

IN THE SENIOR COURTS OF BELIZE

IN THE HIGH COURT OF BELIZE A.D. 2021

CLAIM No. CV468 of 2021 (No. 2)

BETWEEN:

RAQUEL CAMPBELL

Claimant

and

SABRINA MILLER

Defendant

Appearances:

Mr. Mark E. Williams for the Claimant

Ms. Payal Ghanwani for the Defendant

2024: May 21 & June 07;
July 15;
July 17.

JUDGMENT

Trial – Joint Venture – Breach of Agreement – Terms of Oral Agreement – Refund of Investment – Evidence – Documentary Evidence – Receipt – No Notice to Prove – CPR 28.18 – Deemed to Admit Authenticity of Receipt.

[1] **ALEXANDER, J.:** This matter involves a claim for the refund of BZ\$26,000, which the claimant states was her investment in a joint venture for an animal rescue and shelter named Corozal Animal Rescue Experience (“CARE”). By the time this matter came up for trial, all other reliefs sought in the claim form were abandoned.

[2] At the centre of the dispute at trial, therefore, was a receipt issued for the sum of BZ\$26,000 by Mr. John Wiebe, a Mennonite, for the construction of the animal shelter

and a small building (“the Mennonite shelter”). The receipt was dated 25th November 2020 and inscribed with the words “final payment for animal shelter and small building” (“the receipt”). The author of the receipt, Mr. John Wiebe, was not called to give evidence.

[3] As a precursor to this central question, about the receipt and what it proves, was the alleged oral contract itself. At trial, parties held opposing positions on the alleged formation of the joint venture, its terms, if any, and whether the disputed sum of BZ\$26,000, which was paid towards the construction of the animal shelter, was indeed paid by the claimant on her own behalf. There is no dispute between the parties that the payment was made. There is no dispute that only one receipt was tendered into evidence, and it was for the sum of \$26,000. The defendant claims that the \$26,000 was the total for the Mennonite shelter, which she covered with her own funds. The claimant argues that it was the payment made for her half share of the investment in the joint venture.

[4] I dismiss this claim. The evidence did not favour the case advanced by the claimant.

[5] I am not satisfied on the evidence that the \$26,000 constituted a half of the total price charged for the Mennonite shelter or that this payment was made by the claimant as a partner or co-owner of CARE and from her own funds and/or that she was entitled to a refund.

[6] I will refer to the claimant as “Mrs. Campbell” and the defendant as “Ms. Miller”.

Background

[7] The disputed sum in the present proceedings is relatively small but has had a major impact on the parties, which saw the severing of a previously close friendship. The resolution of the dispute rested heavily and/or exclusively on the credibility of the parties as witnesses in their own cases. Both parties gave evidence themselves, without calling the evidence of other witnesses to corroborate their cases. They also relied on some

documentary evidence to speak on their behalf. At the core of the evidence was the receipt for \$26,000.

[8] The claim was filed on 15th July 2021 and has been slowly progressing through the court system. It has received the judicial oversight of two judges, including a judgment in default and a setting aside of this judgment. There was, therefore, no shortage of judicial oversight and resources expended on finding a resolution to the dispute. The parties were sent to mediation but did not arrive at a settlement. The trial took place on 17th April 2024 and final closing written submissions were received on 7th June 2024. Oral submissions were made on 15th July 2024.

[9] I will attempt only a short introduction of this claim, as its main issue is small and should have been resolved by alternative means on the available documentary evidence. That approach might have salvaged the relationship, minimised the use of court resources and time and advantaged the parties involved in this case. Despite this, I thank both counsel for their respectful approach in the conduct of the trial itself and the help that they have provided to me via submissions that focused the court on the relevant issues.

[10] Mrs. Campbell claims that she entered an oral agreement with Ms. Miller to startup a joint venture business, CARE, to provide shelter and care for stray or unwanted animals. She invested BZ\$26,000 towards the startup and operation of CARE. Her statement of claim was silent as to exactly how this \$26,000 was applied or utilized in the joint venture. The initial claim also alleged that Ms. Miller was in possession of certain items i.e. one doghouse, two metal dog cages and one gas container, belonging to Mrs. Campbell. Mrs. Campbell initially sought a declaration that Ms. Miller was in possession of these items, an order for delivery up of the items or their value, and damages for wrongful detention of these items. However, she abandoned these reliefs before trial.

