

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES**

IN THE HIGH COURT OF JUSTICE

(CIVIL DIVISION)

CLAIM NO.: SVGHCV2023/0030

BETWEEN:

BASIL WEEKES

Claimant

and

ELSWORTH WEEKES

Defendant

BEFORE: The Hon. Mde. Justice Cybelle Cenac-Dantes

DATED: 3rd February 2026, 16th February 2026 (closing submissions), 23rd April 2026

Appearances:

Maxron Holder Counsel for the Claimant, Nicholas Providence Counsel for the Defendant

JUDGMENT

Introduction

[1] This is an application brought by the Claimant, Basil Weekes, pursuant to section 20 of the Possessory Titles Act¹, (hereinafter referred to as “the Act”) for a declaration of possessory title to a parcel of land situate at Fairbaine Pasture in the Parish of Saint George, measuring approximately 3,463 square feet and more particularly described in the application filed on 27 February 2023.

[2] The Claimant asserts that he has been in exclusive, continuous and undisturbed possession of the said land since 1976, having purchased the same from one

¹ Cap. 328 of the Laws of Saint Vincent and the Grenadines

Almaida Hutchinson for the sum of \$1,500.00, but having been unable to obtain a formal conveyance prior to her death.

- [3] The Defendant, Elsworth Weekes, who is the Claimant's brother, opposes the application. His case is that the land formed part of the estate of their late mother, Clementina Victory (also known as Clementina Ralph Victory and Clementina Martin), who, he contends, exercised acts of ownership over the land during her lifetime and treated it as her own. The Defendant further contends that the Claimant has failed to establish the statutory requirements necessary to ground a claim for possessory title.
- [4] The central issue for determination is therefore whether the Claimant has satisfied the statutory requirements for the grant of a declaration of possessory title. That question turns on an examination of the nature and quality of the possession relied upon by the Claimant, and whether such possession meets the legal threshold required under the Act.

Applicable Law

- [5] The application is governed by the provisions of the Possessory Titles Act. Section 2 of the Act defines adverse possession as:
- “factual possession of an exclusive and undisturbed nature of a piece or parcel of land in Saint Vincent and the Grenadines for a continuous period of twelve years or more accompanied by the requisite intention to possess the said land as owner thereof.”
- [6] It is therefore well established that an applicant seeking a declaration of possessory title must satisfy two foundational requirements:
- (1) **Factual possession**, being a sufficient degree of physical control over the land; and
 - (2) **Animus possidendi**, being the intention to possess the land as owner and to exclude the world at large.

[7] These principles have been consistently articulated in the authorities. In **Powell v McFarlane**², Slade J explained that factual possession signifies:

“an appropriate degree of physical control... single and exclusive possession... dealing with the land as an occupying owner might be expected to deal with it.”

[8] In **J A Pye (Oxford) Ltd v Graham**³, the House of Lords affirmed that both factual possession and the intention to possess must be established, and that the intention required is not an intention to own, but an intention to possess to the exclusion of others.

[9] The burden rests squarely on the Claimant to establish both elements on a balance of probabilities. A failure to prove either is fatal to the application.

The Evidence

[10] The Claimant, Basil Weekes, relied on his witness statement filed on 24 May 2024 and his oral evidence under cross-examination. The essence of his case is that he purchased the disputed parcel of land in or about 1976 from Almida Hutchinson for the sum of \$1,500.00, and that he has since been in possession of the land.

[11] In his oral evidence, however, the Claimant made a number of significant admissions as to the nature of his claim and his relationship to the land. He stated, at the outset of his cross-examination, that he was “*relying on a receipt and not possession*” and that he had always maintained that the land was his because he purchased it, and not because he had dispossessed anyone. He further stated that his case was one concerning ownership of the land.

[12] The Claimant accepted that at the time of the alleged purchase in 1976, he was residing in Montreal, Canada, and that for the period between 1976 and approximately 2006, he did not reside on the land on a day-to-day basis. He stated

² Powell v McFarlane [1977] 38 P & CR 452

³ J A Pye (Oxford) Ltd v Graham [2002] UKHL 30

that during that period he visited Saint Vincent periodically, sometimes for short periods of a few weeks, and would stay with his mother on the land during those visits.

