

EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES



IN THE HIGH COURT OF JUSTICE

CLAIM NO. SVGHCV2023/0186

IN THE MATTER OF AN APPLICATION BY ANDREW JOHN FOR DECLARATION OF
POSSESSORY TITLE TO LAND

BETWEEN:

ANDREW JOHN

Applicant

AND

CECELA JACK-TROTMAN

Respondent

Before: Her Ladyship the Hon. Justice Gertel Thom (Ag.)

High Court Judge

Appearances:

Mr. Jonathan Lewis of Counsel for the Applicant

Mr. Israel Bruce of Counsel for the Respondent

2025: May 20 (Trial Date)

June 23, July 9 and 16 (Submissions)

July 29 (Decision)

JUDGMENT

Introduction

- [1] **THOM J (Ag):** On the 6th day of November 2023, Mr. Andrew John (Mr. John) made an application pursuant to the Possessory Titles Act Cap. 328 (the Act) for a Declaration of

Possessory Title of a parcel of land measuring 69,194 sq. ft situate at Calder Ridge in the Parish of Saint George on the island of St. Vincent.

- [2] Mr. John alleged that he was in exclusive and undisturbed possession of the land for a period of thirteen (13) years from 2009. Prior to his occupation of the land, the land was in the possession of his aunt Ms. Agnes Bailey and her husband James Bailey (Mr. Bailey).
- [3] The application is opposed by Mrs. Cecela Jack-Trotman (Mrs. Jack-Trotman) who filed an entry of appearance pursuant to section 7(2) of the Act and subsequently a written claim pursuant to Section 9(1) of the Act. The claim was filed out of time but by Order dated 9th December 2024 the claim was deemed properly filed. In her claim Mrs. Jack-Trotman alleged that between 2008 -2009 she worked for Mr. Bailey who was in occupation of the land. When Mr. Bailey got ill in 2009 and left for the United Kingdom (UK) along with his wife, she took over occupation of the land and continues to occupy the land. She exercised acts of ownership on the land by cleaning, clearing, planting and reaping crops.

Issue

- [4] The issue for the Court to determine is whether Mr. John has satisfied the requirements of the Possessory Titles Act for a grant of Declaration of Possessory Title.
- [5] Sections 3 to 8 of the Act outline the procedure to obtain a Possessory Title to land. There is no dispute that Mr. John complied with the procedure outlined in the Act. The dispute is whether Mr. John was in adverse possession of the land for a continuous period of twelve (12) years or more. Section 2 of the Act defines adverse possession as follows:

“adverse possession means factual possession of an exclusive and undisturbed nature of a piece or parcel of land in Saint Vincent and the Grenadines for a continuous period of twelve years or more accompanied by the requisite intention to possess the said land as owner thereof.”

- [6] The applicable legal principles are well settled and are outlined by Slade J in the case of **Powell v Macfarlane** (1977) 38 P & CR 452 and approved by the House of Lords in **JA Pye (Oxford) Ltd & Ors v Graham and Another [2002] UKHL 30** as follows:

“(1) In the absence of evidence to the contrary, the owner of land with the paper title is deemed to be in possession of the land, as being the person with the

prima facie right to possession. The law will thus, without reluctance, ascribe possession either to the paper owner or to persons who can establish a title as claiming through the paper owner.

- (2) If the law is to attribute possession of land to a person, who can establish no paper title to possession, he must be shown to have both factual possession and the requisite intention to possess (*animus possidendi*).
- (3) Factual possession signifies an appropriate degree of physical control. It must be a single and conclusive possession, though there can be a single possession exercised by or on behalf of several persons jointly. Thus an owner of land and a person intruding on that land without his consent cannot both be in possession of the land at the same time. The question what acts constitute a sufficient degree of exclusive physical control must depend on the circumstances in particular the nature of the land and the manner in which land of that nature is commonly used or enjoyed. In the case of open land, absolute physical control is normally impracticable, if only because it is generally impossible to secure every part of a boundary so as to prevent intrusion. "What is a sufficient degree of sole possession and user must be measured according to an objective standard, related no doubt to the nature and situation of the land involved but not subject to variation according to the resources or status of the claimants." **WestBank Estates Ltd v Arthur**, per Lord Wilberforce. It is clearly settled that acts of possession done on parts of land to which a Possessory Title is sought may be evidence of possession of the whole. Whether or not acts of possession done on parts of an area establish title to the whole area must, however be a matter of degree. It is impossible to generalize with any precision as to what acts will or will not suffice to evidence factual possession.
- (4) The *animus possidendi*, which is also necessary to constitute possession was defined by Lindley M.R. in **Littledale v Liverpool College** (a case involving an alleged adverse possession) as "the intention of excluding the owner as well as other people." This concept is to some extent an artificial one because in the ordinary case the squatter on property such as agricultural land will realise that, at least until he acquires a statutory title by long possession and thus can

