

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION

SAINT LUCIA

CLAIM NO. SLUHCV2025/0305 formerly SLUHCV2015/0349

BETWEEN:

[1] CLARINGTON REGIS represented by PHILLIPA REGIS
[2] MARCELLA EDWARD

Claimants

-and-

[1] FREDERICK HENRY represented by HUGHLYN HENRY
[2] MEOLA NEWTON

Defendants

Before the Honourable Mr. Justice Alvin Shiva Pariagsingh

Appearances:

Mr. Alvin St. Clair for the Claimants
Mr. Horace Fraser for the First Defendant
Mr. George Charlemange for the Second Defendant.

2026: February 17, 24 - Trial
April 28 – Decision.

Land law – Registered land – Indefeasibility of title – L RTP – Prescription/adverse possession – Failure to assert claim at adjudication – Trespass – Unlawful occupation – Mesne profits (nominal damages) – Boundaries and survey evidence – Declaration of ownership and possession.

JUDGMENT

INTRODUCTION:

[1] **PARIAGSINGH, J:** - The Claimants, the estate of Clarington Regis, represented by his daughter Gloria Phillipa Regis and Marcella Edward, brought this action seeking compensation or possession in relation to two parcels of land located in Dennerly, identified as Block and Parcel 1639B 53 and Block and Parcel 1640B 311.

THE CLAIM:

- [2] The Claimants contend that they are the lawful owners of these lands and that the Defendants, Frederick Henry and Meola Newton, are occupying portions of the property without permission. Although the Claimants do not insist on immediate eviction, they argue that it is unreasonable for the Defendants to continue occupying the land without paying either the purchase price or rent. Accordingly, they seek an order requiring payment for the land, alternatively rent for its use, or, failing that, an order for possession.
- [3] According to the Claimants, their ownership is well established. They state that title to the lands passed through their family by inheritance and wills, and that their rights were confirmed during the Land Registration and Titling Project (LRTP), when they were awarded ownership.
- [4] They trace the land to earlier family ownership, explaining that it formed part of an estate passed down through generations, eventually vesting in the first claimant and his relatives. Following the presumed death of a co-owner, James Edward Noel, the First Claimant was appointed administrator of his estate, and the relevant share was vested in him.
- [5] The Claimants maintain that they and their predecessors cultivated and used the land for decades, growing bananas, coconuts and other crops, and that the First Claimant earned his livelihood from farming it. They acknowledge that the Defendants occupy parts of the land: the First Defendant rents out structures on one parcel, while the Second Defendant resides on another portion where her dwelling house stands.
- [6] The Claimants assert that the Defendants entered and remained without permission. Letters were sent offering to sell the respective portions and requesting payment for use and occupation, but no response was received. They therefore contend that they continue to suffer loss as their property is being used without compensation.

DEFENCE OF THE FIRST DEFENDANT:

- [7] The First Defendant disputes the claim. While he admits occupation, he asserts that it is lawful and that he is entitled to remain. He claims an equitable and overriding interest

arising from his status as sole beneficiary and executor of the estate of Agnes Faucher, who died in 2011.

[8] He contends that the deceased had been in open, peaceful and uninterrupted possession of the property for many decades, allegedly as long as eighty years, exercising full dominion as owner. On this basis, he argues that title was acquired by prescription before the Claimants' registered title, and that he succeeded to that interest.

[9] He further states that the deceased initiated proceedings in 2009 seeking prescriptive title, but the matter was withdrawn because a survey had not been completed. After her death, he continued possession and attempted to complete a survey in order to pursue a fresh application.

[10] He maintains that illness, financial difficulties and the death of a surveyor delayed the process. He also denies receiving multiple letters, stating that he received only one in March 2015 and responded by indicating his intention to pursue prescriptive title. Additionally, he contends that the claim is prescribed by thirty years under the **Civil Code of Saint Lucia**¹ and that the court lacks jurisdiction.

