

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO.: ANUHCV2021/0031

BETWEEN:

[1] ILEAN ICILMA RAMSEY
[2] LORETTA LORRAINE RAMSEY

Claimants

And

[1] EDRIS DULCIE DREW
[2] GERALDINE GRACE CLAUDETTE SOLOMON
[As administrators of the estate for Rolston
Emanuel Ramsey]

Defendants

Appearances:

Ms. Kivinee Knight-Edwards with Ms. Derecia Browne for the Claimants
Ms. Asheen Joseph for the Defendants

2025: May 27, 28
June 25 (Closing Submissions)
July 7

JUDGMENT

- [1] **WILLIAMS, J.:** The claimants Ilean Icilma Ramsey and Loretta Lorraine Ramsey are the daughters of Rolston Emanuel Ramsey (hereinafter “the deceased”) who died on 1st November 1985. The defendants Edris Dulcie Drew and Geraldine Grace Claudette Solomon are the deceased’s sisters and administrators of his estate. The claimants complain that in that capacity the defendants have failed to account for their father’s estate.

The Proceedings

- [2] The claimants commenced proceedings against the defendants by Fixed Date Claim Form filed on 22nd June 2021 seeking the following relief:

1. A declaration that the defendants whilst serving as the administrators of the Estate of Rolston Emanuel Ramsey, deceased had a duty to account to the claimants.
2. That the appointment of the defendants as administrators of the Estate of Rolston Emanuel Ramsey, deceased be terminated and that the claimants be appointed as trustees of the said Estate.
3. An order that the defendants do verify and furnish the accounts of the Estate of Rolston Emanuel Ramsey, deceased (including an account of the disposition of properties belonging to the Estate of Rolston Emanuel Ramsey) and do provide the same to the claimants.
4. An order that the Defendants do (a) pay over to the claimants any sums due to the Estate and (b) do turn over to the claimants all estate property in possession of the defendants, upon the taking of the account.
5. An order that the defendants do pay over to the claimants any sums due to the Estate of Rolston Emanuel Ramsey, upon the taking of the account.
6. Costs
7. Damages
8. Any other relief that the Court deems fit pursuant to section 20 of the Eastern Caribbean Supreme Court Act.

[3] The Fixed Date Claim Form was supported by an affidavit sworn to by the first claimant Ilean Icilma Ramsey on behalf of both claimants. In the said affidavit, the first claimant deposes that her father died on 1st November 1985 in Antigua. At that time, she was 25 years old and a university student living in the United States whilst her sister Loretta, was 26 years old and also lived in the United States, having migrated there in 1979. The affidavit states that the claimants have the same mother and that their father also had three other children with different mothers.

- [4] The defendants who are their aunts had informed them that their father died a pauper. However, without consulting the claimants, the defendants obtained letters of administration with respect to their father's estate. The claimants allege that the defendants have not given them a proper accounting for the said estate.
- [5] The claimants allege that their father was a former government employee and would have received a gratuity from the government for his years of service. In 2018, the claimants made attempts to obtain information from the Treasury Department concerning their father's entitlements but were unsuccessful. The main reason being that not being administrators of his estate the requested information could not be given to them.
- [6] The claimants also allege that their father owned properties. They allege they made inquiries concerning these properties but have received no satisfactory answer from the defendants. The claimants therefore wish to have the defendants removed as administrators of their late father's estate and have themselves appointed as trustees of the said estate. If appointed, they undertake to properly manage the same and distribute the estate to all beneficiaries.
- [7] The claimants also refer to the Letters of Administration obtained by the defendants on 25th May 1988. They also allege that the defendants have known them for their whole lives. Both claimants also refer to paternity proceedings in 2019 where the first defendant admitted to the court that she knew the claimants as the deceased's daughters. Subsequent to those proceedings, the claimants' then attorney-at-law Dr. David Dorsett wrote the defendants by letter dated 27th February 2020 demanding an account of Rolston Ramsey's estate. However, no response was received.

Defence

- [8] The defendants initially filed an application to strike out the claim. It is unclear from the record whether this application was withdrawn or dismissed.

However, the defendants eventually responded to the claimants' claim by affidavit sworn to by the first defendant and filed on 1st April 2022.

