

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

IN THE HIGH COURT OF JUSTICE

(CIVIL DIVISION)

CLAIM NO. SVGHCV2025/0045

BETWEEN:

[1] ETHRON CREESE

[2] MARISSA CREESE

Claimants

and

[3] KATHLEEN SAMUEL

[4] VIVIENNE ANGELA CONNELL

[5] SHANE CONNELL

Defendants

Before:

The Hon. Mde. Cybelle Cenac-Dantes

Judge of the High Court

Appearances:

Joseph Delves counsel for the first and second named claimants, Kay Bacchus-Baptiste counsel for the first named defendant absent, Jonathan Lewis counsel for the second and third named defendants

2026: January, 29
February, 24 [submissions]
March 19

JUDGMENT

CENAC-DANTES, J.:

Introduction and Identification of the Application

1. These proceedings arise under the Possessory Titles Act ("the PTA") in respect of an application for a declaration of possessory title. The issue presently before the Court concerns an application by the Second and Third Defendants for an extension of time to file a written claim pursuant to section 9 of the PTA.

2. Section 9 provides that a person who has entered an appearance shall, within twenty-one days of the date of appearance, file in the Registry a written claim stating that he or she owns the land in question together with a statement of the facts upon which that claim is founded. The Applicants did not file their written claim within that statutory period and now seek an extension of time and related relief.
3. The Claimant filed a Notice of Objection to the application in which it was expressly contended that the Court has no discretion to extend the time prescribed by section 9, reliance being placed in particular on the reasoning in **Garraway**¹. However, in written closing submissions, that position was moderated. The Claimant withdrew the categorical objection based on the absence of discretion and submitted instead that, if the Court determines that it does have a discretion under the statutory scheme, such discretion ought not to be exercised in favour of the Applicants. In effect, therefore, the Claimant leaves the threshold question of the existence of discretion to the Court, while maintaining opposition to the grant of the extension sought.
4. When the matter came before the Court on 29 January 2026, counsel on both sides indicated that they wished to address the Court by way of written submissions on the issue and requested that the Court's decision be delivered on the papers thereafter. The Court agreed to that course. I now address those submissions and determine the application.
5. In resolving this application, I will address the competing approaches reflected in **Garraway** and **Miller**², and examine the proper construction of the PTA in light of the circumstances of this case. While any definitive clarification of the law ultimately rests with the Court of Appeal, it is nonetheless appropriate that this Court set out its considered position on the issue. In doing so, I hope to provide a clear analytical foundation should the matter proceed on appeal.

Issues for Determination

6. The application raises an important question concerning the interpretation of the Possessory Titles Act and the interaction between its provisions and the Civil Procedure Rules. The issues arise sequentially and it is convenient to identify them in that order.
7. The first issue is the nature and effect of the requirement imposed by section 9 of the PTA within the statutory scheme created by the Act. In particular, the Court must determine whether the filing of a written claim within twenty-one days of appearance constitutes a statutory condition governing the entitlement of a person to advance a competing ownership claim within proceedings under the Act.
8. The second issue concerns the effect of section 19 of the PTA, which provides that the Civil Procedure Rules (CPR) apply to all proceedings under the Act. Specifically, the question is whether the application of the CPR confers upon the Court a power to enlarge the twenty-one

¹ Logan v Garraway (GDAHCV2020/0530, Grenada High Court, Glasgow J, 14 June 2023)

² Wilfred Miller v Gregory Miller et al (SVGHCV2012/0025, High Court of Saint Vincent and the Grenadines, Thom J, 8 April 2013)

day period prescribed by section 9, or whether that statutory requirement operates independently of the Court's general case management powers.

9. Finally, and in the alternative, if the Court were to conclude that it possesses a discretion to extend time, a further issue arises as to whether such discretion ought to be exercised in favour of the Applicants on the facts of this case.
10. I will address these issues in turn, adopting a step-by-step approach to the construction of the statute and the interaction between its provisions.