REPLY TO THE FIRST DEFENDANT'S DEFENCE:

[11] In reply, the Claimants reject the assertion of prescriptive title and overriding interest. They argue that the LRTP conclusively confirmed their ownership and that neither the Defendant nor his predecessors asserted any claim during that process. They deny that the Defendant or the deceased exercised exclusive possession and state that they themselves continued to cultivate and use substantial portions of the land. They maintain that the Defendant's occupation is unlawful and cannot mature into ownership.

ISSUES FOR DETERMINATION BETWEEN THE CLAIMANTS AND THE FIRST DEFENDANT:

1. Whether the Claimants hold valid legal title to Block and Parcel 1639B 53 and Block and Parcel 1640B 311, and the effect of the LRTP on their ownership.

¹ Chapter 4:01 of the Laws of Saint Lucia.

2. Whether the First Defendant (through Agnes Faucher) acquired ownership by prescription or otherwise obtained a proprietary interest capable of defeating the Claimants' registered title.
3. Whether the First Defendant's alleged possession was legally sufficient, continuous, exclusive, open and adverse for the required period and whether the Claimants' use interrupted that possession.
4. Whether the Defendants are in unlawful occupation and therefore liable to pay compensation or rent.
5. What relief is appropriate, including payment, rent, possession, or other remedies.

THE SECOND DEFENDANT'S CASE:

[12] It is convenient to address the Second Defendant's case at the outset. The Second Defendant filed a Defence and Counterclaim on 15 July 2015. However, there was non-compliance with the order of Smith J dated 28 September 2017 directing the filing of witness statements by 30 December 2017. No application for relief from sanctions or extension of time was made.

[13] The Second Defendant did not seek to cross-examine witnesses at trial, nor was any evidence adduced in support of her Defence. The Second Defendant did however file written submissions which I have considered to the extent that it relates to the law only. Her Defence and Counterclaim is therefore unsupported and must be dismissed.

THE EVIDENCE:

Gloria Phillipa Regis – on behalf of the First Claimant:

[14] Ms Gloria Phillipa Regis is the daughter of the late Carrington Regis, the First Claimant. She states that her father represented the family's interest in the disputed lands and that she now continues the claim on behalf of his estate. She explains that during the LRTP, her family was awarded title to the lands, which were duly registered.

[15] She traces ownership through earlier generations, stating that the lands formed part of family property inherited from predecessors, including Elicie Noel and Maria Richard, passing through wills, probate and succession. She further explains that her father was appointed administrator of the estate of James Edward Noel and, by vesting deed in 2012, the relevant properties became vested in him.

[16] Ms Regis states that her family has been in continuous occupation for many years. She describes how her father farmed the land throughout his life, cultivating bananas and other crops, sometimes with assistance. She also refers to agricultural records supporting this use.

[17] She denies that the First Defendant, or any predecessor, was ever in possession of the property and notes that no claim was made during the LRTP. She further observes that the First Defendant previously applied for prescriptive title but withdrew those applications.

[18] She also refers to a prior boundary dispute determined in her family's favour. Her evidence is that the land has remained under her family's control and that the First Defendant's claim is unfounded.

[19] Ms Regis was not cross-examined at the trial.

Mr Rufinus Baptiste – Land Surveyor:

[20] Mr Rufinus Baptiste, a licensed land surveyor, gave evidence in support of the Claimants. He states that he prepared a survey report relating to the disputed lands and was instructed to examine lands registered as Block 1639B Parcel 53 and related parcels.

[21] Mr Baptiste describes the location and registration of the land, stating that it lies within the Dennery registration quarter and is recorded on the Land Registry map. He refers to a cadastral survey carried out in 2013, which was formally registered, and relies on this survey as accurately reflecting the parcel. He also refers to earlier adjudication records

from the 1980s, showing the parcels and their approximate sizes at the time of first registration.

[22] Importantly, Mr Baptiste addresses boundary issues and challenges conclusions made by another surveyor. He explains that boundary lines shown on Land Registry maps are approximate unless supported by proper survey plans. He criticises an opposing surveyor's reliance on registry map measurements alone, stating that such an approach is misleading without field survey data. This opposing surveyor was not called as a witness in this case. In his view, conclusions regarding "excess land" cannot be supported without proper cadastral evidence.

