

ANGUILLA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. AXAHCV 0036/2007

BETWEEN:

VIOLA RICHARDSON  
COLLINS RICHARDSON  
AUDREY BROOKS

Claimants

And

ALBERT HUGHES

(as Administrator of the Estate of Alfred Richardson, deceased)

Defendant

Appearances:

Ms. Ayodeji Bernard for the Claimants  
Mrs. Tara Ruan for the Defendant

.....  
2011: October 17,25

2012: February 1  
.....

JUDGMENT

[1] **BLENMAN, J:** This is a claim by Ms. Viola Richardson (Viola), Mr. Collins Richardson (Collins) and Ms. Audrey Brooks (Audrey), interchangeably referred to as Viola, Collins and Audrey all allege that they are the great nieces and nephews of Alfred Richardson, against Albert Hughes (Albert) as the Administrator of the Estate of Alfred Richardson, deceased. They say that property which formed part of the Estate of Alfred Richardson, deceased, was unlawfully disposed of by Mr. Albert Hughes. They contend that Alfred Richardson died intestate on 11<sup>th</sup> February 1886. He had no spouse, children or parents at the time of his death.

- [2] They say that Mr. Albert Hughes swore to an Affidavit of Kin based upon which he was granted Letters of Administration to Alfred Richardson's Estate. In the affidavit, they say that he incorrectly stated that he was the sole surviving heir of the estate of Alfred Richardson.
- [3] Viola, Collins and Audrey complain that Mr. Albert Hughes has, subsequent to obtaining the Letters of Administration, unlawfully vested the Estate property into his own name.
- [4] They further allege that Mr. Albert Hughes purported to act pursuant to the Letters of Administration which was granted on 3<sup>rd</sup> March 1986 and distributed the property. Viola, Collins and Audrey have also urged the Court to revoke the grant of the Letters of Administration of the Estate of Alfred Richardson and to remove Albert as the Administrator of the Estate.
- [5] Additionally, they also seek an order granting them Letters of Administration of the Estate of Alfred Richardson.
- [6] Finally, Viola, Collins and Audrey seek an order to compel Mr. Albert Hughes to return the various parcels of land, which he allegedly distributed to himself and one other person, to the Estate of Alfred Richardson.
- [7] The claim is vigorously opposed by Mr. Albert Hughes. In his defence he does not admit that Viola, Collins and Audrey are the great nieces and nephew of Mr. Alfred Richardson who died intestate in 1886.
- [8] Mr. Hughes states that he is the great nephew of Mr. Alfred Richardson who died on 11<sup>th</sup> February 1886, leaving two sisters, Judith Hughes and Mary Hodge. Mary had no issue.

[9] Mr. Albert Hughes says that his father Kedro Hughes was Judith Hughes son and therefore he (Albert) is entitled to administer the estate of Alfred Richardson.

[10] Mr. Hughes says that the Court should dismiss the claim since Viola, Collins and Audrey have failed to establish any standing to bring the claim. He also asserts that the statutory time limit for filing this claim has expired. The claim should therefore be dismissed.

### **Background**

[11] Mr. Alfred Richardson died on 11<sup>th</sup> February 1886 without leaving a will. He died leaving substantial property in Anguilla. It is alleged that he died leaving three siblings: Judith Hughes nee Richardson, William Benjamin Richardson and Darbur Richardson. This is disputed by Mr. Albert Hughes who says that Mr. Alfred Richardson was only survived by his sister's Judith Hughes and Mary Hodge. Judith Hughes is also referred to as Judy Hughes.

[12] Viola, Collins and Audrey Brook say that Alfred Richardson's Estate ought to have been divided into three equal shares between the heirs of Judy Hughes, William Richardson and Darbur Richardson. However, on the 25<sup>th</sup> July 1985 Mr. Albert Hughes swore to an Affidavit of Kin in order to obtain Letters of Administration of Mr. Alfred Richardson's Estate.

