

**EASTERN CARIBBEAN SUPREME COURT
IN THE COURT OF APPEAL**

GRENADA

GDAHCVAP2011/0024

BETWEEN:

SIGMA MARINA & RESORTS LIMITED

Appellant

and

ALBAN REDHEAD

Respondent

Before:

The Hon. Mr. Davidson Kelvin Baptiste

Justice of Appeal

The Hon. Mde. Gertel Thom

Justice of Appeal

The Hon. Mr. Sydney A. Bennett, QC

Justice of Appeal [Ag.]

Appearances:

Sir Richard Cheltenham, QC, with him, Mr. Dickon Mitchell and Ms. Skeeta Chitan
for the Appellant

Dr. Francis Alexis, QC, with him, Mr. Ian Sandy for the Respondent

2014: December 10;

2016: December 15.

Civil appeal – Property – Adverse possession – Trespass – s. 4, Limitation of Actions Act, Cap. 173 – Claim for trespass by squatter – Whether appellant’s paper title sufficient to defeat respondent’s possessory claim – Whether appellant had right to make entry on disputed land

In January 1988, the respondent (“Mr. Redhead”) purchased a lot of land 23,388 square feet in area in True Blue, St. George’s, Grenada (“Lot 21”). He occupied and built a house on Lot 21 and also occupied a portion of land bordering on Lot 21 which was approximately 9,548 square feet in area (“the disputed land”). In or about 1992, Mr. Redhead enclosed Lot 21 and the disputed land with a chain-link fence.

In February 2005, the appellant (“Sigma”) purchased from the Crown a lot of land approximately 61,000 square feet in area adjacent to Lot 21 (“Lot 22”) which lot included the disputed land (from which Sigma was then excluded by the chain-link fence). In September

2006, Sigma caused a bulldozer to enter the disputed land and to remove part of the chain-link fence. This led to Mr. Redhead commencing an action in the court below claiming, among other things: a declaration that he had been in occupation of the disputed land for a period in excess of 12 years and was thereby entitled to occupy and possess the land; damages for trespass; and an injunction restraining Sigma from entering the land.

Mr. Redhead argued that Sigma was precluded by section 4 of the Limitation of Actions Act from making such an entry after the expiration of 12 years from the date when his possession commenced. Sigma contended that it had acquired its title to Lot 22 by purchase from the Crown and that Mr. Redhead's possession was insufficient to extinguish the title of the Crown, its predecessor in title, since section 3 of the Limitation of Actions Act required Mr. Redhead to prove 60 years of adverse possession against the Crown for that purpose.

At the hearing of the matter, the learned judge found as a fact that Mr. Redhead had commenced occupation of the disputed land in 1988, that he had later enclosed it with a fence and that he had continued in occupation of the disputed land without challenge for 18 years until 2006 when Sigma sought to remove the fence. Although he noted that Sigma had purchased the disputed land from the Crown, he concluded that there was no evidence that the Crown had been the owner of the land at the time of Mr. Redhead's entry into possession. The judge further posited that not only was Sigma required to show that it had a valid paper title, it also had to show that it had been in possession of the disputed land within the limitation period. He accordingly found in favour of Mr. Redhead, granted the requested declarations and injunction and ordered Sigma to pay damages for trespass. Sigma appealed the learned judge's decision.

Held: dismissing the appeal and awarding costs to the respondent fixed at two thirds of the costs awarded in the court below, that:

1. In Grenada, pursuant to section 4 of the Limitation of Actions Act, where a person other than the Crown seeks to make an entry or distress or to take action to recover land in the possession of a squatter, he must do so within 12 years from the date that the right could first have been exercised by one of his predecessors in title, or if not, by himself. If he fails to do so his title to the land will be extinguished. If he subsequently attempts to enter upon the land to assert his right of beneficial ownership, he will be a trespasser. The right to make an entry on the disputed land having accrued to the Crown more than twelve years before Sigma itself made an entry upon the land, Sigma had no right to make such an entry and was therefore, at that point in time, a trespasser.

Sections 2 and 4 of the **Limitation of Actions Act** Cap. 173 of the Revised Laws of Grenada 1990 applied.

