

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
POSSESSORY TITLE APPLICATION NO. 22 OF 2007

BETWEEN:

EVANS CORNELIUS JACKSON

V

MARGARET LOUISA WILLIAMS-JACKSON

Applicant

Respondent

Appearances:

Mr. C. Joseph for the Applicant
Miss P. Knights for the Respondent

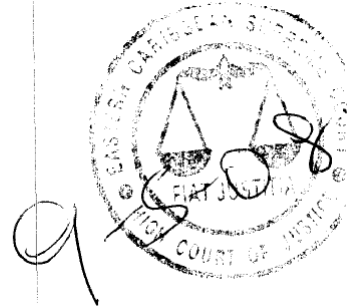
2008: February 20;
April 2;
May 9.

JUDGMENT

- [1] **MATTHEW J (Ag.) In Chambers:** On June 6, 2007 the Applicant applied for a declaration of possessory title in respect of a portion of land situated at Arnos Vale in the Parish of Saint George containing 4 acres and six poles.
- [2] In that application he stated that he and his predecessor in title have been in exclusive and undisturbed possession of the land for twelve years and that the land taxes had been paid for over twelve years in the name of his deceased father, Allan Jackson.

AFFIDAVIT EVIDENCE:

- [3] In his affidavit in support of the application he stated that he is the son and Personal Representative of Allan Jackson, deceased, who had been in adverse possession for



approximately 33 years and that Allan Jackson had obtained possessory title in 1994 by virtue of registration number 1729 of 1994 before he died on December 13, 1995

- [4] It must be stated here that the possessory title referred to in the preceding paragraph is not the kind of title contemplated by the Possessory Title Act, No. 38 of 2004. It is precisely because of the inadequacy of what was called "possessory title" that the new legislation was enacted.
- [5] He stated in paragraph 6 of his affidavit:

"I succeeded my father on his death and I have been in undisturbed, uninterrupted and sole possession of that parcel of land, paid no rent to anyone for the same, and exercised all rights of ownership over it since then."
- [6] It is just not true that the Applicant applied for a declaration of possessory title in a representative capacity, that is, as Personal Representative of the Estate of Allan Jackson.
- [7] He also stated that he obtained Letters of Administration in the Estate of Allan Jackson, deceased on November 7, 1996, No. 178 of 1996.
- [8] Pazina Bibby filed an affidavit on June 7, 2007 in support of the application. She stated that she knew Allan Jackson who was her neighbour living and occupying the land for over 20 years and since his death in 1995, his son Evans Cornelius Jackson, has continued in possession of the land up to the date of her signing on May 3, 2007.
- [9] Yvonne Carlita Howell, also of Arnos Vale, testified that she has seen the grant of Letters of Administration obtained by the Applicant and that the Applicant has continued in undisturbed possession as the Personal Representative of Allan Jackson, deceased, of the said parcel of land at Arnos Vale.
- [10] This is the first indication of a twist in the application for neither the Applicant, nor Bibby spoke of the Applicant being in possession as Personal Representative of Allan Jackson deceased. But that is no big moment for my decision will be the same whether the

Applicant is applying for a declaration of possessory title on his own behalf or as a personal representative of the Estate of his father.

- [11] On August 15, 2007 an appearance was entered by the Caribbean International Law Firm on behalf of Margaret Louisa Jackson, Almida Robertha Williams and Ezekiel Emmanuel Williams who are also the children of the late Allan Jackson.
- [12] The Applicant duly caused advertisements to be made of his application in the "Searchlight" Newspaper of June 29 and October 19, 2007 and in the "News" on the same dates.
- [13] On January 22, 2008 Margaret Louisa Williams-Jackson swore to an affidavit in which she stated that she was one of the children of Allan Jackson deceased having been born on October 6, 1965 and that the said Allan Jackson also fathered two other children namely:
 - (i) Ezekiel Emmanuel Williams born on November 13, 1967; and
 - (ii) Almida Robertha Williams-Jackson born on April 27, 1970.
- [14] She stated that all three of them were born on the lands at Arnos Vale which was occupied by their father.
- [15] She stated that the Applicant knew that her father had other children but on June 7, 2007 applied for possessory title without making mention of them and in the circumstances she was opposing the application.
- [16] The Respondent's affidavit was accompanied by birth certificates which revealed that their mother was Iona Williams. There was the name Allan Jackson inserted as the father of Margaret Louisa Williams, but no father indicated for the other two children. That suggests that they were born illegitimate on the land in question.

