

SAINT LUCIA

IN THE COURT OF APPEAL

CIVIL APPEAL NO.29 OF 2005

BETWEEN:

NICHOLAS LANSIQUOT

Appellant

and

1. IGNATIUS LEON
2. PAULA MARIUS
3. MERISE LANSIQUOT
4. JOAN FELIX
5. LLYN LANSIQUOT
6. JOHN LANSIQUOT

Respondents

Before:

The Hon. Mr. Brian Alleyne, SC  
The Hon. Mr. Denys Barrow, SC  
The Hon. Mr. Hugh A. Rawlins

Chief Justice [Ag.]  
Justice of Appeal  
Justice of Appeal

Appearances:

Mr. Dexter Theodore for the Appellant  
Mr. Colin Foster for the Respondents

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2007: February 28;  
July 2.  
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JUDGMENT

[1] **RAWLINS, J.A.:** The appellant, Nicholas Lansiquot, is the registered owner of land, to wit, Parcel 0253B 3 which is situated at the Belvedere estate in the Quarter of Soufriere. The land is about 6 acres or 2.4 hectares in area. The respondents are in occupation of about 3½ acres of that parcel of land, which is the area of land that is in dispute in these proceedings. Nicholas Lansiquot filed a claim against the respondents for possession of this disputed land.

[2] By way of counterclaim, the respondents sought a declaration that they are entitled to continue to occupy the disputed land by virtue of over 30 years of uninterrupted occupation. Alternatively, they claimed an overriding interest in the disputed land by virtue of section 28(g) of the Land Registration Act.<sup>1</sup> Further and in the alternative, they claimed to be possessors of the land in good faith by virtue of Article 367 of the Civil Code. They also claimed compensation for improvements to the property by virtue of Article 372 of the Civil Code.

[3] Section 28(g) of the Land Registration Act states:

“28. Unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interests as may subsist and affect the same, without their being noted on the register—

(g) the rights of a person in actual occupation of land or in receipt of the income thereof save where inquiry is made of such person and the rights are not disclosed;”

Article 367 of the Civil Code states:

“367. A possessor is in good faith when he possesses in virtue of a title the defects of which as well as the happening of the resolutive cause which puts an end to it are unknown to him. Such good faith ceases only from the moment that these defects or the resolutive cause are made known to him by proceedings at law.”

Article 372 of the Civil Code states:

“372. When improvements have been made by a possessor with his own materials, the right of the owner to such improvements depends on their nature and the good or bad faith of such possessor.

If they were necessary, the owner of the land cannot have them taken away. He must, in all cases, pay what they cost, even when they no longer exist; except, in the case of bad faith, the compensation of rents issues and profits.

If they were not necessary, and were made by a possessor in good faith, the owner is obliged to keep them, if they still exist, and to pay either the amount they cost or that to the extent of which the value of the land has been augmented.

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<sup>1</sup> Cap. 5:01 of the Revised Laws of St. Lucia, 2001.

If, on the contrary, the possessor were in bad faith, the owner has the option either of keeping them, upon paying what they cost on their actual value, or of permitting such possessor, if the latter can do so with advantage to himself without deteriorating the land, to remove them at his own expense. Otherwise, in each case, the improvements belong to the owner, without indemnification. The owner may, in every case, compel the possessor in bad faith to remove them."

- [4] The learned trial judge dismissed Nicholas Lansiquot's claim. In doing so, he held that on the basis of **Inwards v Baker**,<sup>2</sup> and on the facts that he found from the evidence at the trial, it was clear that Pamphilia Leon and the respondents, who are her descendants, are entitled to an equity allowing them to remain in occupation of the land. The judge found that that equity, which arises by way of the doctrine of proprietary estoppel, is clearly a right within section 28(g) of the Land Registration Act to which right Nicholas Lansiquot's registered title is subject.<sup>3</sup> In arriving at this decision, the learned judge accepted and relied on the evidence of one Peter Alexander who stated:

