ST VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.366 OF 1997

BETWEEN:

SHIRLEY JOSEPH

Plaintiff

and

EVERAD BURGIN

Defendant

Appearances:

Mr Emery Robertson for the Plaintiff
Mr Arthur Williams for the Defendant

2000: June 1, 9, 14, 26

JUDGMENT

[1] MITCHELL, J: This case commenced as a simple land dispute. By the time the last of the amended pleadings had been filed, after the trial had commenced, it had metamorphosed into a dispute over the administration of an intestate's estate.

[2] By a specially endorsed writ issued on 1 October 1997, the Plaintiff claimed to be in possession one acre, three roods, and eight poles of land at Fairhall in St Vincent described in the 1956 deed of Wilhelmina David. She claimed that the Defendant wrongfully entered the land in 1996 and began to dig a foundation for a house. The Defendant ceased building when spoken to by the Plaintiff's father Henry Richardson, but resumed construction in 1997. The Plaintiff claimed, *inter alia*, a declaration that he was a trespasser and an order for him to remove his house.

[3] By an Amended Defence, filed with leave on the first day of trial, the Defendant admitted that the land had belonged to Wilhelmina David. He claimed that after Wilhelmina David had died on 7 July 1970, intestate, her husband Edwin David had taken out Letters of Administration in 1974. Edwin David by a Deed of Assent in 1974 had granted and conveyed a portion of land of the Intestate to Glorianna Bruce the sister of the Intestate. The land in dispute formed a part of the land conveyed in 1974 by Edwin David to Glorianna Bruce. Glorianna Bruce had remained in possession until her death in 1988. Upon her death, her son Selwin in 1988 had applied for Letters of Administration which had been granted to him in 1997. The Defendant had worked a piece of the land of Glorianna Bruce with the permission of Selwyn Bruce since 1991. In 1996 Selwyn Bruce had sold a house lot to the Defendant. Selwyn Bruce had given the Defendant a deed for the land in 1988. The Defendant and his predecessors in title had been in exclusive possession since 1975, and any title of the Plaintiff had been extinguished by Section 5 of the Real Property Limitation Act, Cap 90. Those are the principle claims of the Amended Defence.

[4] By an Amended Reply filed on 31 May 2000, before the filing of the Amended Defence described above, filed on 1 June 2000, but based on an earlier draft of the Amended Defence which had apparently been previously served on the Plaintiff, the Plaintiff replied as follows. Glorianna Bruce was not a child of the Intestate, Wilhelmina Bruce. She was not entitled to any portion of the estate of Wilhelmina Bruce. Her deed of assent was void and of no legal effect. Glorianna Bruce had never gone into possession of the lands. Edwin David was a trustee of the lands of Wilhelmina Bruce. He could not have lawfully disposed of trust property to Glorianna Bruce who was not next-of-kin or a beneficiary of the Intestate. Wilhelmina Bruce had left as her survivors only her husband, Edwin David, and her daughter, Doreen Bennett. Doreen Bennett had died intestate in 1976 leaving her only child, the Plaintiff Shirley Joseph, entitled to her share in the estate of Wilhelmina David. The Letters of Administration granted to Edwin David had falsely alleged that Glorianna Bruce and others were entitled to her estate.

The said Grant was void. The deed of assent from Edwin David to Glorianna Bruce was void. The Letters of Administration were void. The deed of assent of Selwyn Bruce to himself of 1998 was void. The deed of 1998 from Selwyn Bruce to the Defendant was void. Even if Glorianna Bruce had entered into possession, that possession had been referable to the void Grant, and the mere passing of title deeds from one person to the other did not confer lawful title. The Defendant had been served with the writ in this case prior to his deed. The Defendant was not a bona fide purchaser for value of a legal estate without notice. The Plaintiff contended that the land in dispute was part of trust property and remained trust property. I pause to note that most of the issues argued at length at the conclusion of the case, arose for the first time in this Amended Reply filed on 31 May 2000. That was the substance of the pleadings.

[5] The court heard testimony from only four witnesses. The first witness was Shirley Joseph, the Plaintiff. She was supported by her father, Henry Richardson. The Defendant gave evidence, and he was supported by Selwyn Bruce from whom he had purchased the land in dispute. There were several exhibits put in evidence by the Plaintiff without objection by the Defendant. These exhibits included various birth and death certificates, deeds, and Grants of Letters of Administration, and the whole files of the applications for the Grants in the estates of both Wilhelmina David and Glorianna Bruce.