[13] Viola, Collins and Audrey all contend that Mr. Albert Hughes, in the affidavit of kin that he filed in support of his application for Letters of Administration in the Estate of Alfred Richardson, failed to indicate that Alfred Richardson had other siblings, namely: Judith Hughes, William Richardson and Darbur Richardson. Albert stated he (Albert) was a beneficiary of Alfred's Estate and as a consequence the Letters of Administration was granted to him. Mr. Albert Hughes was thereafter able to transfer the properties which form part of Alfred Richardson's Estate into his sole

name. He subsequently distributed portions of the Estate to himself and other persons.

[14] Viola, Collins and Audrey have therefore filed the claim against Mr. Albert Hughes in his representative capacity and seek a number of orders. They ask the Court to revoke the Letters of Administration that was granted to Mr. Albert Hughes or, in the alternative, to remove him as the Administrator of the Estate of Mr. Alfred Richardson.

[15] Viola, Collins and Audrey also ask the Court to order Mr. Albert Hughes to distribute the lands which form part of the Estate in accordance with the relevant rules of intestacy.

[16] Viola, Collins and Audrey also seek an order granting them Letters of Administration in place of Mr. Albert Hughes.

[17] In his defence, Mr. Albert Hughes maintains that at the time of filing his application for the Letters of Administration of Alfred Richardson's Estate he consulted all those members of the family whom he knew or believed to be entitled to benefit from the Estate without success. He even made enquires of persons whom he thought may have been entitled to benefit under the estate with no success.

[18] Mr. Albert Hughes said that he never heard mention of or was he ever aware of William Richardson or Darbur Richardson as being the siblings of Mr. Alfred Richardson, deceased. He is aware that Viola, Collins and Audrey have caused cautions to be placed against the property and seeks to have them removed. He vigorously opposes the claim.

### **Issues**

[19] The issues that arise for the Court to resolve are as follows:

- (a) Whether Viola, Collins and Audrey are entitled to bring this claim against Mr. Albert Hughes in the above stated representative capacity.
- (b) Whether Viola, Collins and Audrey are legally entitled to a share in the Estate of Alfred Richardson.
- (c) Whether the limitation period for filing of this claim expired.
- (d) Whether the Court should revoke the Letters of Administration that was granted to Mr. Albert Hughes and instead grant Letters of Administration to Viola, Collins and Audrey.
- (e) Whether the Court should compel Mr. Albert Hughes to distribute the property which forms a part of Alfred Richardson's Estate in accordance with the relevant intestacy rules.

## Evidence

[20] In support of the claim, Viola filed several affidavits. Mr. Collins Richardson, Estelle Hughes, Audrey Brooks and Anetta Brooks also filed affidavits in support of the claim. Apart from Viola and Collins the other persons who swore to the affidavits in support of the claim did not appear at the trial in order for their evidence to be tested. The Court had specifically ordered that they ought to have attended Court to be cross-examined. Mr. Albert Hughes filed an affidavit in support of his defence and was cross-examined. Accordingly, the Court was unable to attach any weight to the affidavits of Ms. Estelle Hughes, Ms. Audrey Brooks and Ms. Anetta Brooks.

[21] It is noteworthy that on the day of the hearing of the matter learned counsel

Ms. Ayodeji Bernard requested an adjournment of the trial on the basis that Viola, Collins and Audrey wanted to redouble their efforts to obtain a report from an unidentified genealogist. It bears stating that several years earlier the Court had granted leave to Viola, Collins and Audrey to obtain the report from a genealogist which was not forthcoming. The matter was eventually struck out by a differently constituted Court on the basis of lack of standing and on appeal to the Court of Appeal it was remitted to be retried.

[22] Several years after and at the pre trial hearing, Viola, Collins and Audrey acknowledged that they required the genealogist report and were granted leave once again to provide the genealogist report. None was still forthcoming.

[23] Learned counsel Mrs. Tara Ruan strenuously opposed the application for the adjournment in order to allow them to obtain the report from the genealogist.

[24] The Court refused to grant the adjournment and the trial proceeded.

## DEFENDANT'S SUBMISSIONS

### Locus Standi

[25] Learned counsel Mrs. Tara Ruan submitted that Viola, Collins and Audrey have not established any evidential basis to support their standing to bring this claim. They have not adduced any evidence of birth records establishing their lineage to Mr. Alfred Richardson and accordingly this is fatal to their claim. The Court ought not to exercise its jurisdiction in this regard.