invoke the processes of the law to exclude the owner with the paper title, he will not for practical purposes be in a position to exclude him. What is really meant, in my judgment, is that, the animus possidendi involves the intention, in one's own name and on one's own behalf to exclude the world at large, including the owner with the paper title if he be not himself the possessor, so far as is reasonably practicable and so far as the processes of the law will allow".

- [7] For a Declaration of Possessory Title to be made in Mr. John's favour, there must be evidence of both his factual possession and an intention to possess the land for a continuous period of twelve years or more. The onus is on Mr. John to prove on a balance of probability that he was in factual possession of the land with the intention to possess the land as owner (Section 2 of the Act) for a continuous period of twelve (12) years or more.

The Evidence

- [8] Mr. John testified and called two witnesses, being Ms. Morgan and Mr. Cain. Mrs. Jack-Trotman testified and called one witness Mr. Doyle.

Andrew John

- [9] Mr. John in his affidavit in support of his application stated that he resides in Calder Ridge. He is a businessman. He has been in undisturbed occupation of the land since 2009. Prior to him occupying the land, the land was occupied by his aunt Agnes Bailey and her husband James Bailey. In 2009 his Aunt and her husband stopped cultivating the said land and he took over cultivation of the land. He gave some persons permission to work the land on his behalf. He sold the crops which included sweet potatoes, corn, peas, peanuts, eddoes and dasheen. There is a small board structure on the said land which he has maintained over the years and which he used for storage. Since 2009 he has been in exclusive, and undisturbed possession of the said land.
- [10] Under cross-examination Mr. John testified that he is a businessman. He operated a supermarket. He was also a part owner of a cargo ship. He became involved with the land from late 2009. He is familiar with Mr. Bailey. Mr. Bailey was married to his aunt. His aunt passed

away in 2017. She died overseas. In 2009 His aunt and her husband resided in Calder Ridge. They bought the property in 1994 but they did not have legal title to the property. Mr. Bailey did not have a deed for the land. Mr. Bailey was in possession of the property from 1994-2009. Mr. Bailey got ill and he handed over the property to him. On September 11, 2010, Mr. Bailey and his wife went to the United Kingdom.

- [11] Mrs. Jack-Trotman never cultivated the land in 2009. He has never seen her working on Mr. Bailey's land during the time Mr. Bailey occupied the land. Mr. Bailey had other workers. His aunt worked along with her husband on the land.
- [12] He acknowledged that he knows Mr. Ephraim Doyle who has lands adjoining the land. Mr. Doyle cultivated his lands.
- [13] In 2011 he gave Mrs. Jack-Trotman permission to work the land on his behalf. In 2011 Mrs. Jack-Trotman returned from Barbados. When Mr. Bailey left for the United Kingdom, Mrs. Jack-Trotman was not residing in Calder. She did not take possession of the land and started working it. It was Mrs. Jack-Trotman who approached him seeking permission to work the land. They agreed she would give him 30% of the produce. He received produce from Mrs. Jack-Trotman which he sold in the supermarket. Her husband joined her in farming the land. She later got a job on a Cruise ship.
- [14] Mr. John acknowledged that he knew Mrs. Jack-Trotman's mother. He met her working the land during the period he gave Mrs. Jack-Trotman permission to work the land. Mr. John agreed that he had no signed document outlining the arrangement he alleged he had with Mrs. Jack-Trotman.
- [15] Mr. John testified that he surveyed the land in 2021. In 2022 he gave notice to Mrs. Jack-Trotman's husband to vacate land. He also cut down some of the trees in 2022. Mr. Jack-Trotman was present when he did so.

Ms. Hurlean Morgan

- [16] Ms. Morgan testified that she is a nurse and she resides in Calder Ridge. She has known Mr. John from childhood a period of about 29 years. She is familiar with the land. She lives about five (5) minutes drive away from the lands. Her family has land bordering with the land. As a child she would walk through the land as a short cut to get to her family land.