[23] He also addresses allegations of mapping errors, rejecting the suggestion that the Survey and Mapping Department improperly extended the parcel's boundaries. He explains that the Department has no authority to alter registered boundaries in that manner and clarifies how registry maps are derived from adjudication records and demarcation plans.

[24] Mr Baptiste concludes that, based on the records and his survey work, the land has remained as originally adjudicated and registered, and that there is no proper basis for the opposing claims regarding boundary extensions or excess land. He further notes that the lands have long been occupied by members of the Regis and Edward families.

[25] Mr Baptiste was not cross examined at the trial.

Mr Hughlyn Henry:

[26] Mr Hughlyn Henry gave evidence on behalf of the defendants. He states that he is the son of the late Frederick Henry, executor of the estate of Agnes Faucher, and that probate was granted to his father in 2011.

[27] Mr Henry traces the history of the land claimed by the Defendants. He explains that it originally formed part of the "Begora et Salton" estate and that Agnes Faucher derived her interest through inheritance from her grandmother, Anastazie Gabriel.

[28] He states that Agnes Faucher and her brother became entitled to the land and that, following transactions in 1960, full ownership became vested in Agnes Faucher and her husband, Bennie Faucher. This land was later registered during the LRTP as Block 1639B Parcel 5, measuring approximately 7.0 hectares.

[29] He distinguishes this parcel from the land claimed by the Claimants, which he identifies as Block 1639B Parcel 53. He traces that parcel to the estate of Elicie Noel and outlines how it passed through her descendants, including Marie Richard and James Edward Noel, and later to Magdalene Pamphile and Carrington Regis.

[30] A central aspect of Mr Henry's evidence concerns the size and boundaries of Parcel 53. He asserts that it has always been limited to approximately 6½ acres (about 2.63 hectares) and that its northern boundary has always been the Grand Riviere de Mabouya. He maintains that it has never extended to the Castries–Dennerly highway and that the Claimants' predecessors reflected this smaller size during the LRTP.

[31] Mr Henry also addresses possession, stating that Agnes Faucher and her husband were the only persons who occupied their land (Parcel 5), distinguishing it from Parcel 53. He emphasises that the Claimants' land never extended beyond the river to the highway.

[32] Finally, he challenges the Claimants' documentation, asserting that vesting deeds executed in 2006 and 2012 improperly combined lands, enlarging Parcel 53 from approximately 2.63 hectares to about 9.43 hectares and extending it to the highway. He maintains that this purported expansion is incorrect and that the land north of Parcel 53 belongs to his father's estate, supported by survey evidence and land registry records.

[33] In summary, Mr Henry's evidence is that Parcel 5 is distinct from and larger than Parcel 53, that Parcel 53 has always been limited in extent, and that any suggestion that it extends to the highway results from an improper enlargement unsupported by historical records.

[34] Mr Henry was not cross-examined at the trial.

ANALYSIS:

Whether the claimants hold valid legal title and the effect of the LRTP:

[35] The central issue is whether the Claimants hold valid legal title to Block and Parcel 1639B 53 and Block and Parcel 1640B 311, and the effect of the LRTP on competing claims.

[36] The LRTP, implemented under the **Land Adjudication Act**² (LAA) and the Land Registration Act³ (LRA), introduced a Torrens system of title by registration. Its purpose is to produce a definitive and authoritative register of land ownership, such that title is determined by the register rather than historical deeds. This principle was affirmed in **St Torrence Matty et al v Alicia Francois**,⁴ where the Court emphasised the need for certainty in land ownership.

[37] Under the LAA, all persons claiming an interest in land within an adjudication area must make their claim within the prescribed time. Once the adjudication record is finalised and no appeal is brought, it becomes conclusive and forms the basis for first registration.

[38] Section 23 of the LRA provides that registration with absolute title vests ownership in the registered proprietor, free from all other interests except those noted or falling within limited statutory exceptions. This reflects the principle of indefeasibility of title.