2. The 60 year period during which the Crown would have been entitled to make an entry or bring an action to recover possession of the land from Mr. Redhead ceased to be applicable when the Crown divested itself of title to the land by conveying same to Sigma. At that time, more than 12 years having already passed

since the Crown could have challenged Mr. Redhead's occupation of the land, in the absence of a provision equivalent to paragraph 12 of Schedule 1 Part II of the English Limitation Act 1980, Sigma's title to the disputed land was extinguished by the operation of section 27 of the Limitation of Actions Act.

Julian Ashton v Veronica Forbes SVGHCVAP2000/0012 (delivered 25th July 2000, unreported) distinguished; Sections 2, 4 and 27 of the **Limitation of Actions Act** Cap. 173 of the Revised Laws of Grenada 1990 applied.

3. Sigma produced a conveyance from the Governor General and the learned trial judge found that it was a valid paper title to Lot 22 (which included the disputed land). In the circumstances, it ought to have been presumed that the land had been vested in the Crown prior to its transfer to Sigma and Sigma ought to have been treated as a purchaser from the Crown in possession of a valid paper title to the disputed land.

Ocean Estates Ltd. v Norman Pinder [1969] 2 AC 19 applied.

JUDGMENT

- [1] **BENNETT JA [AG]:** This appeal arises on the following facts: on 25th January 1988, the respondent Alban Redhead ("Mr. Redhead") purchased from one Shirley John a lot of land 23,388 square feet in area in True Blue, St. George's, Grenada. I refer to that land as "Lot 21". He occupied and built a house on that land and also occupied an area of land approximately 9,548 square feet ("the disputed land") bordering on Lot 21. In or about 1992, Mr. Redhead enclosed Lot 21 and the disputed land with a chain-link fence. On 22nd February 2005, the appellant Sigma Marina & Resorts Limited ("Sigma") purchased a lot of land adjacent to Lot 21 from the Crown. This lot of land is approximately 61,000 square feet in area and includes the disputed land from which Sigma was then excluded by the chain-link fence. I refer to this lot as "Lot 22". On 20th September 2006, Sigma caused a bulldozer to enter the disputed land and to remove part of the chain-link fence.
- [2] Subsequently, Mr. Redhead commenced the instant action claiming, among other things, a declaration that he had been in occupation of the disputed land for a period in excess of 12 years and was thereby entitled to occupy and possess same.

He further claimed damages for trespass and an injunction restraining Sigma from entering the land.

[3] The substance of Mr. Redhead's case was that he had been in undisturbed and exclusive possession of the disputed land for a period in excess of 12 years, and that Sigma was precluded by section 4 of the **Limitation of Actions Act**¹ from making such an entry after the expiration of 12 years from the date when his possession commenced.

[4] Sigma pointed out that it had acquired its title to Lot 22 by purchase from the Crown. Mr. Redhead had been in possession of the disputed land for no more than 15 years, that is, from 1992 when he enclosed same with the chain-link fence. Such possession was insufficient to extinguish the title of the Crown, its predecessor in title. Section 3 of the **Limitation of Actions Act** required Mr. Redhead to prove 60 years of adverse possession against the Crown for that purpose.

The decision

[5] The matter came up for hearing before Cumberbatch J in the High Court on 29th September 2009. By judgment delivered on 28th July 2011 the Court found in favor of Mr. Redhead, granted the requested declarations and injunction and ordered Sigma to pay damages for trespass.

[6] In arriving at his decision the judge found as a fact that Mr. Redhead had commenced occupation of the disputed land in 1988; that he had later enclosed same with a fence and that he had continued in occupation of the disputed land without challenge for a period of 18 years until 2006 when Sigma sought to remove the fence. The judge noted that Sigma had purchased the disputed land from the Crown, but concluded that there was no evidence that the Crown had been the owner of the land at the time of Mr. Redhead's entry into possession. He noted

¹ Cap. 173, Revised Laws of Grenada 1990.

that the **Crown Lands Act**² defines the meaning of the term “Crown Lands” and identified in section 2 of Chapter 78 of the 1958 Edition of the Laws of Grenada (“the 1958 Laws of Grenada”) certain lands coming within that description. The disputed land did not fall within the description of the lands so identified. There was no other evidence that title to the disputed land had been vested in the Governor-General prior to 2005 when that land was purchased by Sigma.