- [9] The defendants alleged that the claimants had been adopted by their mother's husband which facilitated their migration to the United States of America. This was done with the deceased's consent. The defendants also allege that the deceased had little means and owned no lands whatsoever.
- [10] They further allege that as a result of obtaining the letters of administration, they received a death gratuity which was used to liquidate the deceased's debts and the remainder distributed between his minor children. According to them, the deceased also had an insurance policy for which the second defendant was the beneficiary. They believe that the second defendant used the funds from the said policy to purchase land.
- [11] They claim that they have fully administered the estate over thirty years ago and that they have been fully transparent with the claimants concerning the estate. They therefore allege that these proceedings are frivolous, vexatious and statute barred.

Affidavit in Reply

- [12] The first claimant filed an affidavit in reply on 27th October 2022. In said affidavit the claimant denies that she and her sister were adopted by their stepfather. According to her, her stepfather's surname was "Kemp." She further elaborates that throughout her life she and her sister were known by the surname "Ramsey" but actually carried the surname "Moore" which was their mother's maiden name. This was as their father's name was not on their birth certificate. His name was added to their birth certificates pursuant to court order obtained in 2019.
- [13] They insist that their father had a bank account at the Antigua Commercial Bank (ACB) and owned property at New Winthorpes. However, they have been unable to obtain documentary information due to them not being

administrators of his estate. The defendants for their part have not assisted in obtaining the required information.

- [14] They put the claimants to strict proof that only the sum of approximately \$12,000.00 was received from the Treasury Department as their father's death gratuity. The claimants also put the defendants to strict proof that their minor siblings were paid. Finally, they allege that their claim is grounded in fraud therefore the Limitation Act does not apply.

Trial

- [15] Trial of this claim took place on 27th and 28th May 2025. The claimants gave evidence and were cross-examined. The defendants were not permitted to give evidence as they had not filed witness statements in accordance with **Rule 29.11** of the **Revised Civil Procedure Rules 2023**.

- [16] Due to the issue of limitation being raised by the parties, the court specifically requested the closing submissions to address **sections 24, 25 and 32** of the **Limitation Act**.¹ Closing submissions were duly filed by the parties on 25th June 2025.

Findings

- [17] The claimants' evidence contained in their witness statements is almost identical to what is contained in their affidavit in support of the claim and their affidavit in reply. It is therefore unnecessary to repeat this evidence. The following is undisputed:

1. The claimants are the daughters of Rolston Emanuel Ramsey and Evelyn Moore (now Kemp).
2. The first claimant was born in 1960 and the second claimant in 1959.
3. The deceased Rolston Emanuel Ramsey died on 1st November 1985.

¹ Act No. 8 of 1997

4. At the date of his death, both claimants resided in the United States of America.

5. The defendants obtained letters of administration to the deceased's estate on 25th May 1988.

6. The deceased was declared to be the father of the defendants in 2019.

7. The claimants' attorney-at-law Dr. David Dorsett wrote the first defendant by letter dated 21st February 2019 demanding an account of the estate of the deceased. There was no reply to that letter.

8. This claim commenced on 22nd June 2021.

[18] Apart from these undisputed facts there are issues in dispute. These include:

- a. Whether the deceased owned any land or held any bank accounts?
- b. What was the amount of death gratuity received?
- c. Whether any payments were made to the deceased's minor children?

[19] However, the court can only examine these disputed issues if the claim is proven not to be statute barred.

Applicable Law

[20] This claim involves the estate of a deceased person. Therefore **section 24** of the **Limitation Act** is applicable. **Section 24** of the **Limitation Act** provides as follows:

- (a) "no action in respect of any claim to the personal estate of a deceased person or for any share or interest in any such estate (whether under a will or on intestacy) shall be brought after the expiration of twelve years from the date on which the right to receive the share or interest accrued;

- [21] In terms of claims for an account, **section 25** of the **Limitation Act** provides that “an action for an account shall not be brought after the expiration of any time limit under this Act which is applicable to the claim which is the basis of the duty to account.”
- [22] Finally, **sections 32(1) and (2)** of the **Limitation Act** provide as follows:
- (1) Subject to subsection (3), where in the case of any action for which a period of limitation is prescribed by this Act, either -
 - (a) the action is based upon the fraud of the defendant; or
 - (b) any fact relevant to the plaintiffs right of action has been deliberately concealed from him by the defendant; or
 - (c) the action is for relief from the consequences of a mistake; the period of limitation shall not begin to run until the plaintiff has discovered the fraud, concealment or mistake (as the case may be) or could with reasonable diligence have discovered it.
 - (2) For the purposes of subsection (1), deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.”

