

**IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**Probate Division
2018/PRO/cpr/00020**

IN THE MATTER of The Estate of George Basil Sweeting, D.O.D 3rd December, 1988
of New Providence, one of the Islands of the Commonwealth of The Bahamas.

**IN THE MATTER OF THE SUPREME COURT ACT CHAPTER 52 PART V
AND 13. PROBATE CAUSES AND MATTERS**

IN THE MATTER OF THE INHERITANCE ACT CH. 116 SECTION 10 (2)

**IN THE MATTER OF THE ROSALIE SWEETING 113 DOWER INTEREST
CLAIM**

B E T W E E N:

ROSALIE SWEETING

Plaintiff

AND

TERRANCE UKIM SWEETING

Defendant

Before: The Hon. Madam Justice J. Denise Lewis-Johnson MBE

Appearances: Paul Jones with Floyd Moxey of Counsel for the Plaintiff

Sonia Timothy-Knowles of Counsel for the Defendant

Hearing Dates: 18th March 2025; 28th April, 2025, 7th May 2025, 9th May 2025

Probate – Inheritance Act – Right of Dower – Primogeniture – Property Law

JUDGMENT

BACKGROUND

1. By Writ of Summons filed 7th February, 2018 the Plaintiff commenced this action claiming a dower interest in property of her late husband.
2. That on 26th April 1967, George Basil Sweeting married Rosalie Sweeting (“the Plaintiff”) and they had seven (7) children. The oldest male child was Terrance Ukim Sweeting Sr., the Defendant herein.
3. George Basil Sweeting died intestate on the 3rd December 1988.
4. Letters of Administration were granted on the 7th September 2015 to Terrance Sweeting Sr. in respect of the Estate of George Basil Sweeting.
5. The relevant asset of the estate was Lot Number 298 of Stapledon Gardens, having on it a 5-unit apartment complex. On 17th September 2015, a Deed of Assent was executed conveying the said lot to Terrance Sweeting Sr.
6. That Terrance Ukim Sweeting Sr. died intestate on 8th May 2019 and on the 26th February 2020 Letters of Administration were granted to Terrance Sweeting Jr. and he was substituted as the Defendant in this matter.
7. That a Deed of Assent was executed on 11th May 2020 transferring the said lot to Terrance Sweeting Jr.

ISSUES

8. Whether the Plaintiff has been compensated for her dower interest or sums remain outstanding to her by the Defendant. If so how much?

THE LAW

9. *“Dower at common law is the right of a wife on surviving her husband to an estate for her life, in one third part of the freehold estates of inheritance of which her husband was solely seized at any time during the marriage to which her issue by him might possibly have been the heir-at-law. It is not necessary, as in the case of Courtesy, that issue should be actually born in order to entitle the wife to dower; it is sufficient that issue capable of inheriting might have been born of her”* per Halsbury’s laws of England 1912 Volume 24.
10. Primogeniture is *“...the superior or exclusive right possessed by the eldest son, and particularly, his right to succeed to the estate of his ancestor, in right of his seniority by birth, to the exclusion of younger sons”* per Black’s Law Dictionary, Abridged Fifth Edition.
11. Section 10 of the **Inheritance Act 2002** provides as follows:
 - “(1) Nothing in this Part affects the rights of any person to take beneficially, by purchase, as either general or special.
 - (2) Nothing in this part shall affect existing rights of dower.

DECISION

12. The parties accept that the Plaintiff is entitled to a dower interest in the estate of her deceased husband. Dower being a wife’s one third life interest in real property held by her husband as stated above. It is further agreed that the Defendant was entitled to the fee simple interest in the property by the virtue of the rule of primogeniture; that is the oldest male legitimate son will inherit all real property on the death of his father who died intestate.
13. The **Inheritance Act, 2002** abolished dower for persons dying after 31st January 2002, it also abolished primogeniture. However, through a savings clause in Section 10, all wives who had dower up to 31st January 2002 retained that right. The Plaintiff was/is one such

wife who has the right to dower. This principle was affirmed in Kerry and another v Limited 2008/CLE/gen/00183 by Adderley J. The Defendant inherited the property as his father died intestate prior to the 2002 enactment of the Inheritance Act.

14. It is further agreed that the only property in dispute is Lot Number 298, Stapledon Gardens, New Providence, The Bahamas. Two appraisals were submitted. The latest appraisal dated 6th March 2024 has the property valued at \$473,000.00; a previous appraisal dated 23rd June 2016 had the value at \$320,000.00, an increase in value of \$153,000.00. No other evidence was provided to the Court on the value of the property, details of rental income, cost of maintenance and repairs.
15. The Plaintiff claims \$157,666.66 as her dower interest and, if not paid this sum, she wishes the property conveyed to her. The Court rejects the evidence of Judymae Brown as it appears self-serving.
16. By the Plaintiff's Statement of Claim paragraph 6 she states that she managed and maintained "the entire building up to 2012/2013..." The Plaintiff authorized her daughter Hailey Sweeting and son George Sweeting to use part of the ground floor while she rented the one bedroom apartment to "maintain herself." This contradicts her statement in her Affidavit of the 20th January 2025 at paragraph 14 where she states "Terrance ran just about everyone I rented to, causing me on too many occasions to return the people's money. When I go to the police for help, he would pull out the Letters of Administration and later the Deed of Assent."
17. The Letters of Administration were granted on the 7th September 2015 and the Deed of Assent on the 12th September 2015. Thus, Terrance Sweeting could only interrupt tenants from 2015. The Plaintiff would have been in possession from 1988 when the deceased died to the time when the Defendant obtained the Letters of Administration. She acknowledged she "managed and maintained" the property up to 2012/2013. She would have collected all rents during that 25-year period.

