

Landlord wins land fight against deceased tenant's children

Desk: Arhong 41 days ago

Mon Aug 15 2022



From left, Ronald Dowlath, Mohan Jogie, Anthony Manwah and Melissa Ramdial.

A landlord has emerged victorious in a decade-long legal battle over the ability of the children of a former tenant to renew a lease for a parcel of land, after their mother passed away without leaving a will.

Delivering a judgement yesterday, five Law Lords of the United Kingdom-based Privy Council upheld Mohan Jogie's appeal against Angela Sealy.

The case centred around a parcel of land at Bhagoutie Trace in San Juan, which Sealy's mother, Cynthia Abbott, leased from Jogie's family. Abbott died without a will in December 2006.

In January 2011, Sealy, who was acting on her and her three siblings' behalf, sought to utilise the Land Tenants (Security of Tenure) Act to renew the lease, which was due to expire in four months' time, for 30 years.

However, Jogie claimed she was not entitled to do so, as she and her siblings were not yet granted letters of administration in relation to their mother's estate.

In February 2012, Sealy brought legal action against Jogie over the renewal of the lease and alleged he trespassed by changing the lock on the gate and started to clear the land.

Sealy's case was upheld by High Court Judge Ricky Rahim, who ruled that she was considered a tenant under the legislation by being a beneficiary of her mother's estate.

Justice Rahim, who appointed Sealy as administrator of her mother's estate during a preliminary hearing of the case in 2012, also barred Jogie from accessing the property.

The Court of Appeal found that Justice Rahim was wrong to rule that Sealy was a tenant, as she had not received the letters of administration when she attempted to renew the lease. However, it still upheld the renewal of the lease based on the "relation back" doctrine, as it ruled the move was for the benefit of Abbott's estate.

In the appeal, the Privy Council had to decide whether the Appeal Court was correct to have applied the doctrine to allow Sealy to bypass the established legal principle that an administrator cannot act on behalf of an estate before being granted official approval to do so.

Lord Andrew Burrows, Lord George Leggatt and Lady Mary Arden wrote separate judgements in the appeal in which they came to the same conclusion, albeit for slightly different reasons.

The Law Lords ruled that the Court of Appeal was wrong, as the doctrine with retroactive effect could not invalidate the established principle in relation to the lease renewal and the associated trespass lawsuit. In terms of lease renewal, they ruled that the doctrine would undermine Jogie's vested property rights and cause unacceptable uncertainty for him.

While both Lord Burrows and Lady Arden agreed that while the doctrine could apply in cases where litigants would fall outside time limits for bringing lawsuits while waiting on letters of administration, such did not apply to Sealy's case, as she brought her lawsuit within the four-year period for doing so and could have waited for the approval.

"It would, in my judgement, be a great loss to the practical administration of the estates of intestates if the common law exception, as I have explained it, did not exist," Lady Arden said.

Lord Leggatt took a "narrower" view of the doctrine, as he ruled it could not apply even in the limited circumstances identified by his colleagues.

In a press release yesterday, Jogie's lawyer Ronald Dowlath noted that the judgement was significant, as if the lease renewal was upheld Sealy would have been entitled to remain a tenant or purchase it for 50 per cent of its market value under the legislation.

"This decision of the Privy Council for I&I 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, England, and Wales," Dowlath said.

Jogie was also represented by Anand Beharrylal, QC, Sian McGibbon, Melissa Ramdial and Anthony Manwah. Sealy was represented by Keston McQuilkin and Andre Rudder.

Tagged in