

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SAINT LUCIA

Claim No. SLUHCV2008/0828

BETWEEN:

SYLVIA FRANCOIS RICHARD

Claimant/Applicant

And

THE COMMISSIONER OF CROWNS LANDS

Defendant/Respondent

Appearances:

Mr. Horace Fraser for the Claimant/Applicant
Ms. Jan Drysdale for the Defendant/Respondent

2010 May 31
June 4

DECISION

- [1] **GEORGES AG J:** On 15th August 2008 the applicant herein filed a claim form supported by three affidavits to the Registrar of Lands seeking a declaration that she was entitled to prescriptive title against a parcel of land registered in the Land Registry as Block 1049C parcel 46 at La Clery in the quarter of Castries comprising approximately 0.96 hectares.
- [2] The said property was first registered on 20th November 1987 and remains registered in the name of the Crown but the claim form was not served on the Crown. Upon becoming aware of this the then Commissioner of Lands Peter Felix (now Chief Surveyor) filed a response on 9th March 2009 contending that the applicant is incapable of obtaining title by prescription against the Crown.

[3] The Crown he avers is the owner of the parcel of land in question.

[4] It is with this that Learned Counsel for the applicant took issue maintaining that the land in question (hereinafter referred to as Parcel 46) although registered in the name of the Crown pursuant to section 16 (1)(b) of the Land Adjudication Act (LAA) was not in actual fact Crown land but was held by the Crown as trustee.

[5] I pause here to point out that section 16 (1)(b) of the LAA in actual fact declares that:

(1) In preparing the adjudication record-

(b) if the recording officer is satisfied that any land is entirely free from private rights, or that the rights existing in or over it do not amount to full ownership and are not such as to enable him or her to proceed under paragraph (d) of this subsection **he or she shall record the land as Crown land.**

[6] I am accordingly satisfied that Parcel 46 is for all intents and purposes Crown land and that Section 16(1)(d) of the LAA is inapplicable in the instant case. The Crown is no trustee of the land in question as Mr. Fraser contended and section 6 of the St. Lucia Constitution Order 1978 (the Constitution) cannot avail the applicant in the circumstances.

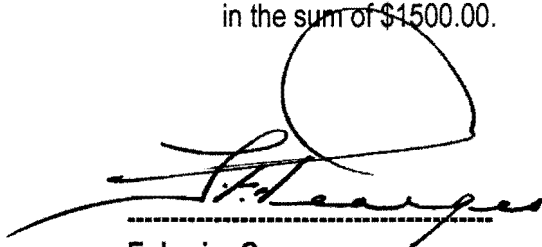
[7] In paragraphs 7 and 8 of her affidavit in support the applicant averred:

7. That I have continued in possession of the property from the death of my father and my mother's departure therefrom who were in continuous undisturbed and peaceable exclusive **occupation as owners of the land** for over thirty years. (My emphasis)

8. That I demolished the little wooden house my parents had erected on the said land because of its decayed state and erected a permanent concrete

house measuring 40 feet by 29 feet of my own. There are also two other houses erected on the land being occupied by my children. As Ms. Drysdale learned Counsel for the defendant rightly pointed out that if as the applicant contends she is the owner of the land why then does she apply for prescriptive title?

- [8] Counsel seriously disputed the applicant's assertion that the Crown was merely a trustee and not owner of the land pointing to section 9 of the LAA which safeguards the rights of absent persons and minors.
- [9] Then ofcourse there is Part 5 of the LAA which contains (in sections 20, 21 and 24) various rights of review and appeal and provides for finality of the adjudication record. In the instant matter the adjudication officer ruled and awarded the land to the Crown which became the owner of the land and all its entitlements flowed with that as learned Crown Counsel so ably articulated. This was a judicial decision to register the Crown as owner and there was no breach of section 6 of the Constitution. I fully agree.
- [10] As a final salvo Mr. Fraser urged that prescription had taken place before the Land Registration Project and Titling process (the LRPT) and so the applicant had an overriding interest in the land pursuant to section 28(f) of the LRA. The crux of the matter as see it is that property which belongs to the Crown as in this case is not property by which an applicant can acquire title by prescription. Parcel 46 is registered as belonging to the Crown and forms part of the domain of the Crown hence the claim by the applicant is ill-founded and without legal basis and is accordingly dismissed with costs to the defendant in the sum of \$1500.00.



Ephraim Georges
HIGH COURT JUDGE (AG)