[11] The surviving claim was for BZ\$26,000, representing Mrs. Campbell's alleged investment into the collaborative business venture, CARE, plus a request for interest and costs.

[12] In answer to the claim against her, Ms. Miller filed a defence on 30th March 2023. In it, she asserted that there was no contract, oral or otherwise, between Mrs. Campbell and herself to undertake the joint venture, CARE. Ms. Miller stated that it was solely her idea to establish CARE, which was a non-profit animal rescue shelter. She shared this idea with Mrs. Campbell who, on learning of it, volunteered to assist. Mrs. Campbell's offer was strictly limited to giving her time towards CARE, and not her own funds, as Mrs. Campbell was already involved in the Corozal Animal Program ("CAP").

[13] In further answer, Ms. Miller's case, as raised in her defence, was that she either pre-paid or reimbursed Mrs. Campbell for incurring any expenses, relating to CARE or the personal matters of Ms. Miller. As such, Ms. Miller denies owing any money to Mrs. Campbell.

Issues

[14] The issues, as the court finds them, are exactly as set out in the Joint Pre-Trial Memorandum as filed by counsel in this matter but slightly refined. These issues are:

1. Whether the parties did enter into an oral agreement to establish a joint business venture to provide an animal shelter?
2. Whether Mrs. Campbell, the claimant, invested BZ\$26,000 towards the startup and operation of this animal shelter?
3. Whether, if so found, the investment sum was wrongfully detained and is now owing to Mrs. Campbell with interest?

The Evidence

a. Mrs. Campbell's Case

[15] Mrs. Campbell gave evidence on behalf of herself. In short, Mrs. Campbell stated that she met Ms. Miller in December 2019, and they quickly became friends. They both shared a passion for animals and their care. As a result, Ms. Miller invited Mrs. Campbell to partner in a joint animal shelter business venture.

- [16] At some point, they both decided to register a non-profit organization. The parties visited an office in Corozal where they made the application and paid \$900 in fees. Ms. Miller paid \$500 and she, Mrs. Campbell, paid \$400. Thereafter, they received the business registration certificate in the names of both partners of "CARE-Corozal Animal Rescue Experience".
- [17] Due to the 2020 pandemic, Ms. Miller was in the USA and Mrs. Campbell dealt with the startup of the business in Belize by herself. This included liaising with the Mennonites for the costs and construction of the building. Initially, Ms. Miller provided building plans for the shelter, which the Mennonites estimated would cost BZ\$96,000 to construct. This sum was beyond the affordable budgets of the partners. The plans were redesigned by Mrs. Campbell and her husband and approved by Ms. Miller before being sent to the Mennonites for construction. The parties agreed to split the costs evenly between themselves.
- [18] Strangely and unfortunately, there was no pleading in the statement of claim identifying the total cost of the redesigned Mennonite shelter. There was also silence as to the overall cost of the construction in the evidence itself, save that it included a discount of BZ\$2,000. Mrs. Campbell neglected to provide an estimate or quotation for the building of the Mennonite shelter or to even notify the court in her pleadings about an overall cost that exceeded \$26,000. However, she averred in her witness statement that her investment of \$26,000 went towards the purchase of the Mennonite shelter, for housing the animals. It allegedly was her half share of the investment in the joint venture (discussed further below).
- [19] Mrs. Campbell further stated that she made the first payment of BZ\$14,000 to Mr. Jacob Wiebe who issued a receipt to her. She was then reimbursed this sum by Ms. Miller. Ms. Miller's money was also used to pay the second tranche of BZ\$14,000 to Mr. Jacob Wiebe. Mrs. Campbell stated that this left a balance of BZ\$26,000 for building of the shelter, which she alleged was paid by her, with her own money. Mr. Jacob Wiebe issued her a receipt for this payment.