- [17] Ms. Morgan further testified that since 2009 she has known Mr. John to be in possession of the land. He cultivated the land with crops such as sweet potatoes, corn, peas and other root crops. There is a shed on the land which Mr. John used for storage.
- [18] Under cross-examination Mrs. Morgan testified that she knew Mr. Bailey worked the land, but she did not know when he stopped working the land. She lives in close proximity to the land. She walked through the land about once per month on weekends. She did so to pick mangoes. She did not know who worked the land during the week as she did not walk through there during the week. She saw Mr. John on Saturdays picking things from the land. She also saw him weeding the land. While she knew there was a shed on the land, she never saw the shed open and could not say if anything was stored in the shed.
- [19] Ms. Morgan also testified that she knows Mrs. Jack-Trotman. She saw her working on the land. She did not see her on the land in 2009 but she has been working the land for about 9-10 years.

Mr. Mckenna Cain

- [20] Mr. Cain in his affidavit stated that he is 27 years old and he is a porter. He has known Mr. John for more than fifteen (15) years. He also knows the subject land. He grew up in the Calder Ridge Community. He now resides in neighbouring Belmont, and he could see the land from his home. Mr. John has been in possession of the land for more than thirteen (13) years. There is a small board house on the said land. Mr. John uses it for storage, and he has maintained it over the years. He has always known Mr. John to be the owner of the land.
- [21] Under cross-examination Mr. Cain testified that he worked for Mr. John at his supermarket a long time ago. He would go over to the land to pick mangoes to sell. He saw Mr. John on the land. Mr. John would cut grass, he raked the land and he picked produce from the land. He knew that Mr. John's family lived near the land. Mr. Cain could not recall seeing anyone else working the land. He would normally pass there around 5 a.m. to pick mangoes to sell. He is familiar with the shed on the land but he could not recall seeing the shed open. Mr. Cain also could not state who planted the crops on the land. He does not know Mrs. Jack-Trotman.

Ms. Cecela Jack-Trotman

- [22] Mrs. Jack-Trotman testified that she lives about five minutes away from the land. She knew Mr. James Bailey looked after the land from 2008-2009, but he did not have legal title to the land.
- [23] In 2008 she commenced working with Mr. Bailey on the land. She did cleaning, clearing, planting and reaping crops such as eddoes and sweet potatoes. In 2009 Mr. Bailey got ill, and he went to the United Kingdom where he remained until his death around 1st November 2010.
- [24] After Mr. Bailey left for the United Kingdom in 2009, she took possession of the subject land. She continued to clear, clean, plant and reap crops on the said land. She also planted vegetables such as okra, tomatoes, pepper, lettuce and beans. She usually sells the produce in Calder Ridge and in Kingstown. She would also share the fruits and vegetables with persons. Since she took possession of the land, her husband and mother assisted her in cultivating the land and reaping the crops.
- [25] Having taken over the land in 2009, her occupation of the land has not been interrupted by anyone. She exercised ownership over the land. Mrs. Jack-Trotman exhibited pictures of herself and her husband working on the land tending the crops.
- [26] Under cross-examination Mrs. Jack-Trotman testified that she grew up in Calder Ridge. She knew Mr. John. She worked for Mr. James Bailey on the land. She got to know Mr. Bailey in 2008-2009. Mr. Bailey was not the owner of the land, he was in occupation of the land. Mr. Bailey was married to Mr. John's great aunt. Mrs. Jack-Trotman further testified that she worked with Mr. Bailey on the land from around 2008. Mr. Bailey got ill in 2009 and he went away. She never had any conversation with Mr. John concerning the land. She gave produce that she reaped from the land to Mr. John. She also gave to other persons. Mr. John asked her for some produce and she gave him. She does not know if her husband gave produce from the land to Mr. John because she works on a cruise ship and she is back and forth. When she is working on the cruise ship, her mother and her husband would cultivate the land.
- [27] Mrs. Jack-Trotman further testified that she has eight children. She acknowledged that she lived sometime in Barbados and she gave birth to a child while residing in Barbados. She could not recall the year her child was born in Barbados. She stated the child was 16 years old. When it was put to her the child would have been born in 2009, Mrs. Jack-Trotman stated that maybe the age was incorrect. After the child was born, she returned to St. Vincent with the baby. She could not recall when she returned to St Vincent from Barbados, but she denied that it was in

2011. Mrs. Jack-Trotman also denied that Mr. John gave her permission to work the land. She reiterated that it was about on two occasions she gave produce from the land to Mr. John. She denied that she approached Mr. John to purchase the land. She acknowledged that in 2022, Mr. John told her husband to stop working the land. She was familiar with the land before she started to work for Mr. Bailey.