[39] The Privy Council in **Chitolie v National Housing Corporation**⁵ and the Caribbean Court of Justice in **Phillip V Phillip**⁶ made clear that any person claiming an interest must assert it during the LRTP. Failure to do so generally results in the extinguishment of that interest once another person is registered as proprietor.

[40] In the present case, it is not disputed that the Claimants, or their predecessors, were recorded as owners during the LRTP. The evidence confirms that their title derives from

² Chapter 5.06 of the Laws of Saint Lucia.

³ Chapter 5.01 of the Laws of Saint Lucia.

⁴ SLUHCVP2011/0025 (unreported) delivered on 21 August 2015.

⁵ [2023] UKPC 43.

⁶ [2024] CCJ 21 (AJ) LC.

first registration, and there is no evidence that the Defendants or their predecessors made any competing claim during that process.

[41] The Defendants' challenge to the extent of the parcel and reliance on prior possession face a fundamental difficulty: such claims ought to have been raised during the LRTP. No such claim or appeal was pursued. Accordingly, the adjudication record became final, and title vested in the Claimants.

[42] There is no evidence of fraud or fundamental error sufficient to justify rectification under section 98 of the LRA. Nor have the defendants established the requirements for prescription following first registration.

[43] The Court therefore finds that the Claimants hold valid legal title and that the LRTP conclusively determined ownership in their favour.

Whether the First Defendant acquired ownership by prescription:

[44] The First Defendant's reliance on prescription must be considered in light of the LRTP framework. While the **Civil Code** recognises acquisitive prescription, any such claim had to be asserted during the adjudication process.

[45] The evidence does not establish that Agnes Faucher or her predecessors made any claim to Parcel 53 during the LRTP. Even if prescriptive rights existed beforehand, they would have been extinguished upon first registration in the Claimants' favour.

[46] Furthermore, the evidence relates primarily to Parcel 5, not Parcel 53. There is insufficient proof of possession of the disputed parcel capable of grounding a prescriptive claim.

[47] There is also no evidence of uninterrupted possession for the required period following first registration. Accordingly, the claim of prescription fails.

Whether the First Defendant's possession was sufficient in law:

[48] To establish prescription, possession must be continuous, exclusive, open and adverse. The evidence does not satisfy these requirements.

[49] The Claimants' evidence demonstrates longstanding use and occupation of the land, including cultivation and farming. This is inconsistent with exclusive possession by the Defendants.

[50] Possession must relate to the specific parcel in dispute. The Defendants' evidence largely concerns a different parcel. Even if some occupation is shown, it is neither exclusive nor uninterrupted.

[51] The Claimants' use of the land is sufficient to interrupt any alleged possession. There is also no clear evidence of adverse possession or intention to exclude the true owners.

[52] Accordingly, the First Defendant's possession is insufficient in law to establish prescription.

Whether the First Defendants are in unlawful occupation and liable to pay compensation or rent:

[53] This issue must be considered in light of the Court's findings on title. Having found that the Claimants hold valid legal title to Block and Parcel 1639B 53 and Block and Parcel 1640B 311 by virtue of first registration under the LRTP, it follows that they are entitled to possession of those lands. Section 23 of the LRA makes clear that registration with absolute title vests ownership in the proprietor together with all rights and privileges appurtenant thereto.

[54] In those circumstances, any person who remains on the land without the consent or authority of the registered proprietor is, *prima facie*, a trespasser. The law recognises that trespass to land is actionable *per se*, and the registered owner is entitled to recover possession and damages for unlawful use and occupation.

[55] The First Defendants assert that their occupation derives from the estate of Agnes Faucher and long-standing possession. It is also suggested that the Second Defendant has occupied part of the land since approximately 1989, based on a purchase by her late husband.

[56] However, those assertions cannot stand in light of the Court's findings. The First Defendant have failed to establish any legal or equitable interest capable of defeating the Claimants' registered title. Their reliance on prescription and prior possession fails both because such claims were not asserted during the LRTP and because the evidence does not establish the necessary elements of exclusive and continuous possession.