[20] Sometime after Ms. Miller returned to Belize, the completed shelter, initially transported to Mrs. Campbell's house, was delivered to Ms. Miller's property on 25th November 2020. Subsequently, the relationship between the parties broke down and the shelter was opened without her involvement. Despite repeated requests for a refund of her investment, Ms. Miller has steadily refused to refund her the BZ\$26,000.

b. Ms. Miller's case

[21] Ms. Miller's case was that she was chasing a stray dog to capture and care for him when she met Mrs. Campbell who told her that she was working with a nonprofit organization, CAP, that neuters and immunizes stray animals in Corozal and provides them with overall healthier lives. CAP was operated by American and Canadian expats living in Corozal, who volunteered their time to reduce the homeless animal population in Corozal Town. The parties developed a close friendship, which involved the regular rescue of stray dogs.

[22] At some point in their relationship, Ms. Miller shared her intention to establish a nonprofit animal rescue shelter, like CAP, with Mrs. Campbell. The focus was to be on rescuing homeless dogs only and not all animals like CAP. Mrs. Campbell agreed to volunteer her time to the project, but not as a partner or financial contributor. It is Ms. Miller's case that Mrs. Campbell indicated that she could not be a part of any joint venture since she was working with CAP and did not want to upset the expats who regularly donated to her wellbeing.

[23] As a result, Ms. Miller set up CARE. She created a business plan, mission statement, and rules and regulations for membership. She paid Shaila & Chastelyn, Land Consultancy Realty BZ\$1,200 to incorporate CARE with her son, Hakeem Sabor Ford I and herself as the sole directors and members. Mrs. Campbell, whose role was voluntary, was at no point a member and her name did not appear on any documentation. The COVID-19 pandemic caused a delay in the registration of CARE, which only happened on 14th January 2021. Ms. Miller did not make any mention of an alleged first attempt at registration for \$900, which was split between the parties.

- [24] Ms. Miller stated, however, that while she was in the USA, Mrs. Campbell assisted her by handling Ms. Miller's personal and business matters such as relocating her house, paying maintenance workers and ordering the Mennonite shelter and kennels for CARE.
- [25] Ms. Miller sent the funds for any expenses incurred for personal matters or CARE to a Bank of America account of Mr. William Campbell (Mrs. Campbell's husband), which Mrs. Campbell had instructed her to do. She also made cash payments. The total sum of US\$17,192.50 was paid into the account of Mr. William Campbell including a cheque of US\$7,600 on 4th September 2020; a wire transfer of US\$9,092.50 on 22nd September 2020 and a direct deposit of US\$500 on 6th October 2020. These funds were to cover Ms. Miller's expenses as follows:
- i. The downpayment of BZ\$14,000 for the Mennonite shelter and kennel for CARE, which was paid on 7th September 2020.
 - ii. The balance of BZ\$12,000 (amounting to a total of BZ\$26,000) to be paid before the delivery of the house and kennel;
 - iii. Personal expenses including to a worker to get the yard ready for the house and kennel.
- [26] Ms. Miller returned to Belize around the 20th October 2020 and Mrs. Campbell informed her that there was an outstanding balance owed to her of BZ\$1000. Ms. Miller settled that sum in cash. At some point after Ms. Miller's return to Belize, the relationship between the parties ended. CARE was launched on 13th December 2020. Despite being invited to the opening, Mrs. Campbell did not attend.
- [27] The receipt in issue in these proceedings was dated 25th November 2020 and reflected a payment of \$26,000 made after Ms. Miller had returned to Belize. There is no evidence as to how or why this huge sum was paid on that date by Mrs. Campbell and not Ms. Miller or of the method of payment (whether cheque or cash). However, Ms. Miller's case is that she does not owe Mrs. Campbell any monies. She has given Mrs. Campbell monies for all expenses incurred on her behalf, whether personal or relating to CARE.
- [28] Mrs. Campbell's case rested on the receipt issued by Mr. Jacob Wiebe in the sum of BZ\$26,000.