Mr. Ephraim Doyle

- [28] Mr. Doyle testified that he owns land that abounds the subject land. He knew Mr. Bailey was in occupation of the subject land before Mrs. Jack-Trotman. Mrs. Jack-Trotman worked with Mr. Bailey on the subject land until he left St. Vincent in 2009. When Mr. Bailey left in 2009, Mrs. Jack-Trotman took over possession of the subject land. Mrs. Jack-Trotman continues to occupy the land. She, her husband and her mother cultivate crops on the land. She sells some of the crops and at times gives away some. He has never seen Mr. John exercise any acts of ownership over the land.
- [29] Under cross-examination, Mr. Doyle testified that he is 77 yrs old. He left Calder Ridge in 1996, but he still has three parcels of land in Calder Ridge. He has been resident in the US since 2014. He spends six (6) months in each year in St. Vincent. In December 2023 when he visited St. Vincent the land was cultivated. He saw Mrs. Jack-Trotman's mother, and her children working on the land. He knows Mr. Andrew John. He was a sailor. He is married to Cassandra Morgan.
- [30] Mr. Doyle further testified that he is familiar with Mr. Bailey. He bought his land in 1979. Shortly after Mr. Bailey moved to reside at Calder Ridge and he bought the subject land. Mrs. Jack-Trotman was working with Mr. Bailey in the 80's. Mrs. Jack-Trotman has been cultivating the land for more than twelve (12) years. He sees Mrs. Jack-Trotman, her mother, husband and children cultivating the land. He is not aware Mr. John gave permission to Mrs. Jack Trotman to work the land. He has never seen Mr. John on the land.

Submissions

- [31] Learned Counsel Mr. Lewis urged the Court to find that the evidence of Mr. John and his witnesses were reliable unlike Mrs. Jack-Trotman and her witnesses whose evidence was not reliable.
- [32] Learned Counsel referred the Court to Mrs. Jack-Trotman's evidence that she took possession of the land since 2009 when Mr. Bailey took ill and subsequently migrated to the United Kingdom having worked with Mr. Bailey prior to taking over the land. This evidence Mr. Lewis contends was contradicted under cross-examination where she admitted that she was resident in Barbados for a period some time. Her evidence on when she returned from Barbados was inconsistent. Her evidence of the date of birth of her child in Barbados was inconsistent. Her testimony was the child was 16 years old, her testimony then charged to her not knowing when the child was born or the child's age.
- [33] Mr. Lewis also submitted that Mrs. Jack-Trotman's witness Mr. Doyle's evidence was also not reliable. Mr. Doyle does not reside in St. Vincent and the Grenadines. He visits once per year. While he has land which partly abounds the subject land he does not reside on that land. He resides at Belair. Further, he no longer works the land.
- [34] Mr. Lewis also submitted that neither Mrs. Jack-Trotman's mother nor her husband testified at the trial or provided affidavit evidence. Also Mr. John surveyed the land in 2021 and there was no objection by Mrs. Jack-Trotman.
- [35] Mrs. Jack-Trotman acknowledged that she had given produce from the land to Mr. John.
- [36] Mr. Lewis further submitted that while Mrs. Jack-Trotman was in possession of the land for several years, her evidence suggests she was simply working the land for financial benefits and not with an intention to own the land. She did not make an application for Declaration of Possessory Title although she claimed to be in adverse possession of the land since 2009.
- [37] Learned Counsel Mr. Bruce in his written submissions submitted that Mr. John has not met the requirements for the grant of Possessory Title to the subject land as his evidence did not show that he was in adverse possession of the subject land for 12 years.
- [38] Learned Counsel Mr. Bruce advanced several reasons why the court should find that the evidence of Mr. John and his witnesses was not reliable.