[7] Accordingly, the judge declined to follow the decision of the Court of Appeal in the case of **Julian Ashton v Veronica Forbes**.³ He held that this decision was inapplicable to the instant case because in this case, unlike the **Ashton case** there was no evidence that the Crown owned the land when Mr. Redhead entered into possession of it; he further pointed out that the decision in **Ashton** turned on section 12 of Part II of the Schedule to the **Limitation Act** of Saint Vincent and the Grenadines, and that there was no equivalent provision in the Grenada **Limitation of Actions Act**.

[8] Finally, the judge posited that not only was Sigma required to show that it had a valid paper title, but also that it had been in possession of the disputed land within the limitation period. He found at paragraph 33 of the judgment that Sigma was able to exhibit a valid paper title but was unable to show possession either of itself or its predecessors in title between the period 1988 to 2005.

The Appeal

Claim for trespass by squatter

[9] Sir Richard Cheltenham, QC who appeared for Sigma argued that Mr. Redhead’s action was misconceived: he was by indirect means seeking to acquire title to the disputed land by possession. Mr. Redhead, he claimed, was not entitled to use limitation in support of an affirmative claim for title to the disputed land, but only as a defence against a claim for possession by the owner of the paper title.

² Cap. 73, Revised Laws of Grenada 1990.

³ SVGHCVAP2000/0012 (delivered 25th July 2000, unreported).

[10] I reject that argument on principle and on the facts. The common law protects possession as well as title. A squatter can maintain a claim of trespass.⁴ In this case, an entry had been made by Sigma on the disputed land to which Mr. Redhead claimed possessory rights. Mr. Redhead's claim for relief was made in response to that entry. Where a squatter can establish the requisite number of years of possession of unregistered land, 'he effectively can claim to have acquired the legal estate, albeit that it is a new "possessory" title rather than a notional conveyance of the paper owner's extinguished title'.⁵ A claim for damages, an injunction and declaration in those circumstances would not be an attempt by the squatter to acquire title by possession. It would constitute an action on his part to protect a possessory title which he claimed to have already acquired, and which had been challenged by an act of entry by the paper title owner.

Whether the disputed land had been Crown land prior to its conveyance to Sigma

[11] In the skeleton argument filed on behalf of Sigma, the finding that the land had not been shown to have been in the ownership of the Crown was challenged on the facts. It was argued that there was evidence before the Court that the land was Crown land prior to its acquisition by the appellant. This argument was not strongly pressed at the hearing: the 'evidence' amounted to a statement by the Government surveyor that sometime in 2004 he had advised Mr. Redhead that the fence in question was on government land and that Mr. Redhead had not denied it.

[12] Sir Richard Cheltenham, QC argued that the dispute as to whether the land was Crown land was not to be resolved by evidence. Grenada was a conquered territory and upon conquest all land had belonged to the Crown. In the absence of evidence of ownership of the disputed land by some private or other entity the starting presumption was that title to the land vested in the Crown. There was no evi-

⁴ See: London Borough of Harrow v Qazi [2003] UKHL 43 per Lord Millett at para. 87.

⁵ See: Mayor & Burgesses of the London Borough of Tower Hamlets v Alfred Eugene Barrett and Another [2005] EWCA Civ 923 per Lord Justice Neuberger at para. 18.

dence contradicting the assertion that the land had been Crown land prior to its conveyance to Sigma.

[13] He further contended that the Court had fallen into error in requiring Sigma to show that it or its predecessor in title had been in possession of the disputed land during the period prior to 2005. The law ascribes possession to the paper title owner until it is shown that that owner had been dispossessed by another. It was incumbent upon Mr. Redhead to show that he had dispossessed the Crown for the requisite period of 60 years as was required by section 3 of the **Limitation of Actions Act**. Mr. Redhead could show possession of the disputed land for a period of 15 years only, that is, from 1992 when he had fenced same to 2006 when the chain-link fence was removed. This was insufficient to extinguish the title of the Crown from whom Sigma had purchased the land. The finding of the Court was that Sigma had exhibited a valid paper title. That valid paper title had been obtained by purchase from the Crown. Time did not begin to run against a purchaser from the Crown for the purposes of limitation until after he had acquired title to the relevant land.

