

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE**

MONTSERRAT

CLAIM NO. MNIHCV2022/0021

BETWEEN:

[1] RANDOLPH DYETT

Claimant

and

[1] JASON LEE and

[2] MARISE LEE

Defendants

Appearances:

Ms. Lovetta Silcott for the Claimant
Jason Lee and Marise Lee, Litigants in Person

2024: April 22;
2024: April 23.

RULING

FITZPATRICK [AG.]:

The Court considered the following.

- [1] The parties have been engaged in an ongoing dispute over the location of the boundary line separating their respective properties.

- [2] The Claimant initiated his Claim dated September 22, 2022 seeking a determination by this Court of the disputed boundary.

- [3] The parties entered into a Consent Order before Justice Morley on November 22, 2022 whereby they agreed to string the boundary as it was understood between

them and to have that boundary recorded as the official boundary in the Land Registry.

[4] Justice Morley was subsequently informed that the boundary dispute between the parties had to be determined by means of a hearing before and decision by the Registrar of Lands pursuant to sections 17 and 18 of the *Land Registry Act*. Armed with this information, Justice Morley's July 7, 2023 endorsement noted that the extant dispute had to be decided pursuant to the said provisions of the *Land Registry Act* and adjourned the court matter pending the outcome of the expected hearing before the Registrar of Lands.

[5] Sections 17 and 18 of the *Land Registry Act* provides as follows:

Section 17(2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interested party, shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the uncertain or disputed boundary.

Section 17(4) No court shall entertain any action or other proceedings relating to a dispute as to the boundaries of registered land unless the boundaries have been determined as provided in this section.

Section 18(2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by survey the precise position of the boundaries in question, file a plan containing the necessary particulars and make a note in the register that the boundaries have been fixed, and thereupon shall be deemed to define accurately the boundaries of the parcel.

- [6] A hearing was conducted before the Registrar of Lands on August 3, 2023 where all parties herein had the opportunity to and did in fact participate.
- [7] There were three site visits made to the subject boundary following the August 3rd hearing, namely on each of August 10th, September 20th and September 22nd, 2023. The Registrar of Lands, Chief Surveyor and survey staff attended on August 10th. The Survey Unit and survey staff attended on September 20th and September 22nd.
- [8] The Registrar of Lands issued a written decision dated October 31, 2023 determining and fixing the boundary pursuant to sections 17 and 18 of the *Land Registry Act* (the "Registrar's Boundary Decision"). The Registrar's Boundary Decision has not been appealed.
- [9] Sections 17 and 18 of the *Land Registry Act* are clear. This Court has no authority to address a boundary dispute unless the issue has been determined in the manner directed by sections 17 and 18 of the *Act*. In other words, this Court lacked jurisdiction to make the Consent Order on November 22, 2022. Justice Morley recognized this when making his July 7, 2023 endorsement noting the boundary dispute had to be determined by hearing before the Registrar of Lands and not this Court.
- [10] The Registrar of Lands held a hearing where both parties participated. The Registrar's Boundary Decision was then issued. The Registrar's Boundary Decision decided this issue binding the parties and this Court. Given there has been no appeal, the Registrar's Boundary Decision is the final word and this proceeding is now at an end.
- [11] In conclusion, there shall be a final order fixing the boundary between the properties of the parties as determined by the written decision of the Registrar of Lands dated October 31, 2023.

[12] The Claimant seeks costs of this proceeding in the amount of \$1,500.00 EC. In my view, there should be no costs payable by either party in this proceeding. This Claim was commenced by the Claimant in error. The boundary dispute was required to be decided by application to the Registrar of Lands as directed by sections 17 and 18 of the *Land Registry Act* and not before this Court. Neither party appears to have been aware of the correct process until before Justice Morley on July 7th. There would have been no proceeding before this Court and, therefore, no related costs incurred had that correct process been followed.

It is hereby ordered that:

- (1) The boundary between the properties of the parties shall be fixed as determined by the written decision of the Registrar of Lands dated October 31, 2023.
- (2) There shall be no costs payable by either party.

The Hon. Dale Fitzpatrick
High Court Judge

By the Court

Registrar