lord Andrew Burrows, Lady Arden and Lord George Leggatt, upheld Jogie's appeal.

In 2012, Jogie was sued by Sealey, the daughter of his deceased land tenant, prior to her being appointed as the legal personal representative of her mother, to obtain a ruling from the court that she was lawfully entitled to renew her mother's tenancy for another 30 years from June 2011 under the Land Tenants (Security of Tenure) Act.

She was, as a result, entitled to purchase Jogie's land at 50 per cent of the market value or not at all if she chose to remain a tenant paying a nominal rent. She was successful three times at the High Court and the Court of Appeal.

On the advice of his local attorneys Ronald Dowlath, Melissa Ramdial and Anthony Manwah, Jogie appealed directly to the Privy Council. Dowlath instructed Trinidadian Queen's Counsel based in England, Anand Beharrylal QC and his junior counsel Sian McGibbon who challenged the Court of Appeal's ruling on the basis that the Court of Appeal had misapplied the law relating to intestacy, Civil Procedure Rules and renewal of leases where a tenant with security of tenure dies without making a will.

The law lords yesterday ruled that Jogie could sell his land at 100 per cent of the market value as opposed to 50 per cent or not at all, if the tenant refused to buy.

During the appeal, the Privy Council heard full arguments in examining the common law and Civil Procedure Rules in Trinidad and Tobago and the history and application of the doctrine of relation back.

The Privy Council law lords reviewed the law from as early 1603 to date and unanimously upheld the landlord's appeal reversing the decisions of the High Court and Court of Appeal in its entirety essentially on the basis that the doctrine of relation back could not validate the daughter's renewal of the lease because that would undermine the landlord's vested proprietary rights, causing unacceptable uncertainty for the landlord. It was also held that relation back could not validate a claim that was invalid when it was commenced.

"This decision of the Privy Council for Trinidad and Tobago is the most substantial review of the operation and application of the doctrine of relation back by a final appellate court and will have broad application in the development of intestate law in the Commonwealth Caribbean and England and Wales," Jogie's attorneys stated.

Attorneys Keston McQuilkin and Andre Rudder represented Sealey.