"At the time all the residents of Belvedere had the knowledge that Paul Lansiquot had given Pamphilia Leon the right to the land and promised her that she could have land by allowing her to work and cultivate the land and to live on the land with her family.<sup>4</sup>

- [5] The judge admitted that Mr. Alexander's evidence was hearsay. However, he accepted and relied on it, first, because there was no objection to its admission; second, because Mr. Alexander was an independent witness and what he said had the clear ring of truth; and, third, because he said that there was no evidence to the contrary. Accordingly, the judge found that Pamphilia Leon and her descendants built houses and cultivated and lived on the land on the strength of a promise made to her by Paul Lansiquot, Nicholas Lansiquot's father, that she and her family could live on the land and make it their home for as long as they

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<sup>2</sup> [1965] 1 All ER 446.

<sup>3</sup> See paragraph 11 of the judgment.

<sup>4</sup> See paragraph 6 of the judgment. See also paragraph 3 of Peter Alexander's witness statement which is at page 27 of the Record of Appeal. Alexander was Paul Lansiquot's grand nephew.

wished.<sup>5</sup> The judge further stated<sup>6</sup> that even if Pamphilia Leon was never given permission to remain on the land, he was nevertheless satisfied that Nicholas Lansiquot could not succeed in his claim. This, according to the judge, was because the evidence indicated that all the respondents, except John Lansiquot, the sixth respondent, have been on the land continuously, peaceably, publicly, unequivocally “as proprietors” for at least thirty years. The judge concluded that they had thereby acquired prescriptive title to the disputed land. He referred to Articles 2057 and 2103A of the Civil Code and stated that such title was also an overriding interest to which Nicholas Lansiquot’s registered title was subject by virtue of section 28(f) of the Land Registration Act.<sup>7</sup>

[6] Article 2057 of the Code states:

“2057. For the purposes of prescription, the possession of a person must be continuous and uninterrupted, peaceable, public, unequivocal, and as proprietor.”

Article 2103A of the Code is under the rubric “Prescription by thirty years”. It states:

“2103A. Title to immovable property, or to any servitude or other right connected therewith, may be acquired by sole and undisturbed possession for thirty years, if that possession is established to the satisfaction of the Supreme Court which may issue a declaration of title in regard to the property or right upon application in the manner prescribed by any statute or rules of court.”

Section 28(f) of the Land Registration Act states:

“28. Unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interests as may subsist and affect the same, without their being noted on the register—  
(f) rights acquired or in process of being acquired by virtue of any law relating to the limitation of actions or by prescription;”

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<sup>5</sup> See paragraph 8 of the judgment.

<sup>6</sup> At paragraph 12 of the judgment.

<sup>7</sup> See paragraph 7 of the judgment.

[7] In conclusion, the judge noted<sup>8</sup> the submission by counsel for Nicholas Lansiquot that the respondents could not defeat Nicholas Lansiquot's registered title because they failed to make a claim in the adjudication process and failed to appeal the decision of the Adjudication Officer and have not sought rectification of the Register on the basis of fraud or mistake. The judge stated that this submission was misconceived because the respondents were never party to the adjudication proceedings. He said that they could not therefore be bound by any decision that was made in those proceedings. The judge also stated that since the respondents' defence was based on prescription it was not necessary for them to have registered their rights or to have sought to rectify the Register.<sup>9</sup> He stated, however, that although the respondents did not apply to rectify the Register, it would help both parties if the Registrar of Lands were invited to amend the Register to reflect his decision. For that purpose, he assumed that they needed to employ a surveyor to establish which area of parcel 0235B 3 the respondents occupied so that the land could be partitioned and re-registered.<sup>10</sup> He awarded costs to the respondents under rule 65.5(2)(b)(iii) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000.<sup>11</sup>

[8] I think that it would be helpful, first, to state the facts as the learned judge found them. I shall then state the bases of the appeal since they would be better appreciated from that factual perspective.