[13] The Claimant further accepted that his mother, the late Clementina Victory, resided on the land continuously from the 1970s until her death in 2021. He stated that she operated a grocery shop on the property, managed the land and house on a daily basis, and determined who was permitted to enter or remain on the property. And while he maintained that his mother resided on the land with his permission, he accepted that she was the person in actual occupation and control of the property during the period when he was abroad.

[14] As it relates to the period following his mother's death in 2021, the Claimant accepted that he did not move onto the land or reside there permanently. He stated that he did not fence the property, did not post any notice asserting ownership, and had not excluded any of his siblings from the land. His evidence was that he merely placed a chain across the yard to restrict access.

[15] The Claimant also accepted that he does not presently hold a deed of conveyance for the land and that legal title remains outstanding.

[16] Under questioning by the Court, the Claimant acknowledged that he does not currently reside on the land and that his occupation of the property for any continuous period was limited, at most, to approximately one year.

[17] The Claimant's evidence further disclosed that although he asserted that he purchased the land in 1976, he did not take any effective steps to regularise his title for a considerable period of time. He stated that efforts to secure a deed were made through legal practitioners, and that he was advised, some years later, to pursue a claim for possessory title, but that such steps were not promptly taken.

[18] The Claimant relied on the evidence of Hermie Miller, secretary in the law firm of Stanley John who had been retained by the claimant to obtain a deed of title from Almaida Hutchinson. Ms. Miller indicated that she had knowledge of the transaction involving the land and that efforts had been made to secure a conveyance following

the death of the vendor. However, under cross-examination, she accepted that much of her knowledge of the occupation and use of the land was derived from the Claimant's mother rather than from her own direct observation.

- [19] The Defendant, Elsworth Weekes, relied on his witness statement and oral evidence. His case is that the disputed land was treated by their mother, Clementina Victory, as her property, and that she exercised control and dominion over the land throughout her lifetime.
- [20] His evidence was that the mother resided on the land for several decades, constructed and maintained the dwelling house, and operated a grocery shop from the premises. He stated that she was the person who managed the property and that she permitted family members, including their sister, to undertake construction works on the land.
- [21] The Defendant further stated that the Claimant did not reside on the land for any significant period and was largely absent, residing overseas for extended periods, and that his involvement in relation to the property was limited and intermittent.
- [22] The Court also heard the evidence of Kay Weekes, sister to the claimant and defendant. She confirmed that she sought to construct an extension to the property in or about 2020 and that, in that regard, both she and the Claimant executed a document in connection with the proposed construction. She further confirmed that a planning enforcement notice was issued in 2021 in which the Claimant was named as owner or occupier.
- [23] However, Ms. Weekes maintained that the inclusion of the Claimant's name on the planning notice did not reflect any exercise of ownership on his part, and stated that she had not observed the Claimant exercising acts of ownership over the land.
- [24] Ms. Weekes also gave evidence that their mother had made a Will in 2015 by which she bequeathed the property to her children equally, and that prior to her death in 2021 she had initiated steps towards obtaining possessory title in her own name. No documentary evidence of this claim was produced to the court.

- [25] The documentary evidence before the court includes the Last Will and Testament of the late Clementina Victory dated 5 May 2015, by which she devised the property at Fairbaine Pasture to her four children in equal shares.
- [26] The evidence also includes documentation relating to planning enforcement in 2021, as well as materials indicating that the property was treated, for administrative purposes, as being associated with the deceased.
- [27] Having considered the totality of the evidence, including the oral testimony under cross-examination, the Court now turns to assess whether the Claimant has satisfied the statutory requirements for the grant of a declaration of possessory title.

Analysis and Findings

- [28] The burden rests on the Claimant to establish, on a balance of probabilities, that he has been in factual possession of the disputed land for a continuous period of at least twelve years, accompanied by the requisite intention to possess the land as owner and to exclude the world at large. A failure to establish either element is fatal to the application.
- [29] In the Court's judgment, the Claimant has failed to establish either foundational requirement. Indeed, the difficulty with the Claimant's case is not merely that the evidence is insufficient. It is that, on his own account, the case is substantially misconceived as a claim for possessory title.
- [30] The most damaging feature of the Claimant's evidence appears at the very outset of his cross-examination. He stated in clear terms that he was "*relying on a receipt and not possession*", that he has always said the land is his because he bought it, and that his case is about ownership of land. He further stated that he did not claim the land because he had dispossessed anyone. These were not passing remarks. They accurately reveal the basis upon which he himself understands his claim, and reveals his subjective belief that his right to the land was contractual in nature, derived from a transaction with the then owner, Almaida Hutchinson. This acknowledgment of the vendor's superior title, and the reliance on a contractual

transaction rather than a hostile claim of right, undermines the assertion that he intended to possess the land to the exclusion of the paper owner. He was, in effect, up till 2023 when this claim was filed, occupying the land with the implied permission of the vendor while seeking to complete the sale.

