

ST VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. 547 OF 1999

BETWEEN:

MARCIA SIMMONS (The duly constituted
Attorney on Record for Abraham Adams)
Administratrix of the estate of Annie Adams, deceased

Plaintiff

and

THE ATTORNEY GENERAL

Defendant

Appearances:

Mr Richard Williams for the Plaintiff

Mr Donald Browne, Solicitor General, for the Defendant

2000: June 20, July 6, 13

JUDGMENT

[1] MITCHELL, J: This was a land dispute between the heirs of Annie Adams, late of Union Island in the State of St Vincent and the Grenadines, and the Government of St Vincent. It involves approximately one acre of land in the town of Clifton in Union Island on which land the government has built a Fisheries Complex. The heirs claim that they and their ancestor Annie Adams had long owned the land prior to the construction.

[2] The proceedings commenced by an originating summons issued on 8 November 1999. The summons was supported by an affidavit of the same date of the Plaintiff and to which affidavit were attached a number of tax receipts and other documents. By the summons the Plaintiff claimed the following reliefs:

- (1) a declaration that the Plaintiff is the lawful owner of one acre more or less of land situate at Clifton Union Island upon which the Crown has constructed a fisheries complex;
- (2) a declaration that the Plaintiff is entitled to possession of the parcel of land being one acre more or less situate at Clifton Union Island;
- (3) a declaration that the Defendant's title, if any, has been extinguished by operation of the Limitation Act Cap 90 of the Laws of St Vincent and the Grenadines;
- (4) mesne profits from January 1993 until possession is delivered up;
- (5) alternatively, damages in the sum of \$2,000,000.00;
- (6) damages for trespass;
- (7) costs;
- (8) such further or other relief.

[3] The Defendant entered an appearance on 9 December 1999, and an affidavit in reply was sworn by Clifford Williams and filed on 17 May 2000. By directions given on 18 May 2000 pursuant to Order 28 rule 4 of the Rules of the Supreme Court, it was determined that the matter would be tried in open court on 20 June 2000 on affidavit as well as oral evidence. Further affidavits were sworn and filed on behalf of the Plaintiff by her previous solicitor, Sylvester Raymond Cadette, on 8 June 2000, and by the Plaintiff on 20 June 2000.

[4] When the matter came up for trial on 20 June, the court heard testimony from Marcia Simmons, Sylvester Raymond Cadette, George Brown, and Dexter Gellizeau for the Plaintiff. Giving evidence for the Defendant was the Chief

Surveyor for St Vincent, Mr Clifford Williams. He put in the original survey plan of 1912 for the eastern part of Union Island, which includes the area in dispute. At the conclusion of the case an amendment to the claim by the Plaintiff was allowed to add a further paragraph of relief claimed as follows:

(9) an order for possession of the parcel of land;

[5] The evidence for the Plaintiffs was to the effect that they had been the owners of the land for some 70 years prior to the Crown going into possession in the year 1993 and constructing the Fisheries Complex on it. The Crown's only objection to their claim was that neither Annie Adams nor her heirs had a deed for the land. Having heard the evidence, in particular of Mr Williams, I am satisfied that neither the Government of St Vincent nor its citizens are well served by the present system of land titles in St Vincent. Land titles in St Vincent are in theory based on common law deeds. There are two defects in that system immediately apparent to anyone who has had to adjudicate over land disputes in St Vincent. First, the possession of a deed in St Vincent and the Grenadines is no guarantee of proof of ownership of a parcel of land. It is not unusual to find two or three persons with different deeds relating to the ownership of the same parcel of land. Secondly, the lack of a deed is no impediment in St Vincent and the Grenadines to claiming successfully to hold legal title to a parcel of land. Most land in St Vincent appears to be held without any title document of any kind. It is for the above reasons that most islands in the West Indies have long ago given up the system of land ownership based on common law deeds. There is a real social need in St Vincent and the Grenadines for a modern system of registered ownership of land titles.

[6] Land titles to parcels in Union Island should not be in controversy. This island was purchased by the Crown in 1910 from private hands and was immediately surveyed into lots with established boundaries, and the lots sold out to private persons. The original survey maps still exist. Each lot is numbered, and the boundaries exactly known. The original and subsequent purchasers should have

no difficulty in establishing their boundaries and their titles. I am satisfied, however, that many of the purchasers from the Crown have never received their deeds, and that in Union Island too, as on mainland St Vincent, the absence of a deed is no proof of lack of title, nor is the holding of a deed by an original owner any proof of present day title to a parcel of land.

[7] The overwhelming evidence, which I accept, is that Mrs Annie Adams and, after her, her sons have been in possession of the parcel of land in question for over 70 years before the Crown took possession of it and constructed a Fisheries Complex on it. To itemise some of the evidence which I accept:

(1) The Revenue Office in Union Island is situate across the street from the parcel of land. The tax receipts for land taxes on Union Island bear a number that exactly locates the parcel of land for which it is paid. The Plaintiffs produced testimony and tax receipts to establish that since at least about the year 1948 they have been paying land taxes for the parcel of land. The receipts in evidence in this case relate to the parcel of land in question and none other. Not a single government officer from the tax office in Union Island past or present came to dispute the claim of the Plaintiffs to have paid land tax since at least 1948 for the parcel of land in dispute. I have no doubt that the revenue officers were all well aware of the ownership of the parcel of land by the heirs of Annie Adams when the Government set out to construct the Fisheries Complex on the land in the year 1993.