[6] From all of this evidence I find the following facts. First, as regards the historical events, there is not much dispute between the parties. There is considerable dispute over what happened more recently, in the past 3 or 4 years. What appears to have happened is as follows. In the year 1956, by deed No 519/1956 Wilhelmena David purchased, in the quaint description of land still to this day current in St Vincent, “one acre, three roods, and eight poles” of land at Fairhall. In the same year, her husband, Edwin David, purchased an adjoining parcel, separated from her parcel only by a cart road, consisting of “two acres, three roods, and thirty-two poles.” Wilhelmena David had one daughter, born on 6 July

1924, prior to her marriage to Edwin David, when she was known as Wilhelmena Bruce. That daughter was Doreen Bruce, also called Doreen Bennett. Doreen Bennett was not the daughter of Edwin David, Wilhelmena Bruce's subsequent husband. Doreen Bennett later had a daughter, Shirley Bennett, the Plaintiff in this case, on 19 May 1941. Wilhelmena David died on 7 July 1970. Doreen Bennett died shortly after, on 25 September 1976. When Wilhelmena David died, her heirs under the Administration of Estates Act, Cap 1 of the 1966 Edition of the Laws of St Vincent and the Grenadines, which was the operative Act at the time, were her husband Edwin David, entitled to one-third of her estate, and her daughter, Doreen Bennett, entitled to the other two-thirds. After the death in 1970 of her mother, Wilhelmena David, Doreen Bennett continued to live in the old home of her mother with her step-father Edwin David until she died in 1976. Meanwhile, the Plaintiff, Shirley Bennett, had emigrated to the United Kingdom in the year 1961. After Doreen Bennett died in 1976, Edwin David continued to live in the old home until he died two years later on 13 December 1978.

[7] On 8 April 1971, Edwin David had applied for Letters of Administration to the estate of his late wife, Wilhelmena David. In his oath of administration he falsely swore that his wife had left her surviving only her four sisters, Ioana, Rosa, Adella, and Glorianna Bruce, and himself, her widower. He should instead have instructed his solicitor who prepared the application about the existence of Wilhelmena's daughter, Doreen Bennett, but he evidently failed to do so. At this time, Doreen Bennett was living in the house with him, and she would continue to do so until she died in 1976. He was at all times well aware of her existence. The sisters of Wilhelmena David were, therefore, not heirs of Wilhelmena David. Only the daughter, Doreen Bennett, and the widower were under the provisions of the above Act, the lawful heirs of Wilhelmena David. It was not disputed by the Defendant that this was a fraudulent application by Edwin David. The only asset of the estate of Wilhelmena David he swore to in his application for the Grant was the very parcel of land purchased by his late wife in 1956. He claimed for himself in his application 7/12 of an acre of that land, or just over half an acre, while he

declared that each of the sisters was entitled to 7/24 of an acre. A Grant was duly made on 9 September 1974 in his favour on his fraudulent application described above. It was not disputed by the Defendant that this was a fraudulent Grant. On 4 July 1975, Edwin David by a vesting assent expressed himself to "grant and convey" one quarter of an acre of Wilhelmena David's land in favour of Glorianna Bruce, one of the sisters he had wrongfully named as being an heir, being her share of the estate. This deed is registered as No 1165A/1975. All during this time, Doreen Bennett was still living, and sharing the house of her late mother with her step-father Edwin David. According to her death certificate, she would die the following year, 1976, at the relatively young age of 51 from complications arising from "essential hypertension." Her daughter, the Plaintiff, knew nothing of what her step-grandfather was doing with the estate of his late wife and her grandmother, as she was in England.

[8] In the year 1975, before Edwin David's death in 1978, according to the evidence of Henry Richardson, the father of the Plaintiff, which evidence I accept, Edwin David put him, Henry Richardson, in charge of his, Edwin David's and his late wife's lands. Edwin David, as previously mentioned, owned the adjacent land. He evidently had other children to whom he transferred various lots before he died. He left some of his lands undistributed. He appears, at the very least, to have treated his wife's land as her "family land," and to have intended to share it out among her sisters. I am not satisfied that he had any intention of unlawfully enriching himself from his wife's lands. He was, at the least, mistaken in his understanding of his duty towards his late wife's estate. In the event, the only part of his late wife's land that he appears to have given a deed to was the parcel of land described above transferred to his late wife's sister Glorianna Bruce. Henry Richardson had been responsible for the burial of Edwin David, and after his death occasionally visited the lands of Wilhelmena David and the adjoining lands of Edwin David that he had been placed in charge of. He was able to confirm in his testimony that while Edwin David was still alive, Glorianna Bruce used to work a part of Wilhelmena David's land. That was the land for which Edwin David had