Issue 1: The Statutory Framework

12. The starting point must be the statutory framework established by the Possessory Titles Act (hereinafter referred to as the "PTA"). The PTA creates a specialised regime by which a person in possession of land may apply to the Court for a declaration of possessory title. It is not ordinary civil litigation concerning title; rather, it is a statutory process with defined steps, sequenced obligations, and prescribed time limits.
13. Section 7(2) of the Act provides for the entry of appearance by a person who wishes to contest the application. The entry of appearance signals an intention to participate in the proceedings but does not, of itself, amount to a competing claim to ownership.
14. Section 9 then provides that a person who has entered an appearance shall, within twenty-one days of the date of appearance, file in the Registry a written claim stating that he or she owns the land in question, together with a statement of the facts upon which that claim is founded. This written claim is the statutory mechanism by which a competing proprietary interest is formally asserted within the framework of the Act. On the face of the section it appears that it does not contain any proviso permitting extension of time, whether for good reason or otherwise.
15. Section 12 addresses the situation where a person fails to enter an appearance or, having entered an appearance, fails to file a written claim within the time allowed. In such circumstances, the Act contemplates that the Court may proceed accordingly in the absence of a properly filed written claim. Section 12 therefore prescribes the statutory consequence of non-compliance with sections 7(2) and 9.
16. Section 15 permits a person to file an affidavit setting out information relevant to the nature of the applicant's possession. This provision is a distinct avenue from section 9 by which information relevant to the applicant's possession may be placed before the Court. It does not create a competing ownership claim but allows information to be placed before the Court for its consideration in determining whether the applicant has established the statutory requirements for a declaration of possessory title. Section 15 therefore reinforces the conclusion that Parliament drew deliberate distinctions between formal competing ownership claims and other forms of participation.

17. Finally, section 19 provides that the Civil Procedure Rules apply to “all proceedings” under the Act. The scope and effect of that provision, particularly in its interaction with the specific time limit in section 9, lies at the heart of the present dispute.
18. When read as a whole, the PTA establishes a structured and time-bound process: notice is given; appearances are entered; written claims must be filed within a fixed period; and the Court then proceeds to determine the application. The question is whether that structure admits of enlargement by reference to the CPR, or whether the statutory time limit operates as a defined gateway within the scheme created by Parliament.
19. It is notable that the PTA otherwise prescribes, with some precision, the steps to be taken and the time within which they must be taken. Where Parliament intends to confer a discretion within a statutory scheme, it ordinarily does so in clear terms. No such language appears in section 9 or elsewhere in the Act in relation to the twenty-one-day requirement.
20. The absence of any express enlargement provision is significant. The Act does not state that the Court may extend the time for filing a written claim. Nor does it contain any saving provision preserving the validity of a late-filed claim. Instead, the structure of sections 9 and 12, read together, indicates that the statutory process moves forward in the absence of a written claim filed within time. Parliament could have adopted two approaches to non-compliance. First, it could have provided that the Court may extend the time for filing a written claim upon application by a defaulting party. Secondly, it could provide for the proceedings to continue in the absence of such a claim. The Act adopts only the latter course. Section 12 expressly contemplates the consequence of default by permitting the Court to proceed where no appearance or written claim has been filed within the prescribed time. The statutory scheme therefore leaves no unregulated gap in cases of non-compliance. Rather, it provides a defined consequence for default which excludes the implication of any discretionary power to extend time.
21. On a proper construction alone, and without yet considering the effect of section 19, I am satisfied that the Act does not contain any internal mechanism permitting the enlargement of the time prescribed by section 9. Any such power would therefore have to arise, if at all, from the application of the Civil Procedure Rules by virtue of section 19. It is to that question that I now turn.

Issue 2: The Effect of Section 19 and the Application of the Civil Procedure Rules

22. The central issue in this application is the proper construction of section 19 of the PTA, which provides that the Civil Procedure Rules apply to all proceedings under the Act. The question is, whether that provision confers upon the Court a power to extend the time prescribed by section 9, or whether the statutory time limit operates independently of the Court’s general case management powers.