[14] Dr. Francis Alexis, QC, lead counsel for Mr. Redhead, responded by submitting that even if it had originally been the case that the Crown in right of its government in Grenada owned all lands as a matter of prerogative, that prerogative had in fact been displaced by the **Crown Lands Act**. True Blue Estate, of which the disputed area is part, does not come within the description of the lands included in that Act. Although the conveyance from the Crown to Sigma recited that the land conveyed had been part of the Crown lands as defined by the **Crown Lands Act** Sigma had failed to prove that fact at trial. Other than that recital no evidence had been brought to establish the prior ownership of the disputed land by the Crown. Accordingly, the court had correctly concluded that it had not been shown on a balance of probabilities that the Crown had had title to or possession of the disputed land at the time that it purported to convey same to Sigma.

Mr. Redhead's possessory claim

- [15] It is for the person claiming adverse possession to prove his factual possession of the disputed land and the relevant intention to exclude all others.⁶ Mr. Redhead proved in evidence that he was in possession of the disputed land; that he had been in such possession from and since 1988; that he had excluded all others from that land and had since 1992 enclosed same by a chain-link fence; and that his possession had been unchallenged for a period of 18 years prior to 2006.

Sigma's documentary title

- [16] Mr. Redhead readily admitted Sigma's paper title. Notwithstanding the fact that Grenada does not have a land registration system he pleaded in paragraph 4 of his statement of claim that Sigma was the 'registered' owner of the disputed land. Sigma's confirmation of this averment and its assertion that its title had been obtained by conveyance from the Crown was not the subject of any dispute. The substance of the dispute was whether that paper title was sufficient to defeat the possessory claim of Mr. Redhead.
- [17] At the hearing in the court below Sigma produced a conveyance executed by the Governor-General with respect to Lot 22 of which the disputed land was a part. This document recited that the land conveyed was 'a portion of Crown Lands within the meaning of the Crown Lands Act Chapter 73'. The judge found that the truth of this recital had not been established by evidence.
- [18] Section 2 of the **Crown Lands Act** vests in the Governor-General the lands referred to 'whether by description or otherwise' in section 2 of Chapter 78 of the 1958 Laws of Grenada. That provision lists a number of specific estates and tracts of land in Grenada and includes as a category 'all other lands ... which are now or may hereafter become vested ... in the Governor and the Executive Council or in the Financial Secretary, or in the Crown, for the public uses of the Colony...'. Section 3 of the **Crown Lands Act** defines as 'Crown Lands' the lands so

⁶ Bolton Metropolitan Borough Council v Musa Ali Qasmi (1998) 77 P&CR D 36.

vested in the Governor-General and 'all other lands which may, from time to time, be vested in the Governor-General for the public uses of Grenada.

[19] The judge found in paragraph 31 of the judgment that the disputed land 'does not fall within the description of the lands described in section 2 of the 1958 Laws of Grenada'. He went on to point out that that '[n]o evidence has been adduced to the Court that the disputed land was prior to 2005 vested in the Governor-General'. He found that Sigma's title deed did not provide any historical information as to the title to the disputed land. At paragraph 33 of the judgment he observed that '[a]part from the bald assertions that the disputed land was Crown land during the time of the claimant's occupation thereof no evidence was presented to the Court to support or prove on a balance of probabilities that this was so'. Accordingly, he concluded that Sigma's documentary title did not give it a better right to possession of the disputed land than Mr. Redhead.

[20] I respectfully disagree with that approach. In **Ocean Estates Ltd. v Norman Pinder**⁷ Lord Diplock observed that:

"At common law ... there is no such concept as an 'absolute' title. Where questions of title to land arise in litigation the court is concerned only with the relative strengths of the titles proved by the rival claimants. If party A can prove a better title than party B he is entitled to succeed notwithstanding that C may have a better title than A, if C is neither a party to the action nor a person by whose authority B is in possession or occupation of the land. It follows that as against a defendant whose entry upon the land was made as a trespasser a plaintiff who can prove any documentary title to the land is entitled to recover possession of the land unless debarred under the [Limitation Act] by effluxion of the 20-year period of continuous and exclusive possession by the trespasser.