given her a deed in 1975. I accept that she had gone into possession under her misconceived deed, described above, since 1975. Glorianna Bruce's son, Selwyn Bruce, used to work a part of that land. That was the same land a part of which has now been sold by Selwyn Bruce to the Defendant Everad Burgin. I accept the evidence, therefore, that not only had Glorianna Bruce got her deed to the land of her sister Wilhelmena David, a portion of which is in this dispute, but that she and her successors in title have occupied it continuously since at least the date of her deed in 1975.

[9] Other than the assent by Edwin David to Glorianna Bruce, described above, the estate of the deceased Wilhelmena David has to this day not been administered. The greater part of it, according to the undisputed evidence of the Plaintiff, remains available for distribution to her heirs. As the only daughter of Doreen Bennett, who had been the only child of Wilhelmena David, the Plaintiff may be one of those entitled to apply for a Grant *de bonis non* for the administration of her grandmother's estate. She may also be entitled to apply for a Grant of Letters of Administration to the estate of her mother. A great deal will depend on whether or not she will be able to establish to the Registrar that her mother died intestate. She may well be able to do so. But, this case is not a probate action as understood by Order 53 of the Rules of the Supreme Court. The court cannot in these proceedings authorise a Grant to the Plaintiff in either of the estates. Nor can the court declare the Plaintiff to be the only heir of her grandmother or mother. The Plaintiff admitted in evidence that she has not yet applied for Letters of Administration *de bonis non* to the estate of her grandmother Wilhelmena David. Nor has she or anyone else applied for Letters of Administration to the estate of her mother, Doreen Bennett. She lives in England, and only returned to St Vincent for a short visit to give evidence in this case. She is also permitted by the law and the Non-contentious Probate Rules to give a Power of Attorney to someone resident in St Vincent to apply on her behalf for the Grant to either of the two estates. Indeed, as someone not normally resident in St Vincent, and, therefore, not subject to the jurisdiction and direction of the court, she may well not be

qualified in her own name to apply for a Grant of Letters of Administration to either of the estates of her grandmother or of her mother. She may well be obliged by the Registrar to give a Power of Attorney to someone to make the necessary applications on her behalf.

[10] Everad Burgin is young man but completely illiterate. He was in his testimony completely unaware of the passage of calendar time. He was unable to distinguish one year from another by date, or to give accurate evidence on any matter except those pressing on his most immediate physical needs. He was an unimpressive witness. But, I put it down to his illiteracy, and the paranoia that so often springs from that unfortunate state, rather than from a deliberate effort to mislead the court. Fortunately for him, Selwyn Bruce from whom he had purchased the lot of land in dispute gave forthright evidence relating to all the facts that the Defence raised. I accept that sometime in about 1990 the Defendant was working a part of the quarter of an acre of the land of Wilhelmena David that Edwin David had wrongfully vested in Selwyn Bruce's mother Glorianna Bruce. Shortly after permitting Everad Burgin to occupy the lot of land, Selwyn Bruce agreed to sell it to him for $15,000.00. He accepted a deposit of $3,000.00. The area of land agreed to be sold was 3,750 sq ft, the minimum sized lot of land permitted for housing purposes by the Planning Authorities in St Vincent. In order to get title to his mother's land, Selwyn Bruce had applied for Letters of Administration to the estate of his mother on 22 September 1988. He did not receive the Grant until nine years later, on 30 January 1997. That unexplained delay held up the deed for the Defendant. Once Selwyn Bruce got the Grant, matters progressed swiftly. The Defendant borrowed the remainder of the purchase money from a bank and got his deed, giving the bank a mortgage. He had begun construction of his house on the land after payment of the deposit, but prior to obtaining his deed.

[11] When the Defendant had started construction, Henry Richardson had first instructed solicitors to write to him warning him that the land he was building on was the land of his daughter inherited from her grandmother, Wilhelmena David.