- [39] Mr. Bruce submitted that Mr. John in his affidavit evidence omitted to state that Mr. Bailey died overseas. Also, while Mr. John stated that he gave permission to Mrs. Jack-Trotman to cultivate the land, this was not mentioned in his affidavit, and he did not file a reply to the defence of Mrs. Jack-Trotman indicating that he had given her permission to work the land. Mr. John also made no mention in his affidavit that Mrs. Jack-Trotman was in occupation of the land from 2011 and the circumstances which led to her being on the land.
- [40] Mr. John also did not reply to Mrs. Jack-Trotman's claim that she shared produce from the land with persons. Further, Mr. John being the manager of a supermarket, managing the day-to-day affairs, he therefore had no time to work or occupy the land. Also, Mr. John did not state what crops he planted in his affidavit. Unlike Mr. John, Mrs. Jack-Trotman outlined to the Court that she worked the land with Mr. Bailey's permission up to 2010 when he died in the UK.
- [41] Learned Counsel Mr. Bruce also submitted that Ms. Morgan's evidence did not advance Mr. John's case. During the relevant period of occupation, she did not pass through the land. While she testified that there was a shed on the land she could not state whether anything was stored in the shed. She did not give any evidence of seeing Mr. John planting any crops on the land merely that she saw him on the land. Likewise, Mr. Cain's evidence also did not assist Mr. John's case. His statement was, he knows Mr. John and he knows Mr. John has been in possession of the land. Mr. Cain has never seen Mr. John cultivating the land. Mr. Cain could not tell if the shed was used as storage since he had never seen the inside of the shed. He never saw Mr. John cultivating the land. He never saw anyone planting crops.
- [42] Mrs. Jack-Trotman's evidence was clear; she had no arrangement with Mr. John to work the land. She acknowledged he received produce from the land, but that occurred if he passed by the land. She also gave produce from the land to other persons.
- [43] Mr. Bruce submitted that the evidence of Mrs. Jack-Trotman in relation to when she returned to St. Vincent from Barbados was not clear due to her computation skills which was not the best.
- [44] Mr. Bruce in his submission also alleged that Mr. John altered the picture exhibited by the claimant marked C.J.T "1" and which he exhibited as A.J "4".
- [45] Learned Counsel submitted that the evidence led by Mr. John has not met the requirements of the Act. He has not been in adverse possession of the land for a continuous period of 12 years. The evidence does not show that Mr. John was in adverse possession of the subject land as outlined in **Powell v McFarlane and Another** which decision was affirmed by the House of

Lords in **J.A Pye (Oxford) Ltd v Graham**. Mr. John's evidence of factual possession did not show that he was in factual possession of the land. He had a full-time job as a managing partner of a supermarket. He collected no rent or lease payment from Mrs. Jack-Trotman. The fact that the land was surveyed without objection is of no moment. Further in his submissions, Mr. John accepted that Mrs. Jack-Trotman occupied the land with permission of Mr. Bailey and then with permission of Mr. John. This would mean that Mrs. Jack-Trotman was in possession from 2009 and since Mr. Bailey died in 2010 his permission continued to that date. In support of his application Mr. John did not adduce any affidavit from the persons he gave permission to work the land.

- [46] Mr. Bruce also submitted that the evidence does not support that Mr. John had the requisite intention to possess the land. The fact that he applied for title to the land before the defendant is not sufficient. The fact that he conducted a survey of the land and commissioned a valuation of the land is not sufficient to show intention to possess as stated by Slade J in Amirtharaja and another v White 2021 EWHC 330 (Ch) where the learned judge stated:

"If the acts are open to more than one interpretation and he has not made it perfectly plain to the world at large by his actions or words that he has intended to exclude the owner as best he can, the courts will treat him as not having had the requisite animus possidendi and consequently as not having dispossessed the owner."

Discussion

- [49] As stated earlier, the onus is on Mr. John to prove on a balance of probability that he was in adverse possession of the subject land for a continuous period of twelve (12) years.
- [50] An application for Possessory Title although required to be commenced by Fixed Date Claim Form pursuant to CPR 8.5, it is not the normal civil claim. Sections 7(2) and 9(1) and (2) make provision for a person who has interest in the subject land to file an entry of appearance and a claim outlining their interest in the subject land. Sections 10(2) and (3) outline the procedure for the hearing of the application. They read as follows:

"(2) Where a person enters an appearance pursuant to section 7, the Registrar shall, at the expiration of the time fixed for appearance enter an application in his cause book as a suit in the name of the applicant and of the person who has appeared as the respondent.

(3) The affidavits and written claim filed in support of an application under subsection (2) shall stand as pleadings and no further pleadings shall be filed without the leave of the Court".