"In the present case, where the defendant made no attempt to prove any documentary title in himself or in any third party by whose authority he was in occupation of the land it would have been sufficient for the plaintiffs to rely upon the conveyance of the land to themselves of March 30, 1950; for where a person has dealt in land by conveying an interest in it to another person there is a presumption, until the contrary

⁷ [1969] 2 AC 19.

is proved, that he was entitled to the estate in the land which he purported to convey.”⁸

[21] In the facts under review it was common ground that the disputed land fell outside the description of the lands listed in section 2 of Cap. 78 of the 1958 Laws of Grenada. There remained the question of whether that land fell within the description of ‘other lands’ which were ‘vested in the Governor-General for the public uses of Grenada’. The judge seems to have required Sigma to prove that the disputed land had been vested in the Governor-General prior to the relevant conveyance. He found no evidence of such vesting. That the land had been so vested should have been presumed. The pertinent question which the court did not purport to decide, was: had Mr. Redhead produced evidence sufficient to rebut the presumption that the Crown had been entitled to the estate which it had purportedly conveyed to Sigma?

[22] The judge found in paragraph 33 of the judgment that Sigma had exhibited a valid paper title to Lot 22 which included the disputed land. He should have given effect to that finding: it signified at the very least that that paper title was valid as against a squatter. In my view, and consistent with that finding, Sigma must be treated as a purchaser from the Crown in possession of a valid paper title to the disputed land.

The question for the Court

[23] The question for the Court in this case was whether Sigma’s paper title gave it a right to make an entry on the disputed land at the time and in the manner that it purported to do.

⁸ At pp. 24H-25C.

Rights of the Crown in Grenada with respect to limitation of actions relating to land

[24] It is beyond contention that had title to the disputed land been vested in the Crown at the material time it could lawfully have made the entry complained of. Section 3 of the **Limitation of Actions Act** provides:

“3. The rights of the Crown and the Government in all lands shall be barred after the lapse of sixty years in like manner and subject to the same provisions as regulate the rights of the Crown in England.”

[25] The rights of the Crown in England with regard to limitation of actions relating to unregistered land is regulated by the English **Limitation Act 1980**. That Act provides in section 15 that:

“(1) No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.

...

(7) Part II of [Schedule 1] contains provisions modifying the provisions of this section in their application to actions brought by, or by a person claiming through, the Crown or any spiritual or eleemosynary corporation sole.”

[26] Part II of Schedule 1 to that Act provides, so far as material to the Crown that ‘section 15(1) of this Act shall apply to the bringing of an action to recover any land by the Crown ... with the substitution for the reference to twelve years of a reference to thirty years.’⁹

[27] When the necessary transpositions are made, section 3 of the **Limitation of Actions Act** provides with respect to the rights of the Crown and Government of Grenada in all lands that:

“No action shall be brought by [the Crown] to recover any land after the expiration of [sixty] years from the date on which the right of action accrued to [it] or, if it first accrued to some person through whom [it] claims, to that person.”

⁹ See: para. 10 of Schedule 1 (Part II).

- [28] In Grenada the Crown enjoys a period of sixty years from the date when the right first accrued to one of its predecessors in title, or if not, to itself to make an entry or to take action to recover land in the possession of a trespasser. Assuming that title to the disputed land was vested in the Crown it would have had a sixty year period commencing in 1988 to recover the land from Mr. Redhead. The extended limitation period of sixty years is available to the Crown even if it acquired title more than 12 years after a trespasser had gone into possession.¹⁰

Rights of persons other than the Crown with respect to limitation of actions relating to land

- [29] With respect to a person other than the Crown, section 4 of the **Limitation of Actions Act** provides:

“4. No person shall make an entry or distress, or bring an action to recover any land, but within twelve years next after the time at which the right to make the entry or distress, or to bring the action, has first accrued to some person through whom he claims, or, if the right has not accrued to any person through whom he claims, then within twelve years next after the time at which the right to make the entry or distress, or to bring the action, has first accrued to the person making or bringing it.”