- [17] Cecelia Jones, Carlton Blugh, Virginia Rosetta Gill, Ancia Smith and Michelle Lynette Williams all swore to affidavits between February 7, 2008 and April 2, 2008. They also gave oral testimony
- [18] Jones stated that Allan Jackson, Iona Williams and their children have occupied the property since the 1970's and that there are seven houses on the property which are occupied by Margaret and her family but none occupied by Evans Cornelius Jackson.
- [19] She stated that the Applicant does not reside on the property and has never done so and she has lived in the vicinity continuously since 1983.
- [20] Carlton Blugh stated that he does not understand how Evans Cornelius Jackson was applying for possession of these lands as he has lived on the property for 15 years continuously and has never seen the Applicant in occupation of the land or planting anything on the land.
- [21] The affidavit evidence of Virginia Rosetta Gill, Ancia Smith, Onickle Gill and Michelle Lynette Williams are to the same effect that the Applicant has never been in occupation of the land.

ORAL TESTIMONY:

- [22] When he gave oral evidence the Applicant stated that it was not his intention to obtain title for himself but wanted the land for his sisters and his brother. Whatever his intention was, the application was certainly not made on behalf of himself, his sisters and his brother.
- [23] He admitted under cross-examination that he was not living on the land and Margaret was born on the land. He admitted he did not know Michelle Lynette Williams, Ancia Smith, Virginia Rosetta Gill, Carlton Blugh and Onickle Gill all of whom live on the land.

[24] When Yvonne Carlita Howell was cross-examined she said she is 62 years old and she had been living in England for 36 years. She returned to Saint Vincent in August 2002 after Allan Jackson's death.

[25] Pagina Bibby has children with the Applicant. She said she and the Applicant lived together for 27 years at Kingstown Park but she was now living at Arnos Vale for 15 years. Jackson no longer lives with her as they separated in 1993. She said not to her knowledge that the Applicant lives on those lands.

CONCLUSIONS:

[26] It is pellucid that the Applicant is not in possession of the land from the abundance of the evidence given by the Respondent and the other persons who live on the land. His Counsel concedes that in his final submission when he says at paragraph 33:

"This is so as Evans Jackson could not have claimed possessory title to the parcel of land in his own rights under the Act as he was not in exclusive possession of it as Evans Jackson for 12 years or more."

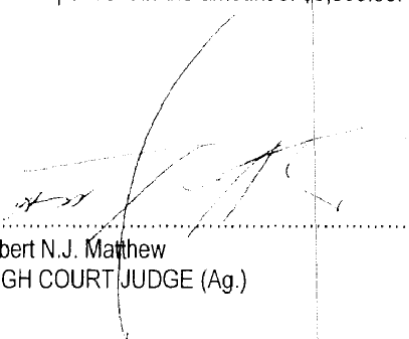
But as I have already stated his application was for title for himself.

[27] But even assuming his claim was in a representative capacity he must also show adverse possession as such. It seems the Claimant is saying since he has a paper document he can live in Timbuktu and say he is in possession. This is untenable. He must be in possession as Personal Representative.

[28] The Applicant never lived on the land. He seems to be an "outside" child, outside of the common law relationship which Allan Jackson had with Iona Williams. Unless one is presently in possession of the land for which he wants a declaration of possessory title his application cannot succeed.

[29] The occupation of the parcel of land is in a confused state with so many people in occupation, some being relatives, others not related to the Jackson's'. Had the Applicant cooperated with the Respondent in the beginning things might have worked better for him.

- [30] He obtained a Grant of Letters of Administration since 1996 and has not fully administered the estate. Under the Civil Code of Saint Lucia his authority or one-year "seisin" would have lapsed unless renewed by the Court upon proper application. The delay in administering the estate has put him in a lot of difficulties and so he applies for title under the possessory title "with conditions" to do all the things which he has not done but ought to have done. He wants the stamp of approval for his inefficiency.
- [31] Learned Counsel for the Applicant has submitted that the affidavit filed by the Respondent is woefully out of time, and further, it does not comply with Section 9 (1) of the Act.
- [32] I agree that the Respondent ought to have filed her written claim within 21 days of the entry of appearance so that the affidavit should have been filed not later than September 30, 2007. But unless Counsel took that point at the proper time it was to be assumed that no objection was being made. Directions were given to the Parties on January 30, 2008 and the hearing was fixed for February 20, 2008.
- [33] As to the content of the affidavit it seems learned Counsel for the Applicant is submitting that in accordance with Section 9 of the Act, a Party who enters appearance must himself or herself have a claim. Whatever the merits of that submission the Court has heard all the facts and it is established that the Applicant is not in adverse possession. His claim is not propped up by the defect in the Respondent's affidavit.
- [34] The application is dismissed with costs to the Respondent in the amount of \$3,000.00.



Albert N.J. Matthew
HIGH COURT JUDGE (Ag.)