- [31] The Court finds that the Claimant's intention was not to dispossess the owner, but rather to eventually become the owner through the legal process of conveyance. When that process failed due to the death of the vendor, he sought to use the Act as a fallback.
- [32] This evidence sits uneasily, and indeed fundamentally, with the statutory concept of adverse possession. A claim for possessory title is not established by proving that one paid money for land, or even that one may have acquired some beneficial interest in it. It is established by proving factual possession of an exclusive and undisturbed nature for the statutory period, coupled with the requisite intention to possess as owner. The Claimant's evidence, viewed fairly, is directed to proving a transaction of purchase and a resulting claim to ownership, not to proving possession.
- [33] Even if the Court were to treat the receipt as some evidence supporting an intention on the Claimant's part to treat the land as his own, it still could not avail him without proof of the corresponding acts of actual possession and control required by law. In many possessory title cases, documentary materials may serve as part of the surrounding evidential matrix. Here, however, the receipt, standing alone, is evidence of a transaction. It is not evidence of possession. In the absence of acts demonstrating physical control and dominion over the land, it cannot satisfy the statutory requirements.
- [34] There is a further and deeper difficulty. On the Claimant's own case, he purchased the land, caused or permitted his mother to remain on it, allowed her to operate a shop there, later allowed her to build a house attached to the shop, and maintained that she occupied by his permission. If that version were true, what it would establish is not adverse possession by the Claimant, but rather a title-based claim in which

the Claimant regards himself as beneficial owner and his mother as a permissive occupier.

- [35] That is not adverse possession. It is, at its highest, a case of alleged ownership by purchase with a licence granted to another. It is the very opposite of a claim founded on possession adverse to the paper title owner. The Claimant's own insistence that he is owner by purchase, and not by dispossession, underscores the point. He has not presented himself as one who acquired title through the long exercise of possession in the face of another's paper title. He has instead presented himself as one who says he bought the land and allowed his mother to remain there.
- [36] The Court has also considered whether the Claimant could plausibly be said to have possessed through his mother as a licensee or subordinate occupier. In principle, the law may recognise possession exercised through another person. However, the evidence here does not support such a characterisation. The Claimant never described his mother as occupying on his behalf as an agent maintaining possession for him, but rather as a person to whom he had given permission to remain. That distinction is material. More importantly, on his own evidence, it was she who lived there continuously, operated the business, managed the house and land on a daily basis, and determined who came and went. That is not the language or factual reality of subordinate occupation maintained for the Claimant's possessory benefit. It is the language of a person who was herself the true factual occupier.
- [37] The Court is not satisfied that the Claimant exercised the requisite degree of physical control over the land at any material time for the statutory period. He accepted that, at the time of the alleged purchase in 1976, he was living in Montreal, Canada. He further accepted that from 1976 until approximately 2006 he did not live on the land on a day-to-day basis, but instead visited Saint Vincent periodically, sometimes for periods of a few weeks, during which he stayed with his mother. Sporadic visits of that nature are not capable, without much more, of constituting continuous factual possession of land.

- [38] The Claimant's own evidence demonstrates that it was his mother, and not he, who exercised the immediate and visible acts of occupation and control over the land for several decades. As already noted, she resided on the land continuously, operated a business thereon, managed the premises on a daily basis, and determined who was permitted to enter or remain. Those are, in law, the hallmarks of factual possession, and they were exercised by her, not by the Claimant.
- [39] Nor does the position improve for the Claimant in the period following his mother's death. His evidence, to which the Court has already referred, discloses no meaningful assertion of exclusive control. The limited steps taken by him fall far short of the degree of physical dominion required to establish possession of land.
- [40] Further, the Claimant's own acceptance that his continuous residence on the land was, at most, of very short duration is wholly insufficient to satisfy the requirement of twelve years' continuous factual possession.
- [41] The evidence of Ms. Miller does not alter that conclusion. While relevant to the steps taken to secure formal title, it does not establish acts of possession by the Claimant. At its highest, it supports a case of attempted regularisation of title, not one of adverse possession.
- [42] The Court is equally not satisfied that the Claimant has proved the requisite intention to possess. The Claimant's own evidence demonstrates that he saw himself as owner because he bought the land, not because he possessed it adversely. He did not frame his occupation or his mother's occupation in terms of possession against the paper title owner. On the contrary, he acknowledged that Mrs. Hutchinson was the person who always had title to the land and that his legal title remained outstanding. His energies over the years were directed toward obtaining formal title, first by deed and later, after legal advice, by possessory title. That is consistent with a purchaser seeking to perfect title, but inconsistent with a person asserting possessory rights adverse to the world at large.
- [43] The absence of any real acts of exclusion is also telling. The Claimant accepted that he never excluded his siblings from the land. He signed an agreement in 2020 in