- [30] That section expressly bars not only the bringing of an action, but also the making of an entry or distress with reference back to the time when the right to make such an entry or distress could first have been exercised.

- [31] Section 27 of the **Limitation of Actions Act** provides:

“27. At the determination of the period limited by this Act to any person for making an entry or distress or bringing an action, the right and title of that person to the land for the recovery whereof the entry, distress, or action, might have been made or brought within that period shall be extinguished.”

- [32] The aggregate effect of the foregoing provisions is: where a person other than the Crown seeks to make an entry or distress or to take action to recover land in the

¹⁰ Secretary of State for Foreign and Commonwealth Affairs v Tomlin and Others (The Times 4 December 1990).

possession of a squatter he must do so within twelve years from the date that the right could first have been exercised by one of his predecessors in title, or if not, by himself. If he fails to do so his title to the land will be extinguished. If he subsequently attempts to enter upon the land to assert his right of beneficial ownership, he will be a trespasser.¹¹

The lawfulness of Sigma's entry on the disputed land

- [33] On 20th September 2006, Mr. Redhead was in possession of the disputed land and had been in continuous possession of same for the previous eighteen years. On that day Sigma caused a bulldozer to enter that land and to remove part of a chain-link fence. The purpose and effect of section 4 of the **Limitation of Actions Act** is to bar a private company such as Sigma from making an entry upon land in the possession of a squatter if 12 years had elapsed since the date when one of its predecessors in title, or if not, itself, could first have done so. If section 4 of the Act was applicable, that entry amounted to a trespass. The lawfulness of the entry therefore turns upon the answer to the question: were the requirements of section 4 altered in their application to Sigma because it had purchased the land from the Crown?

Rights of a purchaser from the Crown in Grenada

- [34] In the case of **Julian Ashton v Veronica Forbes** the Court of Appeal held that time could not begin to run against a purchaser from the Crown until after he became the true owner and that accordingly, for the purpose of limitation, time which ran against the Crown could not be added to the time which ran against a purchaser from the Crown. This decision was based on the **Limitation Act** of Saint Vincent and the Grenadines.¹² Section 12 of Part II of the Schedule to that Act is worded in practically identical terms to paragraph 12 of Schedule 1 Part II of the English **Limitation Act 1980** discussed below. In the skeleton argument filed on its behalf, Sigma cited **Julian Ashton v Veronica Forbes** as authority for the

¹¹ See: *Beaulane Properties Ltd v. Palmer* [2006] Ch 79 per Strauss QC J at para. 107.

¹² Cap. 90, Revised Laws of Saint Vincent and the Grenadines 1990.

proposition that time could not have begun to run against it prior to the date that it obtained a conveyance of the disputed land from the Crown.

[35] Paragraph 12 of Schedule 1 Part II of the English **Limitation Act 1980** specifically provides for the case where a person who had acquired title from the Crown takes action to recover the land so acquired from a trespasser. It enacts that:

“Notwithstanding section 15(1) of this Act, where in the case of any action brought by a person other than the Crown ... the right of action first accrued to the Crown ... through whom the person in question claims, the action may be brought at any time before the expiration of—

- (a) the period during which the action could have been brought by the Crown ...; or
 - (b) twelve years from the date on which the right of action accrued to some person other than the Crown ...;
- whichever period first expires.”

Had this or an equivalent provision been applicable to the facts under review Sigma would have had 12 years from 22nd February 2005, the date on which it obtained title to the disputed land, to make the entry which is the subject of Mr. Redhead's claim.

