

IN THE COURT OF SESSION

SUMMONS

IN THE CAUSE

MRS AMELIA WILSON, 10, Chesterfield Road, Braintree, Essex

PURSUER

Against

MR BRUCE RAMSAY, Betterfield, Auchmithie, Angus

DEFENDER

Elizabeth II by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith

To: **Mr Bruce Ramsay**

By this summons, the pursuer craves the Lords of our Council and Session to pronounce a decree against you in terms of the conclusions appended to this summons. If you have any good reason why such decree should not be pronounced, you must enter appearance at the Office of Court, Court of Session, 2 Parliament Square, Edinburgh EH1 1RQ, within three days after the calling of this summons in court. The summons shall not call earlier than 21 days after the date of service on you of this summons. Be warned that, if appearance is not entered on your behalf, the pursuer may obtain decree against you in your absence.

Given under our signet at Edinburgh on 28 February 2011.

Christopher Robin

Haires and Bears LLP

88 Melville Street, Edinburgh EH3 7NS

CONCLUSIONS

1. For payment by the Defender to the Pursuer of the sum of TWO HUNDRED AND FIFTY THOUSAND POUNDS (£250,000) Sterling together with interest thereon at the rate of eight per cent per annum from the date of decree until payment.

2. For interdict of the defender from entering into or concluding missives to sell or from selling, disposing or otherwise disposing of Ardnara House except with the consent of the pursuer, and for interdict *ad interim*.”

3. For the expenses of the action.

CONDESCENDENCE

1. The Pursuer is Mrs Amelia Wilson. She resides at the address in the instance. The defender is Mr Bruce Ramsay. He resides at the address in the instance. The defender is domiciled in Scotland. This court accordingly has jurisdiction. There is no agreement between the parties prorogating jurisdiction over the subject matter of this action to any other court.
2. The Pursuer and Defender are brother and sister and are the only son and daughter of Keith Simpson and Mary Campbell or Simpson. Their father was a fisherman who fished out of Fraserburgh. Their mother's family came from Auchmithie and were engaged in a fish smoking business there. The family owned a house ('Creillmore') and several acres of land outside the village of Auchmithie . The Pursuer and Defender spent school holidays there. The Pursuer particularly enjoyed doing so. At that time, Creillmore was owned by their uncle, who also lived in London. He encouraged the Pursuer to visit and, once she had her own family, to spend family holidays there. She was close to her uncle and regularly did so.
3. One summer in the early 1980's, the Pursuer's aunt suggested that she might think of building a house for herself and her family to use, on land at Creillmore. Her uncle thought that it might be better if she renovated a run down cottage on the Creillmore land but was not averse to her building her own house there. He was keen that she have somewhere for herself and her family at Creillmore. The Defender was party to some of the discussions that the Pursuer had with her aunt

and uncle about these matters. No steps were taken towards the building of such a house at that time and no details were discussed.

4. In 1985, the Pursuer's aunt died. In 1986, her uncle died. Both the Pursuer and the Defender inherited £30,000 from their uncle's estate. The Defender also inherited the house and lands of Creillmore .
5. In or about February 1993, when the Pursuer was on a visit to Creillmore, she attended a talk given in the Auchmithie village hall about grants that were available for certain development purposes. One of those purposes was tourism. Grant monies might be available to persons building properties which would, to a material extent, be used for tourism purposes. It occurred to the Pursuer that if she built a house at Creillmore, she could qualify for such a grant if she were to let it out to tourists for part of the year. She spoke to the Defender about it and he provided her with a plan showing possible sites for a house to be built at Creillmore. He did not voice any objection to her proposals. He was aware that she had meetings there with a planning officer , a kit house supplier, and a local builder. She spoke to him about the site for the house.
6. The Pursuer applied for a grant with the Defender's consent and was successful in obtaining one. She obtained planning permission to build a four bedroomed, two storey house at Creillmore. She undertook all the necessary work involved in the construction of the house. In about July 1993, she agreed to provide the Defender with keys to the new house once it was built so that he could use it if she was not there and it was not let. She provided all the money involved in building the house insofar as it was not covered by the grant, which was £30,000. The total

cost of construction was about £75,000 and when it was complete, the Pursuer spent about £12,000 on fixtures and fittings. The house, which she named 'Ardnara', was completed by August 1994.

7. The Pursuer began letting Ardnara in August 1994. It was let out for about 12 weeks each summer and for 2 weeks in October. She allowed the Defender to have the use of it when she was not there and when it was not let. Relationships between the Pursuer and Defender began to deteriorate in about 2004. The Defender did not like some of the people that the Pursuer and her family brought with them to stay at Ardnara. They were rowdy and they often parked so as to obstruct the driveway to Creillmore House. The summer lets also led to disturbances. Further, the Defender had found that he was unable to qualify for a development grant for work he wanted to carry out on Creillmore House because of the £30,000 grant that had been awarded in response to the Pursuer's application. He was resentful about that. The Pursuer and Defender discussed the possibility of the Pursuer paying a sum to buy Ardnara but their discussions were inconclusive and their relationship continued to deteriorate. Eventually, in about April 2006, the Defender recovered the keys of Ardnara from the Pursuer and has excluded her from the property since then, using it himself from time to time and allowing members of his family to holiday there.
8. The Pursuer built Ardnara in contemplation that she and her family members would be able to have the uninterrupted use and possession of that house without limit of time. The Pursuer believed that her development of Ardnara for this purpose was welcomed by her wider family and that the Defender was content

with the situation, given her longstanding connections with Creillmore. The Pursuer spent time and incurred outlays in obtaining the plans for Ardnara , applying for planning permission and for a building warrant, for the construction of the house, the creation of a septic tank and associated piping, central heating, fixtures and fittings, tree planting and gardening. Since then, she has incurred costs for insurance, marketing, Tourist Board fees , council tax , telephone , electricity , maintenance and water purification. The Pursuer would not have undertaken these activities nor spent her own money on the project if she had had any reason to believe that she and her family would not have the free and uninterrupted use of Ardnara without limit of time. Ardnara has a current open market value of about £350,000. The difference in value between the house site as an undeveloped plot and its market value when the Defender took over occupation and possession of Ardnara in 2004 is £280,000. The Defender has been enriched by the enhancement of the value of the site through the development on it of Ardnara. That enrichment became unjust when he excluded the Pursuer from Ardnara in April 2006. It is unjust that the Defender should benefit from that enrichment at the expense of the Pursuer. The Pursuer seeks payment from the Defender of the value of that enrichment less deduction of the amount of the grant received by the Pursuer. She would, however, accept an one- half *pro indiviso* interest in Ardnara as adequate compensation without any further cash payment being made. She is also prepared to buy Ardnara from the Defender. She has made the Defender aware of these proposals but has, to date, received no response from him.

9. The Defender has indicated that he intends to sell Ardnara. It would, in all the circumstances, be inequitable for him to do so other than with the consent of the Pursuer.

PLEAS IN LAW FOR THE PURSUER

1. The Defender having been unjustly enriched by the actions of, and at the expense of, the Pursuer, the Defender should make recompense to the Pursuer in respect thereof.
2. It being inequitable that the Defender sell Ardnara without the consent of the Pursuer, interdict and interdict *ad interim* should be pronounced as secondly concluded for.
3. The Pursuer having built a house on the Defender's land in contemplation that she and her family members would be able to have uninterrupted use and possession of that house without limit of time, the Defender should make payment as first concluded for.

IN RESPECT WHEREOF