Discussion

Issue No. 1: Whether the parties did enter into an oral agreement to establish a business venture to provide an animal shelter?

[29] In issue is an alleged oral agreement between the parties so the court is without the benefit of a written document to interpret documented terms. The existence of the agreement is, therefore, a live issue. In this scenario, the first question to be determined is if there was any intention of the parties to enter an agreement as “partners” in CARE. The case is purely a factual one so that intention must be gleaned through objective analysis of the facts. This would be done by looking at the parties’ conduct or any oral exchanges available.

[30] Ascertaining the intention of Mrs. Campbell and Ms. Miller was a challenge, as both parties gave and maintained differing versions of the facts. This meant that during cross-examination, I had to assess the parties’ respective narratives to determine the accuracy or reliability of these contrasting accounts.

[31] The first notable inconsistency in Mrs. Campbell’s evidence about the existence of an oral agreement is her evidence that she was invited by Ms. Miller to be a business partner in CARE. The inconsistency related to dates and startup payments made. Mrs. Campbell stated that parties attempted to register this nonprofit joint venture by visiting an office in Corozal sometime around 23rd October 2020.¹ They were charged \$900 to register CARE, with Mrs. Campbell allegedly paying \$400 and Ms. Miller paying \$500. However, during cross-examination, Mrs. Campbell, who did not properly recall the name of the company in Corozal, conceded that the payment of \$900 was made solely by Ms. Miller, using her own credit card. Mrs. Campbell conceded also that she had provided no documentary evidence of her alleged \$400 contribution and that she had made no claim for recovery of this sum.

¹ Paragraph 6 of the Witness Statement of Raquel Campbell.

[32] Another glaring inconsistency was Mrs. Campbell's evidence that the parties received a certificate from Belmopan that "the business was registered in both our names operating as 'CARE': Corozal Animal Rescue Experience. The Defendant kept most of the paperwork relating to this process." She also stated that each party had received a copy of the certificate and that hers was attached to her witness statement. Mrs. Campbell could not produce the certificate allegedly attached to her witness statement. In re-examination, she stated that they had applied but never got a certificate in both parties' names.

[33] In contrast is Ms. Miller's evidence that maintained that there was no oral agreement between the parties and that CARE was her own initiative. She paid \$1,200 to incorporate CARE, listing her son Hakeem Sabor Ford I and herself as sole directors and members. Ms. Miller supported her testimony with exhibits including the certificate of incorporation, the list of directors, the memorandum and articles, and a detailed extract about CARE issued by the Belize Company and Corporate Affairs Registry. The evidence provided confirms that Mrs. Campbell was never registered as a co-owner or member of CARE.

[34] Mr. Williams submitted that the registration of CARE on 14th January 2021 occurred after the parties had parted ways and that Mrs. Campbell never claimed any involvement in the company at that stage. He submitted that Mrs. Campbell's position was that both parties were involved in discussions with the consultancy company with a view to registering and formalizing their relationship as a nonprofit entity. This was not the evidence of Mrs. Campbell as entered before me. Mrs. Campbell was clear in her evidence that she had made a payment of \$400 for the application for registration and that the names of both parties were inserted on the certificate of registration, with each party getting a copy of the certificate. She did not resile from this position during cross-examination though she seemed genuinely confused when she saw the certificate without her name on it.

[35] I find it convenient to quote in full Mrs. Campbell's evidence on the registration at paragraphs 6 and 7 of her witness statement, which is now reframed by her counsel:

6. We next decided to register a non-profit organization and went to an office in Corozal where **we made the necessary application**. They charged us \$900. **I paid \$400 and she paid \$500**. This was on or about the 23rd October 2020.

7. **We then got a certificate from Belmopan and the business was registered in both our names**, operating as "CARE, Corozal Animal Rescue Experience". The Defendant had kept most of the paperwork relating to this process. I only have copies of correspondence from the Central Bank of Belize. [My Emphasis].

