

Caroline Friend

*Appellant*

v.

Florence Mae Tulloch

*Respondent*

FROM

THE COURT OF APPEAL OF JAMAICA

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE  
27TH JANUARY 1994  
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*Present at the hearing:-*

LORD TEMPLEMAN  
LORD BRIDGE OF HARWICH  
LORD GOFF OF CHIEVELEY  
LORD LLOYD OF BERWICK  
LORD NOLAN

*[Delivered by Lord Templeman.]*

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Early in the year 1988, the respondent vendor Mrs. Tulloch left Jamaica for Miami telling Mr. Frankson, whom she had known for more than 30 years, that she was very ill and that her nephew had come to Jamaica from Miami to take her back to the United States of America for medical attention and to reside in Miami. At all material times thereafter the vendor was resident in Miami and she was not resident in Jamaica although she owned a house in Jamaica. That house was let to the appellant purchaser, Miss Friend, and was occupied by Miss Friend's mother. At all material times Miss Friend was resident in New York but may have been also resident in Jamaica.

By a letter dated 11th August 1988 the vendor's attorney-at-law, Mr. W.B. Frankson, a Queen's Counsel practising as a solicitor and barrister in Jamaica, wrote to the vendor asking for her firm instructions with regard to the sale of her house in Jamaica. He reported that Miss Friend was willing to buy and to pay in United States currency. In reply the vendor said that she was ready to sell the property for US\$20,000 and that she wanted American dollars for her hospital expenses: "so do your best for me". The trial judge, Theobalds J. and the Court of Appeal, (Carey President (Ag.), Wright J.A. and Bingham J.A. (Ag.)) found that the letter from the

specific performance. Their Lordships will humbly advise Her Majesty that the appeal ought to be allowed. In view of the fact that the Minister's consent was necessary until the repeal of the Exchange Control Act, the order for costs made by the Court of Appeal will stand but the vendor must pay Miss Friend the costs of the appeal to the Board.