18. The Defendant relies on the Appraisal Report dated 23rd June 2016 at page 9 where it states, “All units comprising the apartment complex are said to be occupied...it is our considered opinion that each of the one bedroom units can attract a monthly rental of \$500 and the two bedroom unit can attract a monthly rental of \$700 and the preschool can attract a monthly rental of \$700....Potential gross annual rent \$28,800.” The Defendant further submits that for the period 1988 to 2014 “the potential gross annual rent was \$748,800.00 (28,800 x 26 years).” The appraisal does not speak to potential cost of maintenance, insurance, taxes and the like, for the apartment complex, this is a necessary consideration in determining net profit. The court also notes that there may have been periods when the units were not rented.
19. While the Defendant’s submissions do not provide definitively what income was received, it speaks to the potential income that the Plaintiff could have received. The Plaintiff having acknowledged being in possession of the property for at least 25 years has provided no proper accounting of funds received and debts paid during this period. The Court is therefore challenged in accurately determining what sums were received by the Plaintiff and can only rely on the evidence provided.
20. The Plaintiff took possession of the property again in 2019 when her son died. She stated in her Affidavit at paragraph 17 “I have only really profited from the building since 9th October 2022 when I rented to Perez Bowe the small efficiency that I separated from Unit #3, the one bedroom apartment for \$600 per month which includes light and water”. During this period the Plaintiff had sole control and occupation of the property to the exclusion of the Defendant.
21. It is clear from the Plaintiff’s own pleadings and Affidavits that she was in possession of the property for at least 30 years. From 1988 to 2013 and then from 2019 to 2025. The Plaintiff has not provided a proper accounting, which is her obligation to the beneficiary. The Defendant requested an accounting by the Plaintiff and what was produced was solely inadequate.

22. The Court accepts the appraised value of the property at \$473,000.00 and thus the Plaintiff's dower interest is \$157,650.90.
23. While it is possible as asserted by the Plaintiff that the units were not always rented, she failed to provide evidence of the periods when they were rented and when they were vacant. The Plaintiff equally allowed others, for periods, to occupy units rent free. The Court can only decide on what is before it and therefore I find that the Plaintiff received gross income of \$28,800.00 for the first 25 years being from 1988 to 2013. That sum being \$720,000.00.
24. The Court accepts the Defendant's submission that "if the Plaintiff chose not to collect rent the Defendant should not be made to pay for her failure to do so." The Defendant was not a party to her decisions while she had exclusive control and should not suffer loss from the Plaintiff's decisions.
25. The Plaintiff submitted receipts for repairs done to the premises in the amount of \$24,000.00. It was also noted in the Appraisal that repairs were done to the roof and that renovations to the upper floor was being done (2024). The Plaintiff would be entitled to be reimbursed for these expenses.
26. However, the Plaintiff's dower continues for the duration of her life unless terminated on death, renunciation or remarriage. Thus for the period the plaintiff was in possession of the property she was entitled to one third of the net income and the Defendant was entitled to two thirds of the net income. The Plaintiff therefore has a continuing life interest until it is terminated. The Defendant seeks to terminate that interest and thus has to pay her one third interest. The parties can set off their payment obligations to each other.
27. Due to the lack of evidence provided on income and expense the parties will have to provide additional evidence so an accurate determination can be made as to sums owed by the Plaintiff to the Defendant and by the Defendant to the Plaintiff for the period he was in exclusive control. The parties are to engage a professional accountant to determine the net income.

CONCLUSION

28. Having considered the evidence, relevant legislation and the authorities, the Court finds as follows:

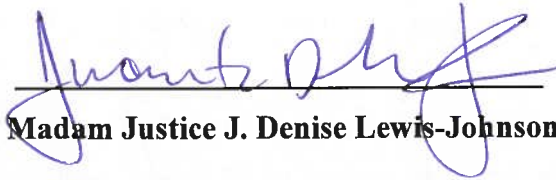
1. No injunction is granted as the Plaintiff was/has been in sole possession and control of the property being Lot Number 298 of Stapledon Gardens, New Providence, The Bahamas. Further no evidence was led that the Defendant was seeking to dispose of the property.
2. The Plaintiff is entitled to a one third dower interest in the said property.
3. The Court declares that the value of the property is \$473,000.00 and the Plaintiff's one third interest is \$157,666.66.
4. The Plaintiff is entitled to reimbursement of the funeral expenses of the deceased in the amount of \$3,800.00 from the estate of George Basil Sweeting.
5. The cost of the appraisals is to be shared equally between the parties.
6. The Plaintiff is entitled to reimbursement for renovations to the property upon the production of receipts evidencing the amount paid.
7. The Defendant is entitled to two thirds of the net income received by the Plaintiff during the period she had exclusive control of the property being from 1988 to 2014 and 2019 to 2025.
8. The Plaintiff is entitled to one third of the net income received by the Defendant for the period he had control of the property being 2015 to 2018.
9. The Plaintiff and the Defendant are to engage an accountant to produce individual reports of income, expenses and net income from the said property for the periods they had possession. This evidence is to be produced to the court for an assessment of amounts owing to each party.

10. The Defendant is the fee simple owner of the said property and is entitled to vacant possession of same after payment of one third interest to the Plaintiff once determined above.

11. No order as to damages and interest.

12. The Plaintiff is to pay two thirds of the Defendant's cost to be taxed if not agreed.

Dated the 30th day of January, A.D., 2026



The Hon. Madam Justice J. Denise Lewis-Johnson MBE