

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO: GDAHCV 2023/0096

BETWEEN:

IN THE MATTER OF THE POSSESSORY TITLES ACT 22 OF 2016

AND

**IN THE MATTER OF AN APPLICATION FOR A DECLARATION OF POSSESSORY
TITLE OF LAND**

NOELINA CAMPBELL

Applicant

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Ms. Gennilyn Ettienne for the Applicant

2025: October 13th, 29th.

RULING

- [1] **ACTIE, J.:** On 24th February 2023, the applicant as Personal Representative of the Estate of Olive Campbell filed an application for a Declaration of Possessory Title on behalf of the said estate. The applicant in the affidavit in support states that Olive Campbell, deceased, lived on the said property with her children and grandchildren including the applicant and her siblings Kevin Campbell and Atley Campbell. The application was supported by three affidavits giving evidence of the applicant's and the estate's possession of the parcel of land, respectively.

- [2] There was no evidence of service on adjoining owners in accordance with **Section 8** of the **Possessory Titles Act** (hereafter “the Act”), and incomplete compliance with **Section 7** of the **Act**, which requires notice and advertisement of the application.
- [3] Since the initial application, the applicant has filed amended notices of application on 16th December 2024, 25th April 2025 and 11th July 2025 respectively, all seeking to amend the application to claim adverse possession of the said property in her own right.
- [4] **Section 3(3)** of the **Act** provides that:
- “...where a person claims to be in adverse possession of a piece of land and dies in factual possession of the land, an application for declaration of possessory title may be made by a person claiming in the capacity of executor, administrator, trustee... for the estate or for the beneficiaries of the deceased person, as the case may be, **but not in breach of the duties as executor, administrator, trustee or fiduciary**”. (emphasis mine)
- [5] It is the law that the property which devolves on the personal representative is held by him in right of the deceased and not in his own right. The entire ownership of the property comprised in the estate of a deceased person, both legal and equitable, which remains unadministered is in the deceased’s legal personal representative for the purposes of administration¹.
- [6] Further, Michel JA (as he then was) in the Court of Appeal decision in the case **Eliza Thompson v Catherine Thompson**² states:
- “A grant of letters of administration only empowers the administrator to administer the estate of the deceased in accordance with the laws of intestacy of the country. In Grenada, the laws of intestacy are contained in the Intestate Estates Act and the Real Estate Devolution Act. These Acts provide for the manner in which the estate of a person dying intestate devolves to his heirs and codify the common law principle that a personal representative of the estate of a deceased acts as a trustee for the persons beneficially entitled by law to any property of the deceased”

¹ Halsbury’s Laws of England 5th edn. Vol. 103 (2021) para 925

² GDAHCVAP2021/0002

- [7] **Section 19** of the **Act** provides that the Civil Procedure Rules, except where expressly excluded or where in conflict, shall apply to all proceedings under the Act. Accordingly, the applicant seeking to amend the application filed in 2023 is required to comply with Part 20 of the CPR and the attendant practice direction.
- [8] The court notes that the applicant filed a notice of amendment on 16th December 2024, the same date as the rescheduled hearing from 9th December 2024. The applicant subsequently filed two notices of amendment on 25th April 2025 and 11th July 2025 respectively seeking to amend the application to claim adverse possession in her own right.
- [9] **Rule 20.1** of the **CPR (Revised Edition) 2023** provides that a statement of case may be amended once, without the court's permission, at any time prior to the date fixed by the court for the first case management conference. Any further amendment after the date fixed for the first case management requires the leave of the court.
- [10] **Rule 20.1(3)** provides that when considering an application to amend a statement of case, the court must have regard to factors including (a) how promptly the applicant has applied to the court after becoming aware that the change was one which he or she wished to make; (b) the prejudice to the applicant if the application were refused; and (c) the prejudice to the other parties if the change were permitted.
- [11] As indicated earlier, it is the applicant's evidence that her grandmother was in adverse possession of the said land and lived on the land with her grandchildren until her death. The application for possessory title on behalf of the estate was filed on 24th February 2023, with supporting affidavits for both the estate's and the applicant's possession. The applications now being made are in excess of a year of the filing of the claim which seek to change the capacity in which the claim was initially filed, and require notification on persons who may have a beneficial interest in the said estate.
- [12] Further, the court is of the view that the conflicting evidence of the applicant in support of the application does not satisfy the requirements of the Act. The **Possessory Titles Act** requires full and frank disclosure with the condign consequence of a fine,

imprisonment or both where fraudulent and/or misleading evidence is given in support of an application for a declaration of adverse possession³.