23. The phrase “all proceedings” is, on its face, wide. It plainly encompasses proceedings brought under the PTA once they are before the Court. The Applicants’ submissions suggest, that by virtue of section 19, the Court’s general powers under the CPR, including the power to extend time and to grant relief from sanctions, apply to every procedural step within those proceedings, including compliance with section 9. Reliance is placed on the decision in **Miller v Miller**³, where the Court recognised that the CPR applies to all proceedings brought under the Act to regulate the procedural conduct of matters, including enlarging the time under section 9(1).
24. The issue, therefore, is not the breadth of the words “all proceedings” in isolation, but how those words interact with a specific, time-bound statutory requirement.
25. The proper construction of section 19 requires closer analysis. It must be read in harmony with the specific provisions of the Act. Section 19 provides that the Civil Procedure Rules apply to all proceedings under the Act. On one reading, once an application (now a fixed date claim) under the PTA is before the Court, every step taken thereafter forms part of that proceeding. On that view, the general case management powers under the CPR, including the power to extend time, would prima facie apply to compliance with section 9. On another reading, it can be argued, that while the CPR govern the procedure of proceedings under the PTA, they do not displace or override specific statutory requirements which define the conditions under which a competing ownership claim may be advanced.
26. The force of the reasoning adopted in **Miller**, proceeds on the footing, that section 9 regulates a procedural step within proceedings already brought under the Act and that, absent express exclusion, the Court’s general procedural powers under the Civil Procedure Rules remain available. On that analysis, section 19 operates to import the CPR into the conduct of such proceedings and permits the Court to exercise its ordinary case management jurisdiction, including the power to extend time.
27. The competing approach is reflected in **Garraway**. That case did not concern section 9 but did address the similar issue of whether a statutory time limit for applying to set aside a declaration of possessory title could be extended by invoking the Court’s powers under the Civil Procedure Rules or its inherent jurisdiction. The court rejected that argument, and held that where the Act prescribes a specific time limit and confers no power of extension, the CPR cannot be used to enlarge that statutory period. In doing so, the court relied on the principle articulated by the Court of Appeal in **Fairfield Sentry Ltd v Migani**⁴, namely that the inherent jurisdiction of the court cannot be invoked to circumvent or contradict a clear statutory provision. As the court explained,

³ Wilfred Miller v Gregory Miller et al (SVGHCv2012/0025, High Court of Saint Vincent and the Grenadines, Thom J, 8 April 2013)

⁴ Fairfield Sentry Ltd v Migani [2014] UKPC 9

where legislation prescribes a specific time limit and confers no power to extend it, the court cannot arrogate such a power to itself through procedural rules.

28. On that reasoning, section 19 governs the procedural conduct of proceedings under the Act but does not authorise the Court to override or modify clear statutory requirements enacted by Parliament. It is a settled principle of construction that a general provision does not ordinarily override a specific provision unless Parliament has made that intention clear. Section 9 is specific. It prescribes a defined obligation within a defined period. Section 19 is general. It imports the CPR into proceedings under the Act. The question is, whether the general importation of procedural rules was intended to modify or dilute the specific time limit enacted in section 9.
29. The reasoning in **Garraway** therefore reflects a broader and well-established principle of statutory interpretation: subordinate procedural rules cannot be used to modify or displace clear provisions enacted by Parliament.
30. The significance of section 9 lies in the fact that it performs a dual function within the statutory scheme. **Procedurally**, it prescribes the step and time by which a competing claim must be advanced. **Substantively**, it defines the gateway through which a person becomes entitled to assert ownership within the proceedings. Until that gateway is passed, the person has not asserted a competing proprietary claim within the statutory proceedings at all. Entry of appearance signals an intention to participate, but the written claim required by section 9 is the step by which a competing title claim comes into existence within the statutory process. Section 9 is therefore not merely a procedural step occurring within proceedings already properly constituted. Rather, it *is* the statutory mechanism by which a person becomes entitled to participate in the proceedings at all. Non-compliance therefore affects not merely the conduct of proceedings but the entitlement to advance a competing proprietary claim within the statutory regime. Failure to comply with that requirement is therefore not merely a procedural irregularity but a failure to satisfy the statutory condition upon which the right to advance a competing ownership claim depends.
31. This distinction is critical. The Civil Procedure Rules regulate the procedural conduct of proceedings once they are properly before the Court. They do not ordinarily confer authority on the Court to alter statutory conditions governing the creation or assertion of substantive rights unless the statute itself provides for such flexibility as with our own **Limitation Act**⁵. This reflects the broader principle that where Parliament creates a statutory mechanism and prescribes the conditions upon which it may be invoked, those conditions must be satisfied in the manner laid down by the statute itself. In the present context, section 9 defines the step by which a person who has entered an appearance becomes entitled to assert a competing ownership claim within the proceedings. Until that step is taken within the time prescribed by the Act, the person has not

