

IN THE HIGH COURT OF BELIZE. A.D. 2023

Claim No. 70 of 2022

BETWEEN

GLORIA TURNER TUCKER CLAIMANT
AND
ADELITA UCK DEFENDANT

Hearing by Written Submissions

Appearances:

Mr. Rene A. Montero, Counsel for the Applicant.

Mr. Orson J. Elrington, Counsel for the Respondent.

Decision on Application for Joinder/Consolidation

[1] Ms. Tucker has initiated a Claim against her former sister-in-law, Ms. Uck, with the primary objective to recover possession of property in San Pedro in which she holds title. In her Defence and Counterclaim, Ms. Uck alleges fraud and claims she has beneficial rights to the property arising from an unresolved matrimonial property claim she initiated against Mr. Glen Turner, in 2012 pursuant to the *Married Women's Property Act*.¹ Mr. Turner died in 2021.

[2] After trial for Claim No. 70 of 2022 was scheduled and despite the Counterclaim, Counsel for Ms. Uck became aware of the existence of Claim No. 26 of 2012 and alerted the Court. It was at this stage that an oral application for joinder (properly called consolidation under Rule 26.1(2)(b) the *Supreme Court (Civil Procedure) Rules, 2005*) was raised by Ms. Uck. Ms. Turner objected to consolidation on the basis of its late application and the fact that her title predates the 2012 Claim

¹ Claim No. 26 of 2012.

and Mr. Turner and Ms. Uck's divorce. She argues the property does not qualify as matrimonial property.

[3] I adjourned Case Management to review the court filings associated with Claim No. 26 of 2012. I found references to Mr. Turner's refusal to comply with disclosure requirements. I questioned whether this refusal raised equity concerns if Claim No. 26 of 2012 was not resolved as a direct consequence of Mr. Turner's actions. I invited the parties to comment on that point in the written submissions and replies they were to file in relation to the application for consolidation.

[4] To avoid vacating the September 26th, 2023, trial date for Claim No. 70 of 2022, the parties agreed to a hearing by written submissions for the consolidation application. I undertook to release a decision by August 14th, 2023, as a result. Submissions were to be filed by the 31st of July with any replies to those submissions filed by the 7th of August.

[5] No submissions of any kind were filed by Ms. Uck. The application for joinder/consolidation is dismissed. It is still open for Ms. Uck to present evidence of fraud and a beneficial interest in her Defence and Counterclaim in Claim No. 70 of 2020.

Disposition

[6] It is hereby ordered that:

1. The application for joining Claims 26 of 2012 and 70 of 2022 is dismissed.
2. Costs of BZ\$1000.00 are awarded to be paid by Ms. Uck to Ms. Turner prior to the September 26th, 2023, trial date in Claim No. 70 of 2022.

Dated 9 August 2023

Patricia Farnese
Justice of the High Court