### **The facts**

[9] The learned trial judge stated<sup>12</sup> that the main factual issue for resolution was the basis on which the respondents occupied the parcel on which they lived. He noted that issues were also raised as to whether the respondents made a claim in the land adjudication process during the 1980s or when they had notice of Mr.

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<sup>8</sup> At paragraph 13 of the judgment.

<sup>9</sup> See generally paragraph 13 of the judgment.

<sup>10</sup> See paragraph 14 of the judgment.

<sup>11</sup> Hereinafter referred to as CPR 2000.

<sup>12</sup> At paragraph 12 of the judgment.

Lansiquot's claim. He opined that these issues had no great bearing on the outcome of the case.

[10] The learned judge noted that the first respondent, Ignatius Leon, was about 80 years old at the time of the trial. According to the judge, the uncontraverted evidence was that Ignatius Leon lived on the land all his life with members of his family peacefully and without objection. The judge stated that the second and fifth respondents, Paula Marius and Lynn Lansiquot, are daughters of Ignatius. They also lived on the land. Ms. Marius built a three bedroom wall structured house on the land in 1993 and lives there with her 5 children. The third respondent, Merise Lansiquot, lived on the land from her birth some 37 years ago. She built a wall and wooden house with a bar on the land in about 1996. She lives at the house with 10 children. The fourth respondent, Joan Felix was 34 years old at the time of the trial. She built a wall and wooden house on the land in about 1994. She lives in it with her 5 children. The fifth respondent, Llyn Lansiquot, was 43 years old at the time of the trial. She lived on the land all her life and built a wall house on it in about 1991. She lives there with her 9 children. The sixth respondent, John Lansiquot, Llyn's son, was 25 years old at the time of the trial. He lived on the land all his life and built a plywood house on it in about 1998. He lives in that house with his 2 children.

[11] Nicholas Lansiquot was 76 years old at the time of the trial. The trial judge noted<sup>13</sup> that Leon Remauld, his paternal grandfather, acquired the land by virtue of a Crown Grant in 1879. Remauld died in 1882. Nicholas' father, Paul Lansiquot, inherited the land. He (Paul Lansiquot) died in 1941 and Nicholas' mother, Antoinette, died in 1989. The judge further noted that Nicholas Lansiquot claimed the land on behalf of the heirs of Leon Remauld during the land adjudication process and was awarded Parcel 0253B 3 by the Adjudicator on 5 May 1987. The land was registered in that process on 19<sup>th</sup> August 1987. Nicolas' surviving siblings renounced their rights to the land in 1993. He (Nicholas) made a

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<sup>13</sup> At paragraph 4 of the judgment.

declaration of succession in 2001 and was registered as owner of the land in his own name on 6<sup>th</sup> March 2002.<sup>14</sup>

[12] The judge also noted that Ignatius Leon accepted that Paul Lansiquot owned the disputed land. Indeed, when he was cross-examined, Ignatius Leon stated that Paul Lansiquot allowed Pamphilia Leon to live on the land because she helped Paul in his latter days. He therefore gave her permission to stay and build her house on the land.<sup>15</sup> According to the judge, Ignatius' evidence was that he was told that Paul Lansiquot promised his mother that she and her family could live on the land and make it their home for as long as they wished. On the strength of that promise, said Ignatius, his mother, Pamphilia, built a house and cultivated the land, a fact which Paul Lansiquot was well aware of because he visited from time to time. He (Ignatius), his children, grandchildren and great grandchildren have continued to live on the land, built houses on it and cultivated it to the present time. The judge also noted that in cross-examination, Ignatius said that he was 8 years old when he witnessed the conversation in which the promise was made to his mother by Paul Lansiquot. The judge did not accept that evidence because it was not included in his witness statement. The judge said that it seemed rather unlikely that an 8 year old would understand or remember such a conversation.<sup>16</sup>