⁵ Limitation Act CAP 129, section 33 dealing with “Discretionary exclusion of time limit for actions in respect of personal injuries or death”

invoked the statutory mechanism for advancing such a claim and cannot rely on the general procedural powers contained in the CPR to cure the very failure that prevents that entitlement from arising.

32. Had a written claim been filed within the period prescribed by section 9, the Applicants would thereafter have been participants in the proceedings, asserting a competing proprietary claim and could properly invoke the procedural powers of the Court under the CPR in relation to the conduct of those proceedings.
33. I must also consider the modern approach to statutory interpretation as articulated in authorities such as **R v Soneji**⁶, **Jeyanthan**⁷ and **London & Clydeside Estates**⁸. These authorities do not diminish the importance of statutory language. Rather, they redirect the inquiry. The question is no longer whether the requirement is labelled “mandatory” or “directory”, but whether Parliament intended non-compliance to produce the consequence contended for. In the present context, the question becomes: did Parliament intend that failure to file a written claim within twenty-one days should preclude a person from advancing a competing ownership claim under the PTA?
34. In the present statute that question is not left to implication. Sections 9 and 12 together identify both the obligation and the consequence of non-compliance. Section 9 prescribes the time within which a competing ownership claim must be asserted. Section 12 then addresses the situation where no such claim is filed within time and permits the proceedings to continue accordingly. The statutory scheme therefore answers the **Soneji** inquiry expressly. The PTA therefore does not leave the consequence of default to judicial implication. Parliament itself has provided the answer through section 12.
35. There is force in the argument that strict invalidity may appear harsh where property rights are concerned. It may be said that a short delay, absent prejudice, should not extinguish an opportunity to assert ownership. That is a serious consideration. Modern procedural law favours proportionality and substance over technicality.
36. However, proportionality must be assessed in light of the statutory scheme. The PTA establishes a structured, sequenced, and time-bound process for the regularisation of possessory title. Expedition and certainty are integral to that scheme. Section 9 ensures that competing proprietary claims are crystallised promptly. Section 12 provides for the consequence of default.

⁶ R v Soneji [2005] UKHL 49

⁷ R v Secretary of State for the Home Department ex parte Jeyanthan, 2000 1 WLR 354

⁸ London & Clydeside Estates Ltd v Aberdeen District Council, [1980] 1 WLR 182

Section 15 allows information relevant to possession to be placed before the Court, even where a written claim has not been filed.

37. When viewed in that structural context, the consequence of non-compliance is not irrational or arbitrary. Parliament has drawn a distinction between those who formally assert ownership within the time prescribed and those who participate in a more limited capacity. The existence of section 15 demonstrates that the Act does not operate in a vacuum if section 9 is not complied with.
38. The argument for proportionality therefore cuts both ways. On the one hand, it cautions against unnecessary rigidity. On the other hand, it requires respect for the legislative design of a specialised statutory regime. The Court must be careful not to use general procedural powers to reshape the statutory architecture enacted by Parliament.
39. I observe that the broader proportionality arguments were not developed in the submissions before me. Nonetheless, given the divergent reasoning in **Garraway and Miller**, it was appropriate that I addressed them.
40. The Applicants submit that **Garraway** may be distinguished because that case concerned an application brought after a declaration of possessory title had already been granted, whereas the present proceedings are at an earlier stage. I do not accept that distinction.
41. The principle articulated in **Garraway** does not depend on the stage of the proceedings. The central question in that case, as in the present one, was whether a statutory time limit contained in the Act could be extended through the procedural mechanisms contained in the CPR. The court held that it could not.
42. The reasoning applies with equal force here. Section 9 prescribes the time within which a person who seeks to oppose an application must take the necessary procedural steps. Parliament has not provided any mechanism within the Act permitting the Court to extend that period.
43. If section 19 were interpreted as permitting the Court to extend the time prescribed by section 9 through the CPR, the effect would be to allow subordinate procedural rules to alter the substantive statutory scheme enacted by Parliament. That would run contrary to the principle articulated in **Garraway** and affirmed by the Court of Appeal in **Fairfield Sentry**.