- [51] In my view the provisions of the Possessory Titles Act do not require a reply when a person files a claim in response to an application for Possessory Title.
- [52] While I agree that the affidavit of Mr. John could have included the evidence he gave in response when cross-examined, his failure to do so is not fatal. The Court in determining the application is required to consider all of the evidence, both the affidavit evidence and the oral evidence including the evidence in cross-examination.
- [53] Learned Counsel Mr. Bruce made a similar criticism of the evidence of Mr. John's witnesses Ms. Morgan and Mr. Caine. Some of his criticisms are factually incorrect. Ms. Morgan's evidence is not that she only used the subject land as a short cut when she was a child, her evidence is that she also walked across the land as an adult on Saturdays when she would pick mangoes from the land. She did so about once per month. Ms. Morgan also testified that she saw Mr. John on the land "picking things" and weeding the land.
- [54] In my view, what was important was the witnesses were familiar with the land and with Mr. John. Their evidence that they saw him on the land picking things and clearing the land was not contradicted. Indeed Mr. John's case is not that he was cultivating crops on the land for twelve years, but rather he permitted Mrs. Jack-Trotman to cultivate the land and she did so along with her mother and her husband. It is also not disputed that there is a shed on the land. Mrs. Jack-Trotman acknowledged that there was a shed on the land. Mr. John's testimony that he used the shed for storage was not disputed nor was any evidence to the contrary adduced by any of the witnesses including Mrs. Jack-Trotman.
- [55] Contrary to the submission of Mr. Bruce, Mr. Cain's testimony under cross-examination is that he did see Mr. John on the land, Mr. John cut and raked the grass. He also picked things from the land.
- [56] Learned Counsel Mr. Bruce urged the Court to find that the evidence of Mrs. Jack-Trotman and her witness Mr. Doyle to be reliable. While her evidence that she took possession of the land in 2009 was supported by her witness Mr. Doyle whose land partly abounds the subject land, Mr. Doyle does not live on that land when he visits St. Vincent, and he does not cultivate that land. His testimony in relation to when Mrs. Jack-Trotman commenced occupation of the land was

contradictory. He testified that Ms. Trotman started to work the land with Mr. Bailey in the 1980's, later in his testimony, he stated it was around 1972 -1973. It is difficult to reconcile Mr. Doyle's testimony with Mrs. Jack-Trotman's testimony that she worked with Mr. Bailey 2008-2009 when he took ill. Further, Mrs. Jackman-Trotman testified that she is 52 years old.

[57] In relation to Mr. Bruce's submission that Mr. John altered the picture exhibited as C.J.T."1" and exhibited it as A.J. "4", I find this submission to be baseless. The exhibit AJ "4" was submitted with Mr. John's valuation report of the land. It is a picture of the land showing it cultivated. Exhibit C.J.T. "1" is a picture of the land showing her husband working the land. There is no evidence of alteration. Moreso this was not put to Mr. John during cross-examination. The pictures of the land were no doubt taken at different times.

[58] Learned Counsel Mr. Bruce referred to the following statement of Mr. Lewis in the conclusion of his submissions at para. 31:

"On the contrary, the Defendant has failed to establish undisturbed and uninterrupted possession of the said land as she claims or even to prove conclusive proof of the same and further that it is submitted that any occupation of the Defendant on the said land was with the permission of Mr. James Bailey and thereafter the Claimant."

[60] Mr. Bruce submitted that the above submission amounts to an admission of Mr. John that Mrs. Jack-Trotman was in possession of the land in 2009 with permission of Mr. Bailey. Mr. Bruce submitted:

"This raises to (sic) points, firstly, if Mr. Bailey granted the Defendant permission then that permission could not be withdrawn by the claimant in 2009, when he states he took possession as Mr. Bailey was still alive and his consent was still in play and secondly, the claimant could not have taken possession when as they submit or suggest that the Defendant labored under the existing permission of Mr. Bailey who remained alive until November 2010."

[61] In my view this submission is without merit. Mr. Lewis was simply making the point that Mrs. Jack-Trotman was not in adverse possession of the land as she claimed and even if she was in possession of the land, her possession was with permission of Mr. Bailey and subsequently with Mr. John. Further, even if Mrs. Jack-Trotman was in possession with permission of Mr. Bailey who died in November 2010, that could not prevent Mr. John from taking over control of the land.