[13] The judge rejected a suggestion that Ignatius Leon and his children only occupied the land after the death of Nicholas Lansiquot's mother in 1989 on the ground that there was other evidence that contradicted that suggestion. Additionally the trial judge found that the decision of the Adjudication Officer, in 1987, recorded that Nicholas Lansiquot told the Adjudication Officer that his father (Paul Lansiquot) had put Pamphilia Leon on the land when he could no longer work it and that Ignatius Leon had carried on in charge of the land after Pamphilia Leon died. The judge also noted that Nicholas told the Adjudication Officer that Ignatius Leon paid

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<sup>14</sup> See generally paragraph 4 of the judgment.

<sup>15</sup> See page 68 of the Record of Appeal.

<sup>16</sup> See generally paragraph 5 of the judgment.

him in produce for the use of the land. The judge thought that it was significant that this did not come out in the evidence at the trial.<sup>17</sup>

- [14] There was documentary evidence that solicitors for Nicholas Lansiquot wrote 2 letters to Ignatius Leon and 1 to Merise Lansiquot in 1996 and 1999 threatening them with legal action for illegal occupation of the disputed lands. However, the judge found that the respondents were not properly notified of Nicholas Lansiquot's intention to claim possession of the disputed lands until he instituted the claim in 2002.<sup>18</sup> Ignatius Leon said in cross-examination that Nicholas Lansiquot wrote to him more than once asking him to leave the land and to remove all structures on it but he "did not take that for anything". Ignatius Leon also said that although he could not recall the exact time that he received the notices, he believed that he received 1 about 5 or 6 years before the trial.<sup>19</sup>

### **Bases of the appeal**

- [15] Nicholas Lansiquot's appeal challenges aspects of the trial judge's finding of facts and law. In relation to facts, Nicholas Lansiquot appealed against the finding that Paul Lansiquot told Pamphilia Leon that she could have the land which the respondents claim. He also appealed against the judge's finding that Pamphilia Leon built houses on the land and lived on the land on the strength of the promise that Paul Lansiquot made to her that she and her family could live on the land and make it their home for as long as they wished. He also appealed against the judge's finding that the respondents were not notified of Nicholas Lansiquot's intention to claim possession of the land by letters dated 23<sup>rd</sup> April 1996, 27<sup>th</sup> January 1999 and 1<sup>st</sup> April 1999.
- [16] In relation to findings of law, the appeal seeks to impeach the judge's decision that Pamphilia Leon and her descendants, the respondents, are entitled to register title

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<sup>17</sup> See paragraph 7 of the judgment.

<sup>18</sup> See paragraph 10 of the judgment.

<sup>19</sup> See pages 75-77 of the Record of Appeal. The trial was conducted on 5<sup>th</sup> June 2005.

to the disputed land because they have an overriding interest in that property based on the equity of proprietary estoppel. The appeal further seeks to impeach the judge's findings that all of the respondents, except John Lansiquot, acquired prescriptive title to the disputed land, and that the respondents are not bound by the decision of the Adjudication Officer and/or the Land Tribunal.

[17] I think that too much has been made of the effect of the land adjudication process in this case. Nicholas Lansiquot became the sole registered owner of Parcel 0253B 3 in March 2002 as a result of the adjudication process; the renunciation of their rights to the land by his surviving siblings in 1993, and by his (Nicholas Lansiquot's) declaration of succession in 2001. Once he obtained the paper title to the land in his name, that title could be challenged on the grounds that it was so registered by fraud or mistake. Neither was pleaded in this case. The respondents' case is that notwithstanding that Nicholas Lansiquot obtained the paper title to the property of which the disputed property is a part; they (the respondents) are entitled to the disputed property because either equity or prescription gives them an overriding right to it. The judge agreed that they were entitled to have title to the disputed property on both grounds. The critical question then that this appeal raises is whether the learned judge erred when he found that they were so entitled.