relation to his sister Kay's building works, and while that may indicate that he had some involvement or standing within the family arrangements concerning the property, it is by no means decisive evidence of exclusive possessory intention. In a family context, and especially after the mother had already made a Will in 2015 identifying all four children as beneficiaries of the property, such conduct is equally, if not more consistent with the claimant acting within a shared family arrangement than with him asserting a possessory title to the exclusion of all others.

[44] The Court has also considered the 2020 agreement between the claimant and Kay and the 2021 planning enforcement notice naming the claimant as owner or occupier. Those matters are not ignored. On their face, they may provide some support for the Claimant's position. However, neither is decisive. In circumstances where no formal title existed, and where the mother was elderly and in declining health, it is entirely plausible that the claimant, as the eldest son and the sibling more often in Saint Vincent than the Defendant, was named for administrative convenience. Kay maintained that she never saw the claimant exercise acts of ownership and that the inclusion of his name on the planning documents did not reflect actual ownership by him. The timing of the notice in 2021, the year of the mother's death also supports the inference that the claimant was assisting with matters rather than exercising possessory control in his own right. In all the circumstances, the inclusion of his name on the planning documents is equally, and more plausibly explained as administrative convenience rather than evidence of possessory control.

[45] In the Court's view, one of the strongest indicators of the true state of affairs is the Will of the late Clementina Victory dated 5 May 2015. In that Will she devised "[her] property situated at Fairburn Pasture" to her four children equally. That language is significant. It strongly suggests that she regarded the property at Fairbaine Pasture as hers to dispose of. If matters had truly stood as the Claimant contends, namely that the land belonged to him and his mother merely occupied it with his permission, it is difficult to understand why she would have referred generally to "*my property*"

and devised it equally among all the children, rather than making some clear distinction between the house and the land.

- [46] That conclusion is reinforced by the physical nature of the property. The parcel is a relatively small one of approximately 3,463 square feet, and according to the valuation report contains a concrete residential structure and ancillary additions. On such a small, developed parcel, it is unrealistic to suppose that the mother intended, or believed, that she was dealing only with a severable house interest while the land belonged beneficially and exclusively to the claimant. The Will, read in the context of the physical reality of the property, is far more consistent with her treating the whole property, land and improvements together, as hers and is therefore inconsistent with the Claimant's assertion that the land was treated as his alone.
- [47] The later 2021 letter written by the mother in favour of Kay is not inconsistent with that view. Rather, it appears to recognise Kay's beneficial contribution in relation to the downstairs portion while still treating the overall property as one over which the mother had authority to allocate beneficial enjoyment. Significantly, the mother made no similar written recognition of any separate beneficial interest of the claimant in the land. That omission is notable given the Claimant's present assertion that the land was always treated by the mother as his.
- [48] The Court accepts that the receipt for payment of the land in the Claimant's name is evidence of a transaction and may well support the proposition that the claimant provided or sent the money used in the purchase. Indeed, the Defendant does not forcefully dispute that the claimant sent money. But the receipt is not, without more, irrefutable proof that the claimant was the purchaser and owner in the sense now contended, much less that he thereafter exercised adverse possession. The Defendant's and Kay's explanation, namely that the mother had a particular reason for placing the receipt in the claimant's name because he was the eldest son and the one expected to take care of matters if something happened to her, is not implausible. In the context of Caribbean family arrangements, that is not an unheard-of explanation. The receipt is therefore evidence of a transaction, but it is not by itself proof of adverse possession.