Discussion

- [23] The defendants submit that in accordance with **section 24** of the Act the time for bringing this claim is twelve years from the deceased’s death on 1st November 2025. Thus, the claim should have been brought by 2nd November 1997 and is therefore statute-barred. Any claim for an account should also have been brought within the same period by virtue of **section 25** of the Act.
- [24] **Section 24** speaks to “the date on which the right to receive the share or interest accrued.” However, contrary to the defendants’ submission, the claimants’ right to receive any share in the deceased’s estate did not arise immediately upon his death. Although Rolston Ramsey died on 1st November 1985 the defendants did not obtain letters of administration until 25th May 1988.

[25] In **Daphne Gumbs v. Estate of James Fahie et al**² Ellis J. (as she then was) stated as follows:

“It is now established law that whilst an estate remains unadministered, no beneficiary has an interest in any of the estate’s property, even in property which has specifically been given to him or her by the will. The rights of beneficiaries of unadministered estates extend no further than a right that the estate will be properly administered.

[26] Thus, the claimants could not have demanded any share of their father’s estate or sought an account prior to the defendants being appointed administrators on 25th May 2025. Accordingly, the twelve-year limitation period can only run from that date at the very earliest. Thus, the claimants should have commenced this claim by about 25th May 2000. Therefore, the action is statute barred unless the claimants can bring themselves within the ambit of **section 32** of the **Limitation Act**.

[27] Before moving to section 32, it is necessary to examine an important issue raised by the defendants. The defendants rely on **Rhinoceros Company Limited v. Moonhole Company Limited**³ where Justice Byer made it clear that when a defendant raises the defence of limitation the burden of proof shifts to the claimant to show his cause of action accrued in time. I fully adopt this principle. The defendants have however overlooked the claimants’ affidavit in reply filed on 27th October 2022 which raises the issue of fraud at paragraph 13.

[28] The claimants’ allegations of fraud on the part of the defendants are manifestly unsustainable. Their affidavit in reply simply states that their claim is grounded in fraud but does not provide any particulars of the alleged fraud. In **St. Lucia Motor and General Insurance v. Peterson Modeste**⁴ the Court of Appeal stated as follows:

² BVIHCV2013/0070 (decided 6th March 2020, unreported) at paragraph 18

³ SVGHCV2017/0184 (decided 30th April 2020) (unreported) at paragraph 54

⁴ SLUHCVP2009/0008 (decided 11th January 2010) (unreported)

“Notwithstanding the fact that CPR does not contain a specific rule with regard to the manner in which allegations of fraud are to be pleaded, the principle that where an allegation of fraud is made particulars must be given, is a long and well settled principle which does not require restating in CPR for giving it force. In **East Caribbean Flour Mills Limited v Ormiston Ken Boyea**

“..... As a general rule; the more serious the allegation of misconduct, the greater is the need for particulars to be given which explains the basis for the allegations. This is especially so where the allegation being made is of bad faith or dishonesty. The point is well established by authority in the case of fraud (my emphasis)”.

[29] Thus, due to their failure to provide any particulars of fraud, the claimants cannot advance a case pursuant to **section 32(1) (a)** of the **Limitation Act**. However, I have observed that in their written closing submissions the claimants have not mentioned fraud at all. Instead, they focus on deliberate concealment on the part of the defendants pursuant to **section 32(1) (b)** of the Act.

[30] Counsel for the claimants has helpfully referred to the UK Supreme Court decision in **Canada Square Operations Ltd. v. Potter**.⁵ In that case, the court considered **section 32(1) (b)** of the **English Limitation Act 1980** which is identical to Antigua and Barbuda’s legislation. In particular, the court considered the meaning of the phrase “deliberately concealed” in **section 32(1) (b)**.