#### **Right by equitable estoppel?**

[18] I shall first adumbrate the basic principles of the doctrine of equitable estoppel. I shall then restate the submissions by counsel for the parties and then my findings.

#### **Submissions**

[19] The court may, under the doctrine of equitable estoppel, grant an irrevocable licence to an occupier of land which is owned by another. **Inwards v Baker** is the locus classicus for this principle. In this case a father allowed his son to build a

house on his (the father's) land. The son was under the impression that he would be permitted to live there for as long as he wished. When his father died, the trustees of his father's will permitted the son to remain in occupation for 12 years, but sought possession of the land thereafter. The English Court of Appeal refused to grant possession to the trustees on the ground that the son had acquired, as against his father, an irrevocable licence arising by proprietary estoppel. The court held that the licence gave the son the right to remain in occupation of the house for the rest of his life, and the trustees were bound by the licence because they had acquiesced in the son's continued occupation after they had notice of that occupation. Lord Denning MR stated:

If the owner of the land requests another, or indeed allows another, to expend money on the land under an expectation created or encouraged by the (owner of the land) that he will be able to remain there, that raises an equity in the licence such as to entitle him to stay.

- [20] In **Taylor's Fashions Ltd v Liverpool Victoria Friendly Society**,<sup>20</sup> Oliver J urged courts to adopt a much broader approach to the doctrine "... which is directed ... at ascertaining whether, in particular individual circumstances, it would be unconscionable for a party to be permitted to deny that which, knowingly or unknowingly, he has allowed or encouraged another to assume his detriment".
- [21] In **Cherry Cabral v Alice Robinson King**<sup>21</sup> the court noted that 4 conditions must be present for an occupier to establish a proprietary estoppel.<sup>22</sup> First, the occupier must have incurred expenditure or otherwise prejudiced himself or acted to his or her detriment. Equity does not assist volunteers or persons who have given no consideration. Second, the occupier must prove that he or she had some assurance from the owner that caused the occupier to believe that he or she already had or would have obtained sufficient interest in the land to justify the expenditure. If the occupier has no such belief and improves the land when he knows that he is merely a tenant, licensee or occupier under an incomplete or

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<sup>20</sup> [1979] EWHC Ch.1 (27 February, 1979).

<sup>21</sup> Unreported Belize Civil Appeal No. 4 of 1994 (8<sup>th</sup> September 1994), at page 6.

<sup>22</sup> On the basis of Snell's Equity (29<sup>th</sup> edition), at page 574.

revocable contract, he has no equity as a result of his expenditure. The occupier must have been encouraged by the owner, his agent or predecessor in title. Third, the occupier must have acted in reliance on the assurance or encouragement. Mere expenditure with consent does not give rise to an estoppel, and one who voluntarily improves another's land without encouragement or promise of reward does so entirely at his own risk. The fourth place, proprietary estoppel will not arise where its enforcement would contravene a statute, prevent the exercise of a statutory discretion or excuse the performance of a statutory duty.

### **Submissions**

- [22] Mr. Foster, learned counsel for the respondents, submitted that the trial judge correctly found that a proprietary estoppel has arisen in favour of the respondents because Pamphilia Leon entered upon the disputed property upon the promise of Paul Lansiquot that she could live on it and cultivate it for as long as she wished. Learned counsel insisted that, in reliance on this promise, the respondents, who are the children and descendants of Pamphilia Leon, acted to their detriment by erecting fixed houses on the land at very great expense. He submitted that it would therefore be unconscionable to grant possession of the land to Nicholas Lansiquot.
- [23] Mr. Theodore submitted on behalf of Nicholas Lansiquot that the judge erred when he held that the respondents acquired an overriding interest in the disputed land by virtue of section 28(g) Land Registration Act. He said that there is no evidence that Pamphilia Leon's licence extended to permission for herself and her family to erect permanent structures on the land. He insisted that the learned trial judge failed to apply or to properly apply the principles on which proprietary estoppel could arise because those principles require the promisor to encourage the promisee in his belief that he had permission to erect buildings on the land. Mr. Theodore insisted that the evidence suggests that Pamphilia Leon did not herself erect any permanent structure on the land in her lifetime. He said that it is notable that it was only after her death

that her family built permanent structures on the land. He submitted, further, that Paul Lansiquot made no agreement with any of the respondents and did not encourage any of them to expend money in this way on the land.