But, the Defendant continued building because as he and Selwyn Bruce testified, Selwyn Bruce had told him that he, Selwyn Bruce, had his mother's deed for the land and no one was entitled to stop the Defendant. As a consequence, the writ in this matter was issued on 1 October 1997 and served on the Defendant on 14 October 1997. On the same day, an *ex parte* injunction prohibiting the Defendant from building on the land was served on him. That injunction was continued on an *inter partes* summons to last until the trial of the action. The Plaintiff complains through her father's evidence that even after the injunction was granted the Defendant continued building. The Defendant and his witness denied that he continued building after the injunction was served on him. The Defendant denies it. I suspect that he did continue some building, to make the house habitable for his use. I do not believe that he completed the construction of the house. Even Henry Richardson had to admit that the house is a "half-finished" house. I pause to note that these are not contempt proceedings for breach of the injunction. The question of knowledge is relevant only to the issue whether the Defendant is a purchaser for value without notice. What is certain is that the Defendant completed the transaction with Selwyn Bruce and took title to the land after the writ had been served on him. He had also been warned verbally and by letter by Henry Richardson that Selwyn Bruce had no right to the land. By the time the writ was served on him he had notice that the Plaintiff claimed to be beneficially entitled to the land. If Selwyn Bruce's title is void, he may have some difficulty claiming to be a bona fide purchaser for value without notice.

[12] At the close of the case for the Defence, counsel for the Defendant rose to address the court. He submitted that the Administration of Estates Act, 1947 was the operative Act. This Act was subsequently known as Cap 1 of the 1966 Edition of the Laws of St Vincent and the Grenadines. It was replaced by the Administration of Estates Act, 1989, now known as Cap 377 of the 1991 Edition of the Revised Laws of St Vincent and the Grenadines. By the 1947 Act, as with the subsequent Act, the surviving husband was entitled to one third of his deceased intestate wife's estate. Counsel for the Defendant assured the court

that that portion of land would amount to 2 roods, 19 poles. I accept his word on that. The Plaintiff, he submitted, was entitled, assuming she was the heir of her mother, to no more than two thirds of the estate of Wilhelmena David. She was in possession, she had claimed in her testimony, and it had not been disputed, to all the balance of the lands of Wilhelmena David other than that portion vested by Edwin David in Glorianna Bruce since 1975. Glorianna Bruce had been given by Edwin David only a quarter of an acre. This was less than the one-third share of the estate of Wilhelmena David that Edwin David was entitled to under the Act. The Plaintiff is in possession, by her own testimony, of more than the two-thirds of the lands of Wilhelmena David that her mother Doreen Bennett was entitled to. If the heirs of Edwin David brought an action against the Plaintiff for being in possession of the remaining share of Edwin David, she would have no answer to their claim. Even if the Plaintiff applied today for Letters of Administration to the remainder of the estate of Wilhelmena David, she will be obliged to vest the balance of Edwin David's share of Wilhelmena David's lands in the estate of Edwin David. It would be unconscionable to take away the land given wrongly or otherwise by Edwin David from out of his undisputed share of the estate. Any wrongful transfer Edwin David made while he was Administrator would have to be deducted from the share that was due to him. So counsel for the Defendant submitted.

[13] Further, he submitted, the Plaintiff had no *locus standi* to bring this action claiming the reliefs she does in her Amended Reply. She has not taken out Letters of Administration to the estates either of her grandmother Wilhelmena David or of her own mother Doreen Bennett. A person claiming as a granddaughter has no right to challenge an allegedly fraudulent assent of an Administrator. Neither the Administrator nor his estate was before the court. Neither Glorianna Bruce nor her estate was before the court. Counsel for the Plaintiff rose to object that a *locus standi* point cannot be taken at the end of a case, it must be taken *in limine*. Counsel for the Defendant made the point in reply that the Amended Reply, which made for the first time the claim that the various Grants of Letters of Administration

and deeds relating to the lands of Wilhelmena David should be set aside for fraud, had been served on him after the trial had already commenced. He hardly had the opportunity to make a point *in limine* when the pleading had been served on him after the case had commenced. I accept the response of counsel for the Defendant and will proceed to deal with the *locus standi* submission. After making the above two points, counsel for the Defendant rested. He produced no law for the court, other than to refer to the Act of 1947.