[36] The glaring discrepancy between Mrs. Campbell's evidence and the submissions of her counsel, Mr. Williams, was concerning. Contrary to Mr. Williams' submissions, Mrs. Campbell gave no evidence that both parties were involved in discussions with the consultancy company, with a view to registering and formalizing their relationship as a nonprofit entity. Her evidence was pellucid that she had contributed \$400 and was in receipt of a certificate of registration with her name on it. She cannot resile from that position through the submissions of her counsel. In any event, there was no document produced to show that Mrs. Campbell was a co-owner of CARE and/or that it was registered in both parties' names, as claimed by her. There was no proof that Mrs. Campbell paid or contributed \$400 to register the business as claimed by her. In fact, she did not seek as part of her relief to recover this alleged payment of \$400. Moreover, during cross-examination, she conceded that it was Ms. Miller who had paid to register the business. I, therefore, rejected the submissions of Mr. Williams that Mrs. Campbell's evidence during cross-examination "on the contribution was almost impeccable". It was far from impeccable.

[37] I find Mrs. Campbell's evidence on the above facts to be demonstrably unreliable and inconsistent. Her shifting responses during cross-examination and re-examination did not inspire confidence in her testimony. Conversely, Ms. Miller's evidence, as supported by corroborating documents, was more credible.

[38] On the evidence before me, I find that there was no intention demonstrated by the parties to create a joint venture. The evidence showed that there was a friendship between the parties and that pursuant to this, Mrs. Campbell assisted Ms. Miller, who was out of the jurisdiction, with personal and business matters without incurring any financial expenses. She was either prepaid or reimbursed for sums spent.

[39] In my judgment, the evidence does not support a finding that an oral agreement existed between the parties to establish CARE, as partners in the joint enterprise.

Issue no. 2: Whether Mrs. Campbell, the claimant, invested BZ\$26,000 towards the startup and operation of this animal shelter?

[40] Having found above that there was no oral agreement between the parties, I now turn to consider if Mrs. Campbell invested the sum of BZ\$26,000 into CARE. Upfront, I find that on a balance of probabilities that Mrs. Campbell did not make any financial investment into CARE in this or any other sum.

The Receipt

[41] The receipt for BZ\$26,000 takes the centre stage of the dispute. It is marked “final payment” and is signed by Mr. Jacob Wiebe. The receipt was disclosed in the list of documents and Ms. Miller did not file any notice to prove this document.

[42] In his submissions, Mr. Williams focused primarily on the receipt and the non-challenge to its authenticity. The foundation for this focus was the evidence of Mrs. Campbell who stated in her witness statement that she and Ms. Miller had agreed to share the cost of constructing the Mennonite shelter for CARE equally. She sues to recover her own BZ\$26,000 investment, which was a half share of that cost. She, however, has provided no other receipts into evidence, but claims that Ms. Miller kept all the documents. The court was assumedly to infer from Mrs. Campbell’s evidence that Ms. Miller had the other receipts. I did not, as it was the responsibility of Mrs. Campbell to prove her case.

[43] The maker of the receipt was not called to testify. Mr. Williams submitted that because this document was disclosed and no notice to prove was served on Mrs. Campbell, there was no challenge to its integrity and Ms. Miller is deemed to have admitted its authenticity. Mr Williams relies on the Civil Procedure Rules 2005 (“CPR”) Part 28.18.

[44] CPR 28.18 provides that:

(1) **A party shall be deemed to admit the authenticity of any document disclosed to him under this Part unless that party serves notice that the document must be proved at trial.**

(2) The notice to prove a document must be served not less than 42 days before the trial. [My Emphasis].

[45] It is accepted that there was no notice to prove served on Mrs. Campbell. From a clear reading of the rules, the receipt's authenticity is deemed as admitted by Ms. Miller. In fact, there is no issue raised before me about the invalidity of the receipt or that it was a fabrication or that it was untruthful. In oral submissions, Ms. Ghanwani advanced only that the receipt was neither admitted nor denied. I do not accept this argument as taking the matter any further. The Rules are clear that a party is taken to admit the authenticity of a disclosed document unless they serve a notice to prove it within the specified time limit. Therefore, I agree with Mr. Williams' assertion that the receipt, not being challenged by Ms. Miller in her defence or witness statement, it meant that its authenticity is admitted.