[36] I make three observations-

- firstly, that paragraph 12 of Schedule I Part II of the English **Limitation Act 1980** is not imported into the law of Grenada by the operation of section 3 of the **Limitation of Actions Act**: that provision does not purport to regulate the right of the Crown, but rather rights of ‘a person other than the Crown’;
- secondly, that, as was pointed out by the trial judge at paragraph 26 of the judgment, there is no provision in the law of Grenada which is equivalent to paragraph 12 of Schedule 1 Part II of the English **Limitation Act 1980** or to section 12 of Part II of the Schedule to the **Limitation Act** of Saint Vincent and the Grenadines. There is nothing in the **Limitation of Actions Act** which prescribes for persons claiming title from or through the Crown any provision for limitation in terms which are different from those set out in section 4 of the Act; and

- thirdly, that the words ‘Notwithstanding section 15(1) of this Act’ in paragraph 12 of Part II of Schedule 1 of the English **Limitation Act 1980** (‘Notwithstanding section 17(1)’ in paragraph 12 of Part II of the Schedule to the **Limitation Act** of Saint Vincent and the Grenadines) indicate that but for that provision, in cases where a right of action first accrued to the Crown, the twelve year period limited for a purchaser of land from the Crown to evict a trespasser therefrom would have begun to run from the date on which the Crown could first have exercised that right rather than from any later date on which that purchaser or some person other than the Crown could first have done so.

[37] I am constrained to hold that the principle articulated by the Court of Appeal in **Julian Ashton v Veronica Forbes** is not applicable to Grenada. Limitation of actions is entirely a matter of statute, there being no principle of limitation at common law. A tenet of limitation which varies the effect of section 4 of the **Limitation of Actions Act** in its application to purchasers of land from the Crown can be established only by express statutory enactment. ‘[A]t least for some purposes, the Crown has a legal personality. It can be appropriately described as a corporation sole or a corporation aggregate The Crown can hold property and enter into contracts.’¹³ Section 4 of the **Limitation of Actions Act** specifically provides in relation to a person other than the Crown that ‘[n]o person shall make an entry ... but within twelve years next after the time at which the right to make the entry ... has first accrued to some person through whom he claims’. Time will begin to run against an owner from the date that he takes title only ‘if the right has not accrued to any person through whom he claims’.¹⁴ Section 2 of that Act makes clear that the ‘person through whom another person is said to claim’ means any person by, through, or under or by the act of whom the person claiming became entitled to the estate or interest claimed as ... successor’. Nothing in the **Limitation of Actions Act** purports to dis-apply the foregoing provisions in cases where the person through whom the owner claims is the Crown.

¹³ See: *M v Home Office* [1994] 1 AC 377 per Lord Woolf at 424E-F.

¹⁴ See: s. 4, Limitation of Actions Act, Cap. 173, Revised Laws of Grenada 1990.

- [38] The right to make an entry upon the disputed land to assert its right of ownership against Mr. Redhead first accrued to the Crown, through whom Sigma claims, in 1988. The time available to Sigma to effect a re-entry on the disputed land began to run from that date.

Extinguishment of title

- [39] Sir Richard Cheltenham, QC contended on behalf of Sigma that Mr. Redhead could have resisted Sigma's entry on the disputed land only by showing that he had dispossessed the Crown for the period of sixty years and thereby extinguished its title prior to the conveyance to Sigma. Underlying this contention is the proposition that time which ran against the Crown could not be taken into account for the purposes of limitation in the case of a purchaser from the Crown. For the reasons given in the preceding four paragraphs I do not consider that proposition to be correct.
- [40] The period limited to Sigma to make an entry upon the disputed land was 12 years from the date when the right to make such an entry first accrued to the person through whom it claims, in this case, the Crown. The 60 year period during which the Crown would have been entitled to make an entry or bring an action to recover possession of the land from Mr. Redhead ceased to be applicable when the Crown divested itself of title to the land by conveying same to Sigma. At that time, in the absence of a provision equivalent to paragraph 12 of Schedule 1 Part II of the English **Limitation Act 1980** Sigma's title to the disputed land was extinguished by the operation of section 27 of the **Limitation of Actions Act**.

Disposal

- [41] For the foregoing reasons I would dismiss this appeal with costs to be paid to the respondent fixed at two thirds of the costs awarded in the court below.

I concur.
Davidson Kelvin Baptiste
Justice of Appeal

I concur.
Gertel Thom
Justice of Appeal

By the Court

Chief Registrar