[14] Counsel for the Plaintiff, having had the benefit of an adjournment over the long weekend to prepare his address, replied in oral submissions over the following day and a half. He referred the court to various cases and statutes, but had no copy of any for the use of the court or for counsel on the other side. He promised to let the court have such copies as he could within 24 hours. Most of the authorities he referred to arrived, and I have read them with interest. I will only note that oral submissions on complex matters of law and fact are not the easiest way for counsel to get his point across. It is notoriously difficult to take dictation over such a long period and at the same time to follow the logic of the argument. Besides, we can all read in five minutes what it takes an hour to write down. More time is wasted in trying later to re-read a crabbed handwriting to discern the substance of the submissions made earlier. Counsel is much better served by his diligence in research and skill in advocating to dictate his learning to his secretary and to let the court and counsel have copies at the appropriate moment. He can then at his leisure go over the principle points of the argument, ensuring the court is able to follow his argument. Comprehension is aided and considerable time is saved if this practice is followed.

[15] In replying to the *locus standi* point, counsel for the Plaintiff relied on section 16 of the Administration of Estates Act, Cap 1 of the 1966 Edition of the Laws of St Vincent. He submitted that as it cannot be doubted that the Plaintiff's mother was the only issue of Wilhelmena David, the Plaintiff's mother was, therefore, entitled to a share in the estate of Wilhelmena David. As long as the mother was alive the

Plaintiff had no *locus standi*. Once the mother died, he submitted, the Plaintiff had *locus standi*. Section 2 of the Act defines 'issue' so as to cover the Plaintiff. The Act, he submitted, is thus declaratory of the Plaintiff's rights, and she would have *locus standi* without having to take out Letters of Administration to the estate of her mother or grandmother.

[16] On the question of notice, counsel for the Plaintiff submitted that when the Administrator swore that the sisters were the heirs he did so fraudulently. The Grant to him was fraudulent. Section 14 of the Act permits the land transferred fraudulently to be traced. The assent in Glorianna Bruce was bad as being fraudulent. The Administrator did not state in the assent that he was conveying a portion of his share. The court, he urged, should set aside Glorianna's deed even though neither she nor her estate, nor anyone appointed to represent her, was before the court. The Plaintiff, he urged, was entitled to an order vesting the land of the Defendant in her. Counsel relied on the following cases and texts:

> Re: Diplock's Estate [1948] 2 All ER 318
> Board v Board [1873-1874] 9 LRQB 48
> Luther Robertson v Randolph Russell (St Vincent High Court 64/1983) unreported
> George v Johnson [1961] 3 WIR 544
> Dalton v Fitzgerald [1897] 2 Ch 86
> Ramsgate v Margrett [1891-4] All ER Rep 453
> Tristram & Coote's Probate Practice, 25 Edition, 1978, Chapter 17, page 476, dealing with "Revocation and Impounding of Grants."
> Gibson's Conveyancing, 21 Edition, 1980, Chapter 10, "The Position of the Parties after the Agreement for Sale."

[17] Applying the authorities and statutes applicable, there can be no doubt that a beneficiary of a deceased has the right to trace the assets of the estate into the

hands of someone who has wrongfully acquired title. The only exception given by equity and by the statute is to a purchaser for valuable consideration without notice. The remedy of tracing is an equitable one, and the rules of equity apply. Counsel for the Plaintiff devoted his argument to taking the court through the various statutes, historical and current, dealing with the administration of estates. He cited from the various authorities to establish the power of the court to revoke a Grant of Letters of Administration and to cancel a deed of assent or conveyance made in fraudulent circumstances. None of the law he quoted was in doubt. All of it is accepted.

[18] If this lawsuit was a probate action brought against Edwin David while he were still alive, the Grant issued to him would have been brought into court as a result of the usual citation, and the court would, on the facts proved in this case, have had no difficulty in revoking the Grant as having been fraudulently obtained. I cannot accept the argument that even though the provisions of Order 53 of the Rules of the Supreme Court have not been followed, the court can apply the Non-contentious Probate Rules and revoke or declare void the Grant made to Edwin David. The Non-contentious Probate Rules are the rules under which the Registrar of the Supreme Court makes grants and can even revoke grants. It is not a substitute or alternative in High Court proceedings for Order 53. Neither Edwin David nor his personal representative is a party to these proceedings. The High Court in a civil action between two parties, neither of whom is the Administrator or anyone representing the estate of the Administrator, would not be acting in accordance with the rules of natural justice if it declared the Grant received by the Administrator to be void. In any event, it has always been my understanding that a Grant of Letters of Administration dies with the death of the Administrator. If any part of the estate remains unadministered, as is the case here, the old Grant no longer applies to it. No point is served in declaring the Grant void, though I would have had no hesitation in doing so were the Administrator alive and a party to the action, or, as he is dead, if his personal representative was a party to the action. It is the duty of one of the heirs of

Wilhelmena David to make an application for a Grant of Administration *de bonis non* and to complete the task of administration.