[46] Does the lone receipt in evidence for the Mennonite shelter support Mrs. Campbell's case? Ms. Campbell's case is that the receipt for \$26,000 shows her investment into CARE, representing her half share investment into the partnership. Ms. Miller's case is that the receipt depicts the total cost of the Mennonite shelter, which was \$26,000 and which was paid by her in full. It is the **only** quantum that was put forward as the cost of the Mennonite shelter.

[47] At this stage, it is important to look at how the defence was conducted. There was no notice to prove filed at the proper time to determine the authenticity of the receipt and/or to call the evidence of Ms. Jacob Wiebe who could have clarified the issue for the parties and the court. At trial, there was no issue taken with the integrity of the receipt but at the stage of witness statement, Ms. Ghanwani did object to its inclusion. According to Ms. Ghanwani, the receipt is a hearsay document and Mr. Jacob Wiebe ought to have been called to prove it. This was not done and it being the only evidence of payment tendered, the court was constrained by what it conveyed. Further, Ms. Miller and her

counsel took the receipt as evidencing Ms. Miller's payment for the Mennonite shelter. In fact, Ms. Ghanwani submitted that there was no pleading that the Mennonite shelter was for a sum exceeding \$26,000 or for any case that had to be answered for the sum of \$58,000. Ms. Ghanwani asserted simply that the overall cost of the Mennonite shelter was \$26,000. It was only during cross-examination that Mrs. Campbell sought to change this understanding by claiming that the real cost was \$58,000. This was not in her pleaded case or in her witness statement. Further, Mrs. Campbell admitted during cross-examination that Ms. Miller had given her the first instalment in cash and the second BZ\$14,000 was paid through her husband's account with Bank of America. Factoring in the \$2,000 discount, Ms. Miller had paid the \$26,000 in full which was reflected as "the final payment" for the Mennonite shelter.

[48] In a bid to impugn the evidence of Mrs. Campbell, Ms. Ghanwani stated that although Mrs. Campbell claimed to have attached copies of the quotation provided by the Mennonite and other documents to substantiate her claim, these documents were not attached to her witness statement. Ms. Ghanwani impliedly suggested that Mrs. Campbell, who had admitted that she was a housewife since 2009 and had no source of income other than the occasional BZ\$100 contribution or stipend from CAP (for her gas) did not have that kind of funds to invest in a joint venture. In fact, Mrs. Campbell provided no evidence to substantiate her claim that she had paid BZ\$26,000 towards the Mennonite shelter from her own funds, as there was no source of these funds, so her claim must be rejected.

[49] I had some concerns with the veracity of the evidence of Mrs. Campbell. Her evidence kept shifting and she kept reinventing the story. By way of examples, she claimed to have made payments for registration then changed her evidence when questioned, and she claimed to have provided documents that were not attached to her witness statement. Mrs. Campbell asserted, during cross-examination and for the first time, that the total overall cost for the Mennonite shelter was BZ\$58,000 and that a discount of BZ\$2,000 was given. This was not part of her pleaded case. I do not understand why Mrs. Campbell would have failed to make clear to Ms. Miller, by providing a quotation

or other document, what was the overall cost of constructing the Mennonite shelter. If she did inform Ms. Miller, where is the evidence or where is the pleading?

[50] In yet another puzzling piece of evidence, Mrs. Campbell stated that her half of the investment was BZ\$26,000. A simple calculation would show that each party would be responsible for BZ\$28,000, and not BZ\$26,000. Yet, she failed to clarify the discrepancy, even if she considered it minor. Mrs. Campbell also stated that the Mennonite shelter was paid for in three instalments of BZ\$14,000, BZ\$14,000 and BZ\$26,000, with a receipt provided for each payment. She only provided one receipt of BZ\$26,000 in evidence.

