

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
POSSESSORY TITLE 15 OF 2006

BETWEEN:

DONNA DENNIE

Applicant

V

**EARL HUSKINSON (by his
Attorney DAWN THOMAS**

Respondent

Appearances:

Mr. O.J.B. Dennie for the Applicant
Miss R. Browne for the Respondent

2007: July 25;
September 21

JUDGMENT

- [1] **MATTHEW J (Ag.):** In Chambers. On November 17, 2006 the Applicant filed for a declaration of possessory title in accordance with Section 3 of the Possessory Titles Act of 2004.
- [2] She filed on the same day with her application on the same day an affidavit alleging that she had been in occupation of the land for the previous 25 years. She also filed on the same day supporting affidavits by Joyce Dennie, her grand aunt, and by a teacher, Rosmond Layne.
- [3] She also had a plan of survey measuring 1,586 square feet accompanying her application.

- [4] In her application, and as required by law, she stated that immediately before adverse possession began to run in her favour the land was registered in the name of Joyce Dennie.
- [5] The Applicant tendered deed 183 of 1947. The original deed made on the 24th day of January 1947 was one wherein Ormond Percival Nanton sold to Agnes Rosamond Dennie one acre of land from the Ottley Hall estate.
- [6] In her affidavit in support of the application Joyce Dennie alleged that she was the lawful daughter of Alban Dennie and Rosamond Olga Dennie and besides herself there were four other lawful children, namely, Edmund, Agnes, Doris and George.
- [7] She said her mother, Rosamond Olga Dennie, was the owner of one acre of land by virtue of deed 183 of 1947 and on the death of her mother, her father Alban Dennie obtained Letters of Administration in her estate by virtue of Letters of Administration No. 16 of 1952.
- [8] She stated that her parents and her brothers and sisters died leaving herself in possession of the one acre of land except 24 poles which was conveyed by her father to her sister, Agnes Dennie, on the 16th day of October 1954 by virtue of deed No. 815 of 1954.
- [9] She said as the sole survivor of the beneficiaries of the estate of her mother she donated to Donna Dennie, the granddaughter of her brother Edmund 1,586 square feet of land.
- [10] The original deed has a couple lines over the typed words "AGNES ROSEMOND DENNIE" and written in ink above are the words "AGNES DENNIE". I discerned sometimes confusion in the names of the mother and the daughter called Agnes but that did not cause any difficulty as regards the issues in this case.
- [11] On March 19, 2007 Earl Huskinson by his Attorney Dawn Thomas challenged the application of the Applicant and he sought an order that he should be declared the owner of 3,000 square feet of land.

- [12] He stated that the ground of the application is that by virtue of deed 107 of 1977 dated the 19th day of January 1977 he purchased from Agnes Dennie, later Agnes Christopher, 3,000 square feet of land; and further an order was made against Dennie by the High Court in Suit 556 of 2,000 whereby she was restrained from trespassing on the land of Huskinson and that she should cease all construction on the land.
- [13] The root of title of Huskinson is stated to be Deed Number 183 of 1947 in its amended form where it shows that the true purchaser was Agnes Dennie and not her mother.
- [14] Straight way there is an issue as to who bought the land from Nanton. The alleged correction was made by a Court Order made on January 25, 1983, some 36 years after the original document. To my mind this is quite extraordinary.
- [15] Mr.Nanton signed a deed in 1947 stating he sold to Rosamond Dennie and 36 years later on the strength of an ex parte application by the daughter, Agnes, the Judge orders the original deed to be amended.
- [16] O, how I deplore these ex parte proceedings! In my judicial tenure of over 17 years I always found, and so stated in some of my judgments, that they should be sparingly used. They are sometimes the instruments of questionable conduct.
- [17] Now this amended deed comes to a head on collision with other legal instruments. The original deed was Alban Dennie's authority for obtaining the order for Letters of Administration No. 16 of 1952 and it was the authority for the same Agnes Dennie obtaining 24 poles of land under deed 815 of 1954. The amended deed would seem to make nonsense of these earlier instruments.
- [18] Mr. Dennie submitted that the amendment of the original deed 183 of 1947 is a fraud and he may well be correct. The learned Judge was misled in the granting of the amendment.

- [19] If Mr. Dennie is correct, it means the title Huskinson obtained from Agnes Dennie Christopher is void and he obtained no land under it for Agnes had none by virtue of deed 183 of 1947.
- [20] Another bit of evidence which shows up the character of Agnes Dennie is that in an affidavit she made on September 19, 1953 when the St. Vincent Cooperative Bank in Suit No. 35 of 1953 was moving against the land of the estate of Rosamond Olga Dennie, she claimed that it was not the whole acre, but a house spot which really belonged to her.
- [21] It did not escape my attention that Agnes was the only one of the five children which her father had to give her share. That may be some evidence of her greed for land. So after obtaining her 24 poles from the one acre in 1954, in 1983 she claims the whole acre.
- [22] The Respondent relies on an injunctive order made by the Court against the Applicant in Suit 556 of 2000. A leopard never changes its colours. Here again is an ex parte order made by the Judge on January 19, 2001.
- [23] The order does not say it must be served on the Applicant and there is no indication it was served. There is no return day after service. The Applicant said she was not served and I believe her.
- [24] I would not have entertained that ex parte application when Dawn Thomas, according to her evidence, passed near the construction several times a week when she went to see her mother. I would have sent the Petitioner to serve the Respondent. It is a basic rule of English Law that both parties must be heard, save in cases where it is impracticable to do so.
- [25] Earl Huskinson was said by his attorney, who is his sister to have been living in the United States of America for over 30 years. Huskinson bought land by paper and never saw the land. It was only in the year 2000 that he gave his sister a general power of attorney and

as disclosed from the evidence it is unsure who looked after the supposed land of the Respondent from the time he bought in 1977 to the year 2000.

[26] The attorney has sworn to the fact that she has been in exclusive and uninterrupted possession of the land since 1977 and has paid all rates and taxes since that time.

[27] It is strange that she could be in such possession and the Applicant could have the time and opportunity to construct a building and have it roofed before any stop order.

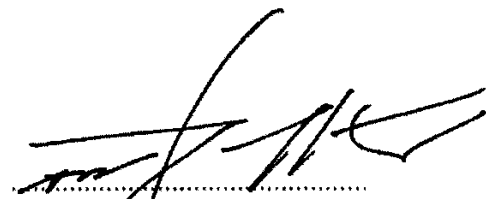
[28] When I asked the attorney whether she had receipts for payment of such taxes she produced a few receipts for the year 2000, one for the year 2001 and two for the year 2007 and said she could not find the others. I do not believe her.

[29] It seems that the only portion of land to which the Respondent is laying claim is the one surveyed for the Applicant and containing only 1,586 square feet of land. Apparently he is ignoring the other 1,414 square feet he purchased.

[30] I do not believe Earl Huskinson was in possession of the disputed portion of land for as long as one day. He never saw the land when he bought it in 1977 by paper and therefore could not survey it.

[31] The application of the Respondent is dismissed and the Applicant must continue her application for a declaration of possessory title forthwith.

[32] The Respondent is to pay the Applicant's costs in the amount of \$3,000.00.


Albert N. J. Matthew
HIGH COURT JUDGE (Ag.)