(2) Very importantly, underlying everything else, was the direct evidence of the witnesses Sylvester Raymond Cadette, and George Brown, both with Union Island connections, who knew Annie Adams and her occupation and reputed ownership of the parcel in question over many years. George Brown, in particular, may have been 82 years of age, but his memory was crystal clear. Both of these witnesses were unshaken in their testimony of the undisputed and unbroken ownership, possession and use of the

parcel of land in dispute by Annie Adams and after her death by her two sons.

- (3) After the death of Annie Adams in 1979, her sons were in possession of the parcel of land. It was well known and accepted in Union Island that they owned the land. When lawyer Emmanuel Fatima Adams, now deceased, wished to do a business on the land, he entered into an agreement in 1986 with Abraham Adams, Annie's son who resided in the USA, to lease it. Emmanuel Fatima Adams subsequently built a building on the land on which he operated a bar and variety store. That building was still on the land when Government came to build on it in 1993. Government paid the heirs of lawyer Emmanuel Fatima Adams compensation for the value of the building and they dismantled the building and took it away. The relevant government officers must have enquired and discovered how lawyer Adams came to be allowed to put a building on the land, even assuming they had not known before who the owner of the land was. The Chief Surveyor, who was the only witness testifying for the Crown, admitted knowing that Annie Adams and her heirs had some interest in the land, but said he had assumed they held only a leasehold interest. But, the tax rolls of Union Island would have shown otherwise. You do not pay land and house tax in St Vincent and the Grenadines for land you rent, only for land you own. Those tax rolls have recently gone up in flames when the Revenue Office burned down in 1995. The records could not be produced at the trial. I am satisfied that they existed at the time of the entry by Government onto the lands to construct the building in 1993, and that the records, if they had been available, would have showed the Heirs of Annie Adams to hold title to the land in dispute.
- (4) The Chief Surveyor produced an original survey plan of 1912 for that part of Union Island that included the land in dispute. This plan showed the ownership of the parcel of land, originally known as Parcel A, which was then much larger than it now is, to be in the Crown. On the plan, the

entire Parcel A was marked as being owned by the Crown. The Chief Surveyor admitted that in the years since 1912 other parts of the Parcel A had been sold by the Crown to private owners. Their purchases had not been marked off on the plan in evidence. The plan still showed the original ownership of all of Parcel A as being in the Crown. The plan was worthless to prove who at this present time or at any time subsequently to the year 1912 owned any part of Parcel A. A current working map from the Lands and Surveys Department showing current ownership of lands in that part of Union Island might have been more helpful in this matter. In a negative sense, all that this plan went to show was that the claim of the Plaintiffs to have acquired title to the land sometime after 1926 but not to have received a deed to it was not disproved.

[8] The Plaintiffs wrote to the Attorney General, copied to the Chief Surveyor and others, immediately upon the Crown going into possession of the land in dispute in 1993. Despite the fact that the Crown officers were well aware that the Crown did not have clear title to the land, they persisted in constructing the Fisheries Complex without negotiating with the Plaintiffs. No doubt, the project was an important one for the Government and for the people of Union Island. But, the relevant government officers took the risk that the now elderly sons of Annie Adams, residing overseas as they both are, would not trouble to pursue their rights. Unfortunately for those officers and for the Government of St Vincent and the Grenadines, the sons of Annie Adams have pursued their rights. The court finds that the parcel of land in question belongs to the Plaintiffs, and the Government will have to pay compensation to the Plaintiffs for its wrongful seizure of their land for the construction of the Fisheries Complex.

[9] The amount of compensation is not the issue before me today. The Plaintiffs brought some evidence that the parcel in dispute had a 1993 value of \$871,200.00, and they have asked for \$2,000,000.00 compensation. I am not satisfied with the quality of that evidence. The Crown disputes that valuation and

suggests it could be a quarter of the amount claimed by the Plaintiffs. I am not satisfied with the quality of that evidence either. There is also some reason to believe that the Fisheries Complex is built partly on the Plaintiff's portion of Parcel A, and partly on the Crown's foreshore adjacent to Parcel A. The Plaintiff's have no interest in the foreshore, and are not entitled to compensation for any part of the Complex that has been placed on the foreshore. A survey still has to be done to discover exactly what it is that the Plaintiffs own on Parcel A. The question of damages will be a matter for a subsequent trial, if the parties do not come to some agreement on compensation. I have considered making an order for possession in favour of the Plaintiffs as requested by the amendment to the Summons granted at the stage of addresses. Such a remedy seems at this time a bit drastic. If the Crown does not do the proper thing, and promptly commence proceedings to acquire the land and to compensate the Plaintiffs for their unlawfully confiscated property, an order for possession may be at a future time an appropriate wake up call.

[10] There will be judgment for the Plaintiffs as follows:

- (1) The Plaintiffs are entitled to a declaration that they are the lawful owners of one acre of land more or less situate at Clifton Union Island part of Parcel A on the official Survey Plan of 1912.
- (2) The Plaintiffs are entitled to damages for trespass to be assessed if not agreed.
- (3) The Plaintiffs are entitled to an amount of compensation for the value of the land wrongfully taken away from them as of the date of payment of compensation at an amount to be assessed if not agreed.
- (4) The Plaintiffs are entitled to their costs to be taxed if not agreed.
- (5) Liberty to apply

I D MITCHELL, QC
High Court Judge