## Findings

- [24] I agree with Mr. Theodore's submissions. There is no evidence that either Paul Lansiquot or Nicholas Lansiquot encouraged the respondents to erect permanent structures on the disputed land. Pamphilia Leon, whom Paul Lansiquot permitted to enter upon the land, did not build a permanent or semi-permanent structure on it. The respondents commenced the construction of such structures after Paul Lansiquot's wife died in 1989. There is no evidence that Nicholas Lansiquot encouraged them to erect the houses. The result is that the learned trial judge erred when he found, in effect, that the respondents were entitled to an overriding interest in the disputed land on the basis of proprietary estoppel. I would therefore allow the appeal on this ground.

## Right by prescription

- [25] It is trite principle that in order to acquire title to land by prescription, an occupier must have enjoyed a user as of right to the land continuously for a considerable period of time with the acquiescence of the owner of the land. User as of right means that the enjoyment must not have been by force, in secret or by permission (*nec vi, nec clam, nec precario*).
- [26] There is ample evidence that the respondents occupied the disputed land for some time. They have all, except the sixth respondent, lived on the land continuously for over 30 years. The evidence of Ignatius Leon is that he is in occupation because his mother was let into occupation by Paul Lansiquot. Additionally, the trial judge accepted and relied on the evidence of Mr. Alexander that all the residents of Belvedere knew that Paul Lansiquot promised Pamphilia

Leon that she could have the disputed land and he allowed her to cultivate it and live there with her family.<sup>23</sup> It is apparent that the judge accepted this evidence as proof of its truth when he should not have done so, and this was a basis on which he found that the respondents had obtained prescriptive right to the disputed land.

[27] It is noteworthy that the respondents asserted in their amended defence and counterclaim<sup>24</sup> that Paul Lansiquot gave Pamphilia Leon permission to occupy the land. This found echo in a statement that Lynn Lansiquot made in cross-examination that they live on the land because Paul Lansiquot gave her mother permission to live on it.<sup>25</sup> These are assertions that the respondents' occupation or user of the disputed land was enjoyed by permission. This signifies that their occupation was without the acquiescence of the owner. It cannot therefore be the basis of a prescriptive claim. Such occupation could have amounted to a licence<sup>26</sup> or perhaps a tenancy at sufferance at its highest. Additionally, I agree with Mr. Theodore's submission that the arrangement by which Pamphilia Leon was let into occupation of the disputed land was of too loose a nature to create any greater interest in the land for the respondents.<sup>27</sup>

[28] I am confirmed in the view that the occupation by the respondents could not have entitled them to a prescriptive right to the disputed land by reference to Article 2060 of the Code. This Article states that acts which are merely facultative or of sufferance cannot be the foundation either of possession or of prescription. Additionally, Article 2067 of the Code provides that persons who possess for another, or under acknowledgment that they hold under another, never prescribe the ownership, even by the continuance of their possession after the term fixed. Article 2068 states that heirs and successors by universal title of persons whom Article 2067 hinders from prescribing cannot themselves prescribe. The

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<sup>23</sup> See paragraph 6 of the judgment.

<sup>24</sup> See paragraph 2 at page 15 of the Record of Appeal.

<sup>25</sup> See page 55 of the Record of Appeal.

<sup>26</sup> See *Gardner v Hodgson's Kingston Brewery* [1903] AC 229.

<sup>27</sup> See *Dottin v Callendar and Callendar* (1965) 8 WIR 44.

respondents as heirs of Pamphilia Leon could not therefore prescribe the Paul or Nicholas Lansiquot's ownership of the disputed land.