44. Properly construed, section 19 does not operate in that manner. Its function is to ensure that the Civil Procedure Rules govern the procedural conduct of proceedings under the Act once they are properly before the Court. It does not authorise the Court to modify statutory conditions governing the assertion of rights created by the Act itself.
45. The applicants reliance on **Miller** does not therefore advance their case. In my judgment, the reasoning in **Garraway** provides the more direct guidance on the issue presently before the Court. Where the Act prescribes a time limit and does not confer a power to extend it, the Court cannot rely on the CPR to supply such a power.
46. Having considered the language of section 9, its position within the statutory sequence, the absence of any express enlargement mechanism, the distinct function of section 15, and the general importation of the CPR by section 19, I conclude that Parliament intended the twenty-one day period in section 9 to operate as a statutory condition governing entitlement to assert a competing ownership claim under the PTA.
47. The phrase “all proceedings” in section 19 governs the conduct and management of proceedings properly constituted under the Act. It does not, in my judgment, displace or override the specific statutory threshold prescribed by section 9. To construe it otherwise would be to allow a general procedural provision to dilute a specific legislative requirement.
48. I therefore resolve the competing approaches reflected in **Garraway and Miller** in favour of the former. While reasonable arguments can be made on both sides, I am satisfied that the construction more consistent with the language, structure, and purpose of the Act is that the Court does not possess a discretion to extend the time to file a written claim prescribed by section 9.

Issue 3: If a Discretion Exists, Should it be Exercised?

49. I turn to the alternative position. Assuming that I am wrong in concluding that the Court lacks jurisdiction to extend the time under section 9, should the discretion be exercised in favour of the Applicants?
50. In this regard, I find the reasoning advanced by learned counsel for the Claimant/Respondent compelling. The Applicants bear the burden of placing before the Court a proper and cogent

explanation for their failure to comply with the statutory timetable. It is not sufficient merely to assert that they have an interest in the land and ought therefore to be heard.

51. I have had regard to the guidance given by Justice Barrow in **Beach Properties Barbuda Limited v Laurus Master Fund Ltd. et al**⁹ in relation to applications of this nature, where it is emphasised that a party seeking indulgence must advance a proper reason for the default. The explanation must be full, frank, and satisfactory. It must demonstrate diligence and good cause. Mere assertion or generalised difficulty will not suffice.
52. The statutory period for filing the written claim expired in or about July 2025. The present application for extension was not filed until December 2025. That is not a minor delay measured in days or even a few weeks. It is a delay of several months.
53. The explanation advanced is, in substance, that the Applicants reside in the United Kingdom and experienced difficulty in coordinating matters. I do not accept that explanation as sufficient. The Applicants do not reside in remote or inaccessible circumstances. They reside in the United Kingdom. In the modern context, with the ready availability of electronic communication, email, video conferencing, Zoom, WhatsApp, and the routine filing of documents electronically, residence overseas does not, without more, constitute a satisfactory explanation for a prolonged failure to comply with a clear statutory deadline.
54. The Applicants were in a developed jurisdiction with full access to modern communication and legal representation. No detailed or compelling evidence has been placed before the Court to explain why a written claim could not have been prepared and filed within the statutory period, or at the very least why an application for extension was not brought promptly after the default was recognised.
55. Further, there is no evidence of promptness. The lapse between July 2025 and December 2025 is, in my judgment, deleterious. It reflects not a brief oversight but a sustained failure to regularise the position. Even if a discretion exists, it is not one to be exercised lightly in the face of such delay absent a compelling explanation. No such explanation has been provided.
56. It is necessary to assess the delay in context. In some forms of civil litigation governed purely by the CPR, a delay of several months may, depending on the circumstances, be regarded as remediable, particularly where trial dates are distant and case management timetables are flexible. Ordinary civil proceedings often proceed on timelines extending over many months or

⁹ Beach Properties Barbuda Limited v Laurus Master Fund Ltd. et al Civil Appeal No. 2 of 2007, para 19.

years. Within that framework, an application brought within a few months of default might, in an appropriate case, be considered reasonably prompt.

