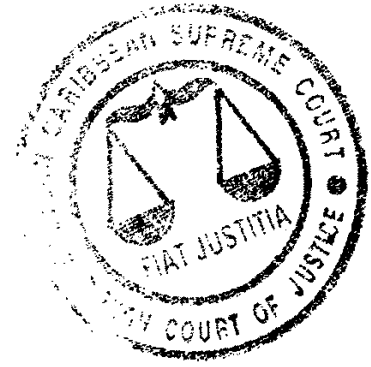


THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES
POSSESSORY TITLE 33 OF 2007



BETWEEN:

EYON CATO

Applicant

V

OLGA WEEKES

Respondent

Appearances:

Mr. R. Williams for the Applicant

Ms. M.T. Mayers-Oliver for the Respondent

2007: November 8 and 23

JUDGMENT

- [1] **MATTHEW J (Ag.):** On July 3, 2007 the Applicant applied for a possessory title in respect of a portion of land located at Calder Ridge containing 96,906 square feet.
- [2] On the same day he filed an affidavit in support of his application as well as supporting affidavits from his children, Leyon Cato aged 38, and Brennon Cato, aged 37.
- [3] In his affidavit the Applicant stated that from about the year 1961 he occupied the said portion of land and has remained in continuous and exclusive possession to this day.
- [4] On September 25, 2007 Olga Weekes entered an appearance in accordance with Section 7 of the Possessory Titles Act and filed her claim on the same day.

- [5] In her claim Weekes stated that the land in question was purchased by Norman Billings from Kenneth Punnett about 1938 and soon thereafter he placed his sister, Beatha Weekes, the mother of her late husband, Vincent Weekes, in charge of one half of the land; and placed his other sister, Meta Cato, in charge of the other half.
- [6] This case deals only with the portion of land over which the mother of Vincent Weekes was in charge. It is said to be on the right side of the road if one is going down the hill.
- [7] The Respondent said the sisters remained in control of the land until they died: Beatha in 1957, and Meta in 1990. The Respondent alleged that after his mother's death Vincent entered into possession of the land until he and his wife emigrated to Canada in 1963.
- [8] It is alleged that after Vincent left for Canada he left his younger brother, Leo, in control of the land until Leo himself migrated to Canada in 1966.
- [9] The Respondent alleged that after Leo left, Meta Cato worked the land in issue. Vincent and Olga returned to St. Vincent in 1992 and Eyon at the time was working the land and bringing produce for Vincent and Olga Weekes.
- [10] The Respondent stated that Vincent and the Applicant were not only cousins but they had a great relationship like father and son.
- [11] She stated that Norman Billings died around 1972 and his son, Leopold, became the sole beneficiary. Leopold it was said is a Venezuelan and was last in St. Vincent in 1997 and nothing has been heard of him since.
- [12] The Respondent stated that Vincent was saddened to hear that Eyon was trying to acquire the land and Vincent told him that 12 years had not expired since Leopold was last in Saint Vincent. Sadly, Vincent died on July 26 of the present year.

- [13] On October 31, 2007 the Applicant swore to a second affidavit which was in response to the Respondent's claim. In that affidavit he said Vincent was his first cousin whose mother was his aunt. He said Vincent had showed no interest at all in land.
- [14] He said after Leo left for Canada he took possession of the land and when Vincent and his wife returned to Saint Vincent in 1992 they never assumed possession of the land. He tendered a copy of the Will of Vincent made on January 22, 2004 where he disposed of his land at Fountain, at Villa and at Arnos Vale but did not anywhere mention that he had land at Calder Ridge.
- [15] He said that since he has been in possession of the land he has without fail, paid the taxes over the last four years.
- [16] Besides the documentary evidence each of the Parties gave oral testimony and was cross-examined.
- [17] Olga Weekes said she objected to the application because she thinks she and her husband "have something to gain from the land."
- [18] It was established that while Vincent and Olga were in Canada Eyon did look after their affairs. A letter was put in evidence dated April 1, 1987 which purports to be a letter from Vincent to Eyon from Montreal. Attached to this letter is a statement of account which was made by Eyon.
- [19] It was also established that Eyon collected the rent from Vincent's house located at Villa and it was also established that there were crops around the house and elsewhere. Neither the letter nor the statement of accounts can be said to relate to the land at Calder Ridge.
- [20] By that I mean that one cannot look at these documents and say that Eyon Cato took care of the land at Calder Ridge for the benefit of Vincent and Olga Weekes.

- [21] The allegations made by the Applicant in his affidavits that he had been in control of the land from 1961 or 1966 cannot be correct and he admitted that under cross-examination.
- [22] What in fact happened was that after Beatha's death and Leo's departure to Canada in 1966 Meta Cato took possession of the land in question and remained in possession until her death in 1990.
- [23] The Applicant had gone to assist Meta with the land sometime earlier and apparently in the 1980's Meta could no longer effectively manage the land because as the Parties stated she had began to be shaky. From the 1980's the Applicant was physically in charge of the land but in my judgment he was in control for Meta, who is his aunt as well, his mother being Meta and Beatha's sister.
- [24] In my judgment from 1966 to 1992, when they returned to live in Saint Vincent, Vincent Weekes had lost possession and control of the lands his mother occupied and as I inferred earlier, neither Meta nor Eyon accounted to Vincent for the land his mother once occupied.
- [25] But during those years neither the Respondent nor her husband could be in adverse possession when according to her as late as 1997 she recognized that Leopold Billings was the owner of the land.
- [26] At that time Vincent was asking Leopold Billings if he intends to sell he would like to buy the piece his mother was in charge of. It is a well-known principle that the concept of adverse possession is inconsistent with the concept of a willingness to purchase.
- [27] According to Eyon Cato the last time Leopold Billings was in Saint Vincent was in 1993 and Eyon's statement that every time Leopold Billings visited Saint Vincent he stayed at his home was not challenged.

- [28] I would not dispute the statement that Vincent Weekes was saddened when he heard and saw the advertisement that Eyon was applying for a possessory title. He may have come quite reasonably, to the conclusion that because they were related and so close they could equally share in land which was purchased by their uncle, Norman Billings.
- [29] And it may yet not be too late for the Applicant to consider some accommodation to the Respondent, his cousin-in-law.
- [30] But in strict legal sense and the philosophy of the Possessory Titles Act, I do not think either Vincent Weekes and/or his widow can show they have a right to challenge the application, for I do not believe they were in effective possession of the land from the time they returned to Saint Vincent in 1992 to the present time.
- [31] The Respondent's case is dismissed. There will be no order as to costs in this family dispute.



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