

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES



IN THE HIGH COURT OF JUSTICE

SVGHPT2017/0002

IN THE MATTER OF THE POSSESSORY TITLES ACT 2004

and

IN THE MATTER OF ALL THAT LOT PIECE OR PARCEL OF LAND SITUATE AT O'CAR BEQUIA IN
THE STATE OF SAINT VINCENT AND THE GRENADINES ADMEASURING 11,641 SQUARE FEET
SHOWN ON SURVEY PLAN Gr16/138 LODGED AT THE LANDS AND SURVEYS DEPARTMENT ON
THE 1st DAY OF JUNE 2016

and

IN THE MATTER OF AN APPLICATION BY CELESTINE PRINCIA ARRINDELL OTHERWISE KNOWN
AS CELESTINE PRINCIA THOMAS FOR A DECLARATION OF POSSESSORY TITLE

APPLICATION FOR A DECLARATION OF POSSESSORY TITLE

Appearance:

Ms. Paula David for the applicant.

2017: Nov. 13 & 20

DECISION

BACKGROUND

- [1] **Henry, J.:** The applicant Celestine Princia Arrindell also known as Celestine Princia Thomas¹ has applied² for a declaration of possessory title to land in her sole name. The land is located at O'Car,

¹ Referred to shortly as 'Celestine Arrindell'.

² By application filed on 5th January 2017.

Bequia and comprises 11,641 square feet. It is delineated in survey plan Gr16/138, lodged at the Lands and Survey Department on 1st June 2016 and approved by Chief Surveyor Keith Francis on even date.

- [2] The application for possessory title was supported by affidavit testimony of Celestine Arrindell, her sister - Ealita Arrindell and Ann Alexandra Sargeant. It was unopposed. Ms. Celestine Arrindell acknowledged that the land was given to her by her grandmother in 1997³ to hold in trust for herself and her sister Ealita Arrindell. Ealita Arrindell testified that she was a minor at the time.
- [3] Celestine Arrindell produced a Declaration of Possession and Ownership⁴ which her grandmother Matilda Williams reportedly executed in 1965 to evidence her title to the land. Ms. Arrindell stated that she has since learnt that the declaration was ineffective to bestow title because her grandmother did not have a legal right, title or interest to the land.
- [4] When the matter came on for first hearing, Ealita Arrindell attended court as a witness. On being asked, she told the court that she had not secured independent legal advice regarding the application. She was directed by the court to seek independent legal advice and to file notification to that effect.
- [5] The case was adjourned to 13th November 2017. Ealita Arrindell filed no such notification. However, legal practitioner Mrs. Zhing Horne-Edwards filed an affidavit indicating that she had been consulted by Ms. Ealita Arrindell whom, she duly advised regarding the legal effect of a grant of declaration of possessory title to Celestine Arrindell in her sole name. She deposed that Ealita Arrindell was advised that in such eventuality Celestine Arrindell would have all rights, interest and title to the subject land including absolute and unrestricted authority to dispose of it by sale and to enjoy the proceeds.

³ By Deed of Gift 1388 of 1997.

⁴ No. 127 of 1965.

ISSUE

- [6] The issue is whether the court should grant Celestine Arrindell a declaration of possessory title in her sole name.

Issue – Should the court grant Celestine Arrindell a declaration of possessory title in her sole name?

- [7] The court may grant a declaration of possessory title to an applicant who establishes that she has enjoyed exclusive and undisturbed factual possession of land in excess of 12 years, if she had the intention during that time to own it.⁵ If appropriate, the court may confer possessory title to an applicant, in the capacity of trustee⁶.
- [8] Ealita Arrindell provided oral and written evidence. The affidavit testimony of the other witnesses described how the sisters became interested in the subject land. They all explained that Celestine Arrindell was appointed by her grandmother to hold the land in trust for her sister Ealita and herself.
- [9] Celestine Arrindell also provided proof of publication of the requisite notice in two newspapers circulating in the State of Saint Vincent and the Grenadines; proof of service of the requisite notice on adjoining land owners, at the High Court registry and the relevant Magistrate's Court; and she exhibited a survey plan and valuation report in respect of the subject lands in accordance with the Possessory Titles Act, Cap. 328.
- [10] The evidence in its totality supports Ms. Arrindell's claim that she has enjoyed exclusive and undisturbed possession of the subject lands since then and that she has done so in the capacity of trustee. I therefore accept that account. Ms. Arrindell has complied with all the statutory procedural and evidentiary requirements

⁵ Sections 2, 3, 4 and 5 of the Possessory Titles Act, Cap. 328 of the Revised Laws of Saint Vincent and the Grenadines, 2009.

⁶ Section 3 (3) of the Possess

[11] Learned counsel Ms. Paula David submitted that based on the evidence, the court may grant the application and issue a declaration of possessory title in the joint names of Celestine and Ealita Arrindell or in the name of Celestine Arrindell in trust for them both.

[12] A grant in Celestine Arrindell's sole name would not reflect Ealita Arrindell's interest. Such an order would not be just. I am satisfied that Celestine Arrindell has possessed the subject property since 1997 as trustee for Ealita Arrindell and herself. She should therefore be granted a declaration of possessory title consistent with that title, notwithstanding that the application was brought in her sole name and in her personal capacity.

[13] It is accordingly declared and ordered:

1. **Celestine Princia Arrindell aka Celestine Princia Thomas as trustee for Ealita Arrindell and Celestine Princia Arrindell aka Celestine Princia Thomas** is the true owner of all that piece or parcel of land situate at O'Car, Bequia in the State of Saint Vincent and the Grenadines, comprising approximately eleven thousand six hundred and forty one square feet (11,641 sq. ft.) with appurtenances thereon valued at approximately EC\$116,410.00; more particularly described and delineated in survey plan Gr16/138, approved and lodged at the Lands and Survey Department on 1st June, 2016 by Chief Surveyor Keith Francis, bounded as follows:

On the North by lands belonging to Luxley Farrel shown on survey plan Gr9/143, on the South by lands belonging to Tom's Holding Company Limited, on the East partly by lands belonging to Genevieve Peters shown on survey plan GR13/102 and partly by lands belonging to VINLEC shown on survey plan GR3/40 and on the West by a 16' road as shown on the plan or diagram drawn by Collin Alexander, a licensed and Surveyor.

2. A declaration of possessory title of the said land is hereby granted to **Celestine Princia**

Arrindell aka Celestine Princia Thomas as trustee for Ealita Arrindell and Celestine Princia Arrindell aka Celestine Princia Thomas.

Esco L. Henry
HIGH COURT JUDGE

By the Court



At my
Registrar