- [29] In the foregoing premises, the learned trial judge erred when he held that the respondents were entitled to the disputed property by prescriptive right. I would allow the appeal on this ground.

**Are the respondents entitled to compensation?**

- [30] Mr. Theodore submitted that since the respondents have no paper or beneficial title to the disputed property they are not possessors in good faith pursuant to Article 367 Civil Code. He asked the court to note the provision in Article 372 Code to the effect that when improvements have been made by a possessor, with his own materials, the right of the owner to such improvements depends on the nature of the improvements and the good or bad faith of the possessor. Learned counsel contended that the respondents are possessors in bad faith. He submitted that the learned judge should have exercised the option either to allow the appellant to keep the improvements made upon paying for them at their actual value or to compel the respondents to remove them at their own expense, provided they could do so without deteriorating the land.

- [31] I agree with Mr. Theodore's submission. From all of the evidence the nature of the improvements are such that they could not be removed without deteriorating the land. Additionally, the respondents have expended substantial sums on those improvements. I think that it would be in keeping with the statutory provisions and would only be fair to order Nicholas Lansiquot to keep the improvements made by the respondents on the disputed land. However, he shall first pay for them at their actual value as determined by an assessor or assessors appointed by agreement between the parties or upon the directions of a master or judge of the High Court.

## Summary and order

[32] I would allow the appeal on the grounds that the learned trial judge erred when he held that the respondents are entitled to an equity allowing them to remain in occupation of the disputed land, and that such an equity is an overriding right within the meaning of section 28(g) of the Land Registration Act to which Nicholas Lansiquot's registered title is subject. The learned judge also erred when he held that the respondents are entitled to a right to that land by prescription, and when he consequentially made the order directing the Registrar to rectify the Register to register their right to the land. The judge should have granted Nicholas Lansiquot's claim to possession to the land. He should have dismissed the respondents' counterclaim, and, accordingly, awarded costs to Nicholas Lansiquot against the respondents. I shall make these orders.

[33] However, Article 1515 of the Code provides that persons holding real property by sufferance of the owner, without lease, are held to be lessees, who are bound to pay the annual value of the property. The Article further provides that such a holding is to be regarded as an annual lease or hire terminating on the first day of May of each year. Accordingly, I would order the respondents to give up possession of the disputed land to Nicholas Lansiquot on 1<sup>st</sup> May 2008.

[34] Since there are no circumstances that exempts this case from the application of the general rule that costs follow the event, the respondents will pay the costs of Nicholas Lansiquot in the High Court and in these proceedings on a prescribed costs basis, unless the parties otherwise agree.

[35] The order in summary then is as follows:

1. The appeal is allowed and the judgment and order of the trial judge are set aside.
2. It is hereby declared that the appellant, Nicholas Lansiquot, is entitled to have possession of the disputed land, and, accordingly, the respondents shall give up possession of it to him on 1<sup>st</sup> May 2008.

3. Nicholas Lansiquot is hereby ordered to keep the improvements made by the respondents on the disputed land.
4. Nicholas Lansiquot shall, on or before the day on which the respondents give up possession of the disputed land pay the respondents the actual value of those improvements as determined by an assessor or assessors appointed by agreement between the parties or upon the directions of a master or judge of the High Court.
5. For the purpose of the appointment of an assessor or assessors under paragraph 4 of this order and for consequential directions, solicitors for the appellant, Nicholas Lansiquot and the Registrar of the High Court shall take such steps as are necessary to have this case scheduled forthwith for directions.
6. Unless the parties otherwise agree, the respondents shall pay to Nicholas Lansiquot, prescribed costs in the court below and two-thirds of those costs in the appeal proceedings.

**Hugh A. Rawlins**  
Justice of Appeal

I concur.

**Brian Alleyne, SC**  
Chief Justice [Ag.]

I concur.

**Denys Barrow, SC**  
Justice of Appeal