57. The PTA, however, is not an ordinary civil regime. It establishes a compressed and sequenced statutory timetable. Section 9 requires that a competing ownership claim be crystallised within twenty-one days of appearance. That is a deliberately short period. It reflects Parliament's intention that such claims be identified and formalised promptly so that the Court may know, at an early stage, whether the application is contested and on what basis.
58. A delay extending from July 2025 to December 2025 must therefore be viewed against the statutory period of only twenty-one days. The Applicants did not miss the deadline by a matter of days; they allowed a period many times longer than the statutory window to elapse before seeking to regularise their position. The significance of the delay lies not merely in its duration measured in calendar months, but in its disproportion when measured against the statutory timeframe enacted by Parliament. Inaction for approximately five months represents a substantial departure from the statutory design. In a regime designed to expedite and crystallize competing claims at an early stage, such a lapse cannot properly be characterised as minor or technical.
59. In that context, what might arguably be regarded as tolerable delay in a general civil claim assumes a different character within a tightly structured statutory scheme such as the PTA.
60. I have also considered the question of prejudice. It was not strongly articulated that the Claimant/Respondent would suffer specific, identifiable prejudice beyond the continuation of the proceedings. There is no evidence before me of loss of evidence or similar tangible harm arising from the delay.
61. However, prejudice in this context must be understood more broadly. The PTA establishes a structured and expedited statutory process. The twenty-one day period in section 9 is not ornamental. It is integral to the orderly and timely progression of possessory title applications. If parties are permitted to ignore the statutory timetable for months without satisfactory explanation, the discipline and integrity of the statutory scheme are eroded.
62. The prejudice therefore lies not only in any private disadvantage to the Claimant but in the undermining of the statutory purpose. Parliament designed the PTA to provide a clear and time-bound pathway to the regularisation of title. To permit prolonged and unexplained non-compliance, risks transforming a structured statutory regime into open-ended litigation, contrary to its design.

63. Further, even on the defendants' own case, they do not appear to assert a proprietary claim capable of supporting a declaration of title in their favour. Their draft written claim simply seeks to oppose the claimants' application for such a declaration, which is more consistent with the provision of information to the court under section 15.
64. Permitting a late filing in those circumstances would allow persons who assert no entitlement to the land themselves to disrupt the statutory process designed to regularise title. The scheme of the Act is directed toward identifying and resolving competing claims to possession within a defined and expedited framework. Allowing participation outside that framework by persons who do not themselves advance a claim to title would undermine that statutory purpose.
65. Weighing all of these matters, even if I were to conclude that a discretion exists under section 19 and the CPR, I would decline to exercise it in favour of the Applicants. The explanation advanced is inadequate. The delay is significant. There was no prompt application to cure the default. And the broader interests of maintaining the integrity of the statutory process weigh against granting indulgence.
66. Accordingly, the application would fail on this alternative basis as well.

Conclusion and orders

64. For the reasons set out above, I conclude as follows.
65. On the proper construction of the Possessory Titles Act, and in particular sections 9, 12 and 19, the Court does not possess a discretion to extend the twenty-one day period prescribed by section 9 for the filing of a written claim asserting ownership.
66. In the alternative, and assuming that such a discretion exists, I would decline to exercise it in favour of the Applicants.
67. It follows that the Applicants' application for an extension of time to file a written claim under section 9 of the PTA is dismissed.

68. Pursuant to section 12 of the Act, the proceedings shall continue in accordance with the statutory scheme in the absence of a written claim filed within time and the matter will be listed for further case management.

69. In light of my finding above that the draft written claim is, in substance, more in the nature of information provided under section 15 of the Act, the applicants may, if they so wish, file an affidavit under section 15 addressing the nature of the claimant's possession for the consideration of the Court.

70. Costs follow the event. Costs awarded in the sum of \$2,500.00.

71. The claimant is to take carriage of the order after judgment.

CYBELLE CENAC-DANTES

HIGH COURT JUDGE

BY THE COURT

REGISTRAR