**IN THE REPUBLIC OF TRINIDAD AND TOBAGO:**

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### Claim No. CV 2011-01729

**IN THE HIGH COURT OF JUSTICE**

**BETWEEN**

**RUDOLPH SYDNEY**

**(through his lawful Attorney, Shirley Jones Rajkumar)**

**CLAIMANT**

**AND**

**NICOLE HYACINTH JOSEPH MARSHAL**

**STEPHEN MARSHAL**

**DEFENDANTS**

**CLAIMANT’S SUBMISSIONS**

1. The claim for this matter involves vacant possession of all and singular that one concrete building situate at the corner of Valencia and San Pablo trace, in the ward of Valencia, account and repay to the claimant all rents collected for the period November, 2011 to present., interest and other incidental costs.
2. In fact there are two buildings in the premises. The dwelling house occupied by the Defendants and the Snackette built by the Claimant and rented to Kenneth Mohan.
3. There were proceedings in the High court against Mr. Kenneth Mohan but was dismissed as the High court was in the opinion that the matter was really a dispute over title the leasehold lands.
4. The Claimant was asserting ownership by virtue of Deed of Assent dated 12th of July, 2009.
5. The Statements of case was latter amended and included the particulars of title. The subject lands were vested in Rudolfo Pamponette deceased by Mr. Pena the landowner. Mrs. Petra Sydney the wife of Rudolfo Sydney inherited the said lands from her father, rodulfo Pamponette deceased from her to the Claimant..
6. The Defendants filed a defence averring that the lands were purchased by them through National land tenants and rate payers association.
7. They also averred that the snackette was build by the claimant but there was an agreement that he would compensated for the construction.
8. During the trial only the secretary to the Nationanl land tenats and rate payers association appeared. He could not prove that he is the agent of the landowners. The Defendants also filed the assessment roll ,but however there are no receipts as to when they are paying the land taxes and further they asserted they are paying it to the National land tenants and rate payers association but admitted that they are not the proper authorities to pay the land taxes.
9. The deed of conveyance was not filed and were asserting that it is in the process and there is no Proof of such transaction.
10. Hence the issues are clear whether the Claimant is the owner through the deed of assent or the Defendant is the owner through deed of conveyance. Whether the deed of assent is valid.
11. The Defendant filed propositions of law quoting in particular Bullen and Leake of Pleadings 12th of Edition, which clearly states that the claimant has to show title which is **prima facie** title. Which the claimant did show in the form of deed of assent. However, the deed of assent is only as good as the title of the testator in the probate that preceded the deed of assent. The root of title even though it might not have come through various deeds of conveyance, it did come through occupation of the original title holder. The claimant did show the proper title in paragraph 4 of the amended statement of case.
12. It was not denied by the defendant that the snackette was build by the Claimant. When he rented it to the tenant he would still retain the possession and the possession would revert when the tenancy ends. Hence when the tenant , Mr. Kenneth Mohan vacated the premises the possession was reverted to the claimant. Hence at the present time the Claimant is in possession. At the trial , in the cross examination this was proven .
13. The fact that there is an agreement that the Claimant would be compensated was not proven by the Defendant, and the snackette was not built in the shoes of a constructor rather than as an owner to do further business.
14. Hence the claim should succeed and the Claimant should be given the possession and the rents should be accounted for.

**Dated this 13th of October,2015**

**Christopher Ross Gidla**

**Attorney at law for the Claimant**

**To the Registrar of the Supreme Court**

**And to:Mr.Anand Singh**

**Attorney at law for the Defendant**