[57] Accordingly, their occupation, even if longstanding, is not supported by any legally recognisable right. The mere fact of occupation does not confer entitlement. To permit such occupation to prevail would undermine the certainty of title established by the Torrens system.

[58] The First Defendants also rely on alleged boundary discrepancies and errors in surveys. However, as already determined, such matters do not displace the Claimants' title in the absence of fraud or a valid basis for rectification under section 98 of the LRA. No such basis has been established.

[59] In the circumstances, the Defendants' continued occupation is unlawful. The Claimants are therefore entitled to possession and to damages for trespass.

[60] In relation to compensation, the law provides for the recovery of mesne profits, representing the value of the use and occupation of the land during the period of trespass. This is generally assessed by reference to a reasonable rental value.

[61] While the First Defendants may have acted under a mistaken belief as to his entitlement, this does not relieve them of liability. Such belief may be relevant to the assessment of damages but does not negate trespass.

[62] The evidence indicates that the Second Defendant has resided on part of the land for a considerable period and has erected structures thereon. While this may raise practical considerations regarding enforcement, it does not create a legal right to remain. The Claimants are entitled to compensation for the period of unlawful occupation. There is no evidence of the value of the land occupied or its rental value so as to determine damages or mesne profits.

What relief is appropriate:

[63] The final issue concerns the appropriate relief. A registered proprietor is entitled not only to ownership but also to possession. I am minded to make a declaration to this effect.

[64] The Claimants are also entitled to damages for trespass in the form of mesne profits, reflecting the reasonable value of the Defendants' use and occupation of the land. As there is limited evidence of rental value, it is appropriate to award nominal damages in the sum of \$1,000.00 against each Defendant.

[65] The Court has considered whether any alternative relief is warranted, including rectification of the register. However, no basis has been established for such relief under section 98 of the LRA.

[66] It is acknowledged that the Second Defendant has occupied part of the land for a significant period and may have constructed a dwelling. While this is of practical and personal importance, it does not confer a legal right to remain. Any accommodation as to the timing or manner of vacating the land is a matter for the parties and does not affect the Claimants' entitlement to possession.

[67] Finally, the Claimants, by their claim, do not seek an order for possession. They seek an order that the Defendants purchase or rent the land they occupy from them. Although I am not minded to make the order sought and foist a sale or tenancy on the Defendants, I will give the parties the opportunity to discuss the issues of survey, sale, or tenancy of the land they occupy.

[68] If these discussions do not bear fruit, the Claimants are at liberty to apply to the Court for consequential directions based on a declaration of ownership and entitlement to possession, including an order for possession.

[69] I strongly urge the parties to make a concerted effort to arrive at an amicable resolution, as the title issue has now spanned generations and occupied more than a decade of court time. It is time for the parties to put this dispute behind them and find a workable solution moving forward.

ORDERS:

[70] For these reasons I make the following orders:

1. Judgment is entered for the Claimants against the Defendants.
2. The Second Defendant's counterclaim is dismissed.
3. It is declared that the Claimants are the owners and entitled to possession of Block and Parcel 1639B 53 and Block and Parcel 1640B 311.
4. The Claimants are awarded nominal damages for trespass against the Defendants in the sum of \$1,000.00 each.
5. Liberty to the parties to apply to the Court for further orders or directions to enforce the declaration granted in (3) above, if the parties arrive at no settlement on the issues of survey, sale or tenancy.
6. The First Defendant shall pay the Claimants' costs of this claim on the prescribed scale in the sum of \$5,000.00 being one half of the prescribed costs payable on an unquantified claim.
7. The Second Defendant shall pay the Claimants' costs of this claim on the prescribed scale in the sum of \$3,500.00, being one half of 70% of the prescribed costs recoverable, the Second Defendant having not filed any evidence.

Alvin Shiva Pariagsingh
High Court Judge

By the Court,

Deputy Registrar of the High Court