- [62] I also find Mr. Bruce's submission on the lack of Mr. John collecting rent from Mrs. Jack-Trotman to be unmeritorious. Mr. John's evidence is that he and Mrs. Jack-Trotman had an arrangement whereby she gave him 30% of the produce from the land. Therefore, no issue of payment of any rent or lease payment arises. Mrs. Jack-Trotman while denying the agreement, did acknowledge that she gave produce from the land to Mr. John. She also added that she gave to other persons.
- [63] Having seen and heard all of the witnesses and having reviewed their affidavits and the submissions of Counsel, there are certain facts that are not in dispute. It is not disputed that the land was occupied by Mr. Bailey and his wife from the 1990's until 2009. Mr. Bailey's wife is the aunt of Mr. John. They all lived in Calder Ridge. Mrs. Jack-Trotman also lives in Calder Ridge. Mr. Bailey took ill in 2009 and he and his wife migrated to the United Kingdom. Mr. Bailey died in the United Kingdom. Mrs. Bailey also died in the United Kingdom.
- [64] I do not accept the evidence of Mrs. Jack -Trotman that she worked with Mr. Bailey from 2008-2009. Mrs. Jack-Trotman acknowledged that she was living in Barbados and that she had a child in Barbados. She returned to St. Vincent after the child was born. Mrs. Jack-Trotman could not recall when she returned from Barbados or when the child was born. She testified under cross-examination that the child was 16 years old. When she was told that meant the child was born in 2009, she recanted saying that was not the correct age of the child and she could not recall the child's age or date of birth.
- [65] I accept the testimony of Mr. John that after Mr. Bailey and his wife got ill in 2009, he took over the land. I do not believe the relative of the Baileys who lives in Calder Ridge where the land is located would have allowed Mrs. Jack-Trotman a total stranger who recently returned to St. Vincent to simply occupy a large plot of farm land without permission or any arrangement to pay for the use of the land. I believe Mr. John's testimony that Mrs. Jack-Trotman approached him, and he agreed for her to work the land and give him thirty (30) percent of the produce. Mrs. Jack-Trotman agreed that she did give produce from the land to Mr. John, although she added it was on two occasions and she also gave to other persons. It is common practice for persons in St. Vincent to cultivate land belonging to others and share the produce with them. It is also common practice for farmers to share produce with others.
- [66] I am satisfied having regard to all of the evidence that Mr. John has been in possession of the land for a continuous period in excess of twelve (12) years. He has treated the land as his own after his uncle got ill and migrated to the UK where he subsequently died.

[67] In conclusion, for the reasons stated above, I find that Mr. John has satisfied the requirements of the Possessory Titles Act. He has been in factual possession of the subject land for a continuous period in excess of twelve (12) years with the intention to possess the land.

[68] In relation to costs, although the application was opposed the costs to Mr. John was not significantly increased. The only additional costs Mr. John incurred were in relation to cross examination of witnesses and preparation of written submission. The hearing lasted one day. I therefore assess costs in the sum of \$2,500.

[69] **Order**

It Is Ordered That:

- 1) It is declared that Mr. Andrew John is the lawful owner of all that lot piece or parcel of land situate at Calder Ridge in the Parish of Saint George in the State of Saint Vincent and the Grenadines and admeasuring one point five eight eight acres (1.588 acs.) or sixty-nine thousand one hundred and ninety-four square feet (69,194 sq. ft) and abutted and bounded as follows:

On or towards the North partly by a Road and partly by Lot Number 2 shown on Plan G52/102 in the possession of Joshwin Morgan on or towards the South by a Road on or towards the East partly by lands shown on Plan G1279 in the possession of the heirs of Grafton Samuel and partly by lands in the possession of Cornelius Harry and on or towards the West by Lot Number 2 and Lot Number 3 shown on Plan G42/43 in the possession of Daniel Richards as shown and delineated on a Survey Plan prepared by Ivo Providence Licensed Land Surveyor and approved and lodged at the Lands and Surveys Department of the State of Saint Vincent and the Grenadines on the 15th day of October 2021 and bearing Drawing Number G3436 or howsoever otherwise the same may be butted bounded known distinguished or described together with all ways water watercourses rights lights liberties privileges easements and appurtenances thereto belonging or usually held used occupied or enjoyed therewith or reputed to belong or be appurtenant thereto.

- 2) Mrs. Jack-Trotman shall pay Mr. Andrew John costs in the sum of \$2,500.00.

Gertel Thom

High Court Judge (Ag.)

By The Court
REGISTRAR'S OFFICE
ST. VINCENT AND THE GRENADINES
Registrar
18/8/25