[51] Ms. Miller on the other hand gave evidence that was consistent. In advancing her case that the Mennonite shelter's overall cost was BZ\$26,000, Ms. Miller provided evidence of having made two payments of BZ\$14,000 each towards constructing the shelter, totalling BZ\$28,000 (a BZ\$2,000 discount was applied). The monies were given to Mrs. Campbell. The receipt for \$26,000 was the accurate full payment, as made by Ms. Miller, for the Mennonite shelter. The payment by Ms. Miller is corroborated by Mrs. Campbell, although the two receipts of BZ\$14,000 were not in evidence before me.

[52] Given the stalemate, Mr. Williams sought to impugn the evidence of Ms. Miller by referencing information in an attachment to an affidavit of Ms. Miller in a previous application to set aside a default judgment. This attachment was not disclosed by either party nor was an opportunity given to Ms. Miller to refresh her memory. Ms. Ghanwani pushed back by arguing that Mrs. Campbell cannot rely on privileged communications between Ms. Miller and her previous counsel, which remain undisclosed in the present proceedings, to support her case. I agree. No further comment is necessary on this issue.

[53] It remains still to be determined what is the import of the receipt whose authenticity is admitted, given the absence of the notice to prove. In the face of the non-challenge to authenticity by the absence of the notice to prove, is it still open to the court to find that the document was not what it purported to be? A dispute as to the authenticity of a document, in this case a receipt, is not the same as a denial of what the receipt shows.

[54] As a general principle, receipts are prima facie evidence of payment. However, a receipt can be contradicted. This rule was stated thus in Halsbury Laws of England, Volume 17(1) (Reissue)/7 under the subheading “Receipts and bills of lading” at paragraph 893:

Receipts are in general only prima facie evidence of payment, and can be contradicted by proof that the money was not in fact paid, that the transaction was fraudulent, **that the terms of the receipt do not accurately state the transaction, that the money was in fact paid by another person**, or that the receipt was given ‘without prejudice’. [My Emphasis].

[55] Ms. Ghanwani relies on the above learning to argue that the receipt shows the money that was paid by Ms. Miller. Ms. Miller’s case did not deny that the BZ\$26,000 was paid. Instead, she asserts that the sum was paid, using her funds, so that the receipt marked “final payment” corroborated her version that Mr. Jacob Wiebe was paid in full for the Mennonite shelter. It supported her case that Ms. Miller either prepaid or reimbursed Mrs. Campbell for the full amount. She pointed as the source of the \$26,000, the several deposits made to the Bank of America account of Mrs. Campbell’s husband, which Mrs. Campbell admitted to receiving, and other payment methods. There were documents attached to substantiate her evidence that while the receipt for BZ\$26,000 was issued in Mrs. Campbell’s name, it was paid with funds advanced by Ms. Miller.

[56] On the totality of the evidence, I am not satisfied that Mrs. Campbell has shown that the cost of the Mennonite shelter exceeded BZ\$26,000 or that she had used her personal funds as a startup investment in CARE. Why would Mrs. Campbell not have pleaded the \$58,000 given that she had approached the court to recover her half share of her investment in CARE? Ms. Miller is entitled to know the case that she has to meet upfront and not find out at the trial. It is Ms. Miller who has provided evidence that she sent to Mrs. Campbell BZ\$34,385 (or US\$17,196.50) between September and October 2020 to cover the expenses for CARE and personal expenses. The evidence before me contradicted the claim of Mrs. Campbell that the receipt of \$26,000 was her money and/or that the overall cost of the Mennonite shelter exceeded BZ\$26,000.

[57] I find that Mrs. Campbell has not substantiated her claim to have paid from her personal funds any investment sum of BZ\$26,000.

Issue No.3: Whether, if so found, the investment sum was wrongfully detained and is now owing to Mrs. Campbell with interest?

[58] Having found against Mrs. Campbell on the first two issues, the issue of detention of the sum of \$26,000 does not arise for determination.

Costs

[59] As a rule, the party who loses pays the costs of the other side. Mrs. Campbell is ordered to pay Ms. Miller's costs on the prescribed basis.

Disposition

[60] It is hereby ordered as follows:

1. The claimant's case is dismissed.
2. The defendant is awarded costs on the prescribed basis.

Martha Alexander
High Court Judge