[31] At paragraph 109 of the decision, Lord Reed stated the requirements to prove deliberate concealment:

“What is required is (1) a fact relevant to the claimant’s right of action, (2) the concealment of that fact from her by the defendant, either by a positive act of concealment or by a withholding of the relevant

4. [2023] UKSC 41

information, and (3) an intention on the part of the defendant to conceal the fact or facts in question.”

[32] The claimants identify several acts on the part of the defendants which they say amount to the deliberate concealing of relevant information. Some of these are as follows:

1. There were no discussions with the claimants prior to obtaining Letters of Administration. When the second claimant inquired about the estate, she was simply told their father died as a pauper, a statement likely to dissuade any further investigation.
2. The defendants failed to disclose to the claimants any sums recovered from the Treasury, nor did they seek their consent regarding the distribution of such funds.
3. The claimants were not informed about the insurance policy or gratuity.
4. At every stage, the defendants have intentionally withheld information related to the Estate. The defendants' conduct and statements suggest that they did not think that the claimants should benefit from his estate.
5. To date, no accounting of the Estate has been provided to the claimants.

[33] The starting point is that it appears that the defendants did not inform the claimants that they had obtained letters of administration to his estate. According to the claimants they were only told that their father had died a pauper.

[34] In **Julien v Evolving Technologies**⁶ the Privy Council examined **section 14** of the **Limitation Act** of Trinidad and Tobago. Section 14 of Trinidad and Tobago's Limitation Act is almost identical to section 32 of Antigua and Barbuda's legislation. At paragraph 52 of the decision Lord Briggs stated as follows:

“Section 14 of the Limitation Act is concerned not with the knowledge of claimants at a particular moment in time when taking some positive step, but rather with their knowledge, or their means of discovering the relevant facts, exercising due diligence, within some period after the occurrence of the breach giving rise to a cause of action.”

[35] Accordingly, the question is whether with due diligence the claimants could have discovered that the defendant's had obtained letters of administration to their father's estate? In this regard, the claimants have not explained why they did not commence inquiries into their later father's affairs during the period 2000 to 2018. It should be noted that the grant of letters of administration is public record which is kept by the Registry of the High Court. Similarly, pursuant to **section 35** of the **Registered Land Act**⁷ any person may access records kept at the Land Registry. Even if the claimants resided abroad at the relevant time, it would not have been difficult for them to instruct counsel in Antigua to conduct these searches. I accept that they would not have been able to lawfully access information from the Treasury or financial institutions.

[36] Thus, the claimants could have with due diligence discovered that the defendants had obtained letters of administration long before they did. They also would have noticed the alleged discrepancies concerning land which the deceased allegedly owned. This would have put them on inquiry to demand an account from the defendants much earlier. In this case the alleged concealment by the defendants would not have prevented the claimants from accessing publicly available information which they could have used to their

⁶ [2018] UKPC 2

⁷ Cap. 373

advantage. In the circumstances the exemptions specified in **section 32(1)** of the **Limitation Act** do not apply and the claimants' claim is statute barred. Accordingly, this claim must be dismissed.

Costs

[37] The defendants have successfully resisted on this claim based on limitation and would generally be entitled to costs. The claimants are entitled to costs pursuant to CPR Rule 65.4 and Appendix B. This being a claim with no stated value, the default value of \$50,000.00 will be used as the value of the claim which would usually lead to costs of \$10,000.00.

[38] However, I believe that this litigation could have been avoided had the defendants been more forthcoming concerning their dealings with the estate of the deceased. It is clear from the evidence that the defendants accepted the claimants as the deceased's daughters. Thus, there was no reason not to answer their queries in an open and transparent manner. Instead, nearly five years of litigation have ensued. Accordingly, the defendants' costs will be reduced by 80% leading to costs of \$2000.00.

Order

[39] The court hereby orders as follows:

1. The claim is dismissed in its entirety.
2. The claimants shall pay costs of \$2000.00 to the defendants.

Rene Williams
High Court Judge



By The Court

Deputy Registrar