- [49] The surrounding evidence in fact points away from the Claimant's exclusive ownership narrative. The property tax receipts exhibited by the Defendant show the property registered in the mother's name, even after her death. That is another outward and administrative indication that she, and not the claimant, was treated as the person associated with the property. It also highlights yet another matter which the Claimant never regularised, either during his mother's lifetime or after her death, despite his claim that he had purchased the land as far back as 1976.
- [50] Further, the delay in taking steps is also striking. On the Claimant's own evidence, the purchase receipt dates back to 1976, yet it was only many years later that he began taking steps to obtain a deed. He told the Court that he had been trying to obtain a deed title for about 16 years before trial and that legal advice to proceed by possessory title had been given about 15 years earlier, but he could not explain why he did not pursue that course at the time. While delay is not necessarily fatal in every case, here it is inconsistent with a person who was throughout, demonstrating by acts of control and assertion an intention to possess as owner. It is, however, consistent with a person who had some arguable beneficial or transactional interest and from time to time attempted to perfect formal title.

Overall conclusion on the facts

- [51] The Court has considered the Claimant's case at its highest. Even on that footing, the evidence does not establish the elements of adverse possession. On the contrary, the Claimant's own evidence, taken at its highest, points away from such a claim.
- [52] Drawing all these matters together, the Court finds that the Claimant has failed to establish adverse possession of the disputed land for the requisite statutory period. He did not reside there continuously, did not exercise day-to-day control, did not exclude others, and did not undertake the outward acts of dominion expected of an occupying owner. The person who did those things was his mother. His own evidence shows that he regarded himself as owner because he purchased the land,

not because he possessed it adversely. His case is therefore not truly one of adverse possession at all, but rather an attempt to convert an asserted purchase-based or beneficial ownership claim within a family setting into a possessory title claim.

[53] The Claimant's claim is essentially a dispute over a failed land transaction. **The Possessory Titles Act** is not a substitute for the law of contract or for the proper administration of estates.

[54] If the Claimant believes he has a valid claim based on the purchase from Almaida Hutchinson, his remedy lies in a claim against her estate for specific performance or for the return of the purchase price, provided such a claim is not barred by the passage of time.

[55] Similarly, if he claims an interest in the land as a beneficiary of his mother's estate, that is a matter to be resolved through the administration of her estate.

[56] In the present case, the Claimant's own admissions and the evidence of his mother's substantial and independent occupation of the land make it impossible for the Court to conclude that he held exclusive possession.

[57] While the Court makes no declaration in favour of the estate of the late Clementina Victory, the evidence more strongly supports the conclusion that it was she who exercised the acts of possession and control over the property during her lifetime and treated it as her own. The Claimant's application must therefore fail.

Costs

[58] The Defendant has been successful and is, in principle, entitled to prescribed costs. The claim being unvalued, such costs would ordinarily be calculated on the basis of a deemed value of \$50,000.00 pursuant to the Civil Procedure Rules.

[59] The Court is satisfied that this is an appropriate case in which to depart from a full award of prescribed costs. This dispute arises between siblings in relation to family property. While the claim was misconceived, having been advanced on flawed legal

advice, in that it sought to proceed by way of adverse possession rather than as a claim grounded in alleged ownership arising from a transaction and long-standing family arrangements, the Court is not satisfied that it was brought in bad faith.

[60] The Court is also mindful that the question of entitlement to the property may yet fall to be determined in appropriate proceedings concerning the estate of the late Clementina Victory. An award of full prescribed costs in the present matter may have the unintended effect of discouraging the parties from pursuing resolution, whether by agreement or by proper proceedings, or of rendering such steps unduly burdensome.

[61] In all the circumstances, and in the exercise of its discretion, the Court considers it just to award the Defendant reduced costs.

[62] The Claimant shall therefore pay the Defendant costs in the sum of \$5,000.00.

Orders

My orders are as follows:

- (1) The Claimant's application for a declaration of possessory title to the parcel of land situate at Fairbaine Pasture in the Parish of Saint George, measuring approximately 3,463 square feet, is dismissed.
- (2) The Court makes no declaration as to the entitlement of the estate of the late Clementina Victory in respect of the said land.
- (3) The Claimant shall pay the Defendant's prescribed costs in the sum of \$5,000.

- (4) The Defendant shall have carriage of the Order after judgment.

CYBELLE CENAC-DANTES

HIGH COURT JUDGE

BY THE COURT

REGISTRAR