[13] The applicant is the administrator of her grandmother's estate. A personal representative of an estate acting as a trustee for the beneficiaries of the said estate is to avoid conflict between the vested fiduciary duty and the trustee's self-interest. The applicant cannot claim sole ownership of the beneficial estate without the concurrence of all the beneficiaries of full age and capacity. To allow the applicant to claim in her own right will be prejudicial to her siblings and other potential beneficiaries who are not parties to these proceedings. Applying the statute and above referenced authorities to the facts of this case, the applicant as personal representative and one of the beneficiaries of the deceased's estate cannot claim adverse possession against the same estate that she took an oath as a trustee to administer and vest in the beneficiaries of the estate.

[14] Furthermore, the application made on behalf of the applicant is not supported by proof of service and is therefore in non-compliance with the Act. Accordingly, the applications for the amendment of the application for possessory title in the applicant's own right, fail.

[15] In addition, the application made on behalf of the estate must also fail for want of compliance with the procedural and evidential requirements prescribed by the Possessory Titles Act. **Section 7** of the **Act** clearly outlines the mandatory steps to be taken upon filing such an application. It prescribes:

“Upon filing an application for declaration of possessory title, the applicant shall—

...

(b) publish a notice in accordance with Form 2 of Schedule I in two issues of at least two newspapers circulating in Grenada, the second issue of each newspaper being published not less than two months after the first issue; and
(c) between the dates of the first and last publications in the newspapers, post or cause to be posted a copy of that notice in a conspicuous place at the Registry and in a conspicuous place in the Magistrate's court in the district in which the piece or parcel of land is situated.”

³ Section 30 of the Act

[16] The affidavit of Trivona Bedassie purports to confirm compliance with **Section 7**, stating that the requisite notices were published in two issues of two local newspapers. However, only evidence of the publications in the New Today newspaper has been exhibited. No corroborative proof of publication in a second newspaper has been provided. Likewise, while the deponent asserts that notices were posted both at the Registry and at the relevant Magistrate's Court, the evidence before this Court establishes only one such posting. This incomplete evidence falls short of the statutory standard and undermines the applicant's assertion of proper notice.

[17] Moreover, **Section 8** of the **Act** states:

“(1) The applicant shall, not later than twenty-one days after filing the application for declaration of possessory title, cause a copy of the notice pursuant to section 7–

(a) to be served on all owners or occupiers of property adjoining the piece or parcel of land to which the application relates; or

(b) to be posted in a conspicuous place on the piece or parcel of land if the owner or occupier of land adjoining the piece or parcel of land to which the notice relates is unknown or cannot be found.

(2) An order containing a declaration of possessory title shall not be granted, unless–

(a) the provisions of section 7 and this section are complied with; and

(b) not less than six weeks have passed since the service or posting of the notice referred to in subsection (1) above.”

[18] The court notes the unsigned affidavit of Riasha Bethel, filed on 13th October 2025 which purports to attest that the statutory notice was posted on the subject property on 13th March 2024. The evidential value of this affidavit is severely compromised by the absence of a signature and certification of the exhibits, thereby rendering it inadmissible. The court cannot in the exercise of its judicial function, rely upon irregular documentation seeking to establish compliance with statutory requirements.

[19] Equally concerning is the absence of any explanation on the face of the unsigned affidavit for the failure to effect service upon the owner of the adjoining property, Mr. “Lenorard” Campbell. No evidence has been placed before the court for the failure to serve the adjoining owner personally or efforts made to serve in compliance with the

Act. This omission demonstrates disregard for the procedural safeguards intended to ensure that those whose property interests may be affected are given an opportunity to be heard.

- [20] Consequently, as outlined above, there has been material non-compliance with **Sections 7 and 8** of the **Act**. The absence of credible proof of publication in two newspapers, incomplete evidence of posting, reliance on an unsigned affidavit, and the proof of service on the adjoining owner together constitute substantial procedural deficiencies, rendering the application unsustainable in law for possessory title under the Act. . Accordingly, the Court finds that the application made on behalf of the estate must fail for non-compliance with the mandatory provisions of the **Act**.

ORDER

- [21] In summary, and for the foregoing reasons it is ordered that the purported amended applications and the application for possessory title stand dismissed.

Agnes Actie
High Court Judge

By the Court

Registrar