

Lavery v Saunders 24/4/02, Chisholm J, HC Christchurch M354/00

Successful application for a declaration that the defendant ("LD") held a property on constructive trust for the plaintiffs - the parties were refugees from Cambodia and all members of the same family - a house was purchased in the name of LD but there was dispute as to actual contributions - LD claimed that he was the owner and required the family to leave - the plaintiffs registered a caveat and brought these proceedings claiming that LD held the house on constructive trust.

Held, there was nothing in LD's conduct at the time of purchase to dispel the suggestion of joint ownership - significant work was carried out which was paid for in large part by the plaintiffs - the fact that LD allowed the family to remain in the home for 8 years after he left supports the plaintiffs' claim - although a claim of up to 60 percent would have been reasonable the plaintiffs sought only a 50 percent share in the property which seems proper and accords with the parties' reasonable expectations - declaration granted.