[19] Is the Plaintiff entitled to the equitable relief against Selwyn Bruce that she seeks to raise in her Amended Reply? The Reply in an action is not the pleading in which one normally raises new claims for relief. I am aware that the Eastern Caribbean Supreme Court (St Vincent and the Grenadines) Act, Cap 18 provides power to the court to grant all such remedies whatsoever as any of the parties may appear to be entitled to in respect of any legal or equitable claim. This does not give the court power to affect the property or rights of persons who are not parties to the action, no matter how clearly one of the parties to the action may appear to be entitled to that relief if that other person had been a party to the action. The rule of natural justice that would be offended is the rule that the court should always hear the other party before interfering with his rights. Selwyn Bruce was a witness for the Defendant, not a party to the action. The court will not interfere with Selwyn Bruce's rights.

[20] Is the Plaintiff entitled to any equitable relief against the estate of Glorianna Bruce? No action has been brought against Glorianna Bruce or her estate. She was clearly not entitled to the deed of assent made to her. As previously indicated, it appears to have been based on the erroneous belief that the land of Wilhelmena David was "family land" and that her siblings had a better claim to it than her daughter. Family land is not a concept recognised in law, but it is a very real concept to rural families in the West Indies. It causes much confusion when it comes up against the legally more powerful common and statute law. If an action had been brought against Glorianna Bruce or her estate, based on the facts that have come out in this trial, the court may well have revoked the assent made in her favour. But, neither she nor her estate is a party to this action. It would be contrary to all the rules of fairness to declare null and void and set aside the assent made to her in 1975 in litigation between the present parties to this action, now matter how misconceived or wrongful the assent appears to have been. I say

that the court "may well have revoked" her assent, not that the court would definitely have done so. The reason for the reservation is that the question still remains, does the Plaintiff have any equity to have the assent to Glorianna revoked when the Plaintiff is in possession of more of the estate of Wilhelmena David than the Plaintiff's mother was entitled to inherit from Wilhelmena David? Is Glorianna Bruce's estate not entitled to continue to hold and enjoy the lands conveyed by Edwin David on the basis that that land should be taken from Edwin David's share of the estate? The title of the Defendant and his predecessor in title Selwyn Bruce derive ultimately from Edwin David. Edwin David was wrong to have declared that his late wife's sisters were heirs to the land. He was wrong to have vested that quarter acre in Glorianna Bruce on the basis of this mistaken entitlement. But, he was himself beneficially entitled to one third of the estate of his late wife. He was entitled to deal beneficially in one third of the estate. I have to ask myself whether the orders sought would resolve the issues in this case? Would they not instead only complicate the issues, and multiply and increase litigation? Would the cause of justice be advanced by granting the orders on the bare fact that the application of Edwin David for the Grant was made fraudulently? I have to agree with counsel for the Defendant that the equity in this case is better served by declaring that the Defendant is in possession under his deed of a lot of land that is to be taken from the share of Edwin David in the estate of Wilhelmena David when her estate comes to be administered.

[21] The Plaintiff in this case is not an heir of Wilhelmena David. Her mother Doreen Bennett and her grandmother's widower Edwin David were the heirs. Until a grant is made to the Plaintiff or someone acting on her behalf, we will never know whether or not the Plaintiff is an heir of her mother. Her mother may have left her estate to the Kingstown Dogs' Home. She may, for all we know, have cut her daughter the Plaintiff out of her estate. Further, her mother's estate may be so burdened by debt that nothing remains for her heir after the debts are paid. It would be improper for a court to declare that the Plaintiff has inherited any legal entitlement to the property of Wilhelmena David. Without a Grant of Letters of

Administration to the estate of her mother, she had no right to bring an action to recover property of her mother's mother. Contrary to what she states in her Statement of Claim, she has never been physically in possession of any of the land wrongfully given by Edwin David to Glorianna Bruce. This includes the land of the Defendant. Nor has she any legal title to the lands of Wilhelmena David that will entitle her to possession of the land held by the Defendant.

[22] Given the findings above, the Plaintiff is not entitled to any of the reliefs she seeks in her Statement of Claim. She is not entitled to either the declaration or the order described at paragraph [2] above. Nor is she entitled to any of the equitable reliefs she raises in the Amended Reply described at paragraph [4] above. The action is dismissed with costs to the Defendant to be taxed if not agreed.

I D MITCHELL, QC
High Court Judge