[26] Learned counsel Mrs. Ruan referred the Court to *Delcine Thomas v. Victor Wiklins et al ANUHCV 2007/0530* in paragraph 34 which referred to a quotation from *Tristram and Cootes* in which the law provides that *"a person can only bring an action on behalf of an Estate pursuant to rights obtained through an Estate if a*

*grant is obtained*". Furthermore, paragraphs 57 and 58 of the Judgment state that the Claimant could not institute a claim on behalf of an Estate where there has been no grant. If Viola, Collins and Audrey say that they have brought this Claim in their personal capacities, then they ought to present the Court with credible evidence establishing their lineal connection to the Estate. Mrs. Ruan argued that this is not the case and the claim ought to fail.

[27] Next, Mrs. Ruan submitted that Viola, Collins and Audrey's claim is statute-barred in accordance with the *Limitation Act, R.S.A. c.L60*. Section 5(3) of the Act bars actions to recover land which are filed in excess of 12 years from the date in which the cause of action accrued. Learned counsel Mrs. Ruan submitted that the cause of action would have accrued to Viola, Collins and Audrey (if they were beneficiaries) upon the grant of probate to Mr. Albert Hughes in March 1986.

[28] In fact, *Halsbury's Laws of England*, Volume 28 provides in paragraph 862 at footnote 2, that *"time will not begin to run until the end of the year after the intestate's death, as the personal representative is not bound to distribute the estate before the expiration of one year from the death"*.

[29] Mr. Hughes came into possession, arguably, when he obtained Letters of Administration in 1986. Therefore time, at the least, would run from about March 1987. A period of twenty years has elapsed and there have been no allegations of fraud or other elements by virtue of which that time would be extended. Learned counsel Mrs. Ruan maintained that there was no fraud or mistake that could extend the time. Furthermore, Viola, Collins and Audrey cannot bring a claim without establishing the grounds for their unreasonable delay. Mrs. Ruan submitted that there is no basis provided to the Court for the delay. Viola, Collins and Audrey had notice of the status of the Estate lands from about 1987 when Mr. Hughes successfully redeemed the lands in a legal dispute against the Fleming family.

[30] In support of her argument, learned counsel Mrs. Ruan referred to the views of Justice Blenman in *Delcine Thomas v. Victor Wiklins et al ANUHCV 2007/0530* at paragraphs 69 and 70. On that basis, Mrs. Ruan said that the Court is not required to investigate any further into the claims. However, if the Court is of the view that a further investigation must be made further, it would then be revealed that Viola, Collins and Audrey are not the lawful heirs of the Estate.

[31] Learned counsel Mrs. Ruan said that Mr. Hughes' position is that Viola, Collins and Audrey are not in a position to legally prove their entitlement to the lands or their claim to be entitled to benefit from the Estate of Alfred Richardson, the deceased. According to *Halsbury's Laws of England*, Volume 17 at paragraph 1460, the law requires that a person bringing the action must have a sufficient interest in the property.

*It may be "vested or contingent, future or remote, but it must be an existing interest; a mere possibility is insufficient. Thus, a member of a class of possible next of kin of a living person cannot maintain an administration action".*

[32] *Further, Halsbury's Laws of England*, Volume 17 at paragraph 1491 is also instructive on the type of evidence required by the Court to satisfy "kin inquiries". It states that:

*"In complex cases a pedigree must be prepared, with cross-reference to supporting affidavits, preferably by the oldest living members of the family with the necessary knowledge to show the relevant relationships and the dates of the relevant births, marriages and deaths, which must be strictly proved so far as this can be done."*

[33] Viola, Collins and Audrey have failed to adduce evidence of the quality that rises to the level required as stated above.



[34] Furthermore, claims may be brought by beneficiaries. This is recognised by *Halsbury's Laws of England*, Volume 17 at paragraph 1457. Viola, Collins and Audrey are required in law to prove their claim and their beneficial interests.

[35] In examining the evidence that was adduced on behalf of Viola, Collins and Audrey, learned counsel Mrs. Ruan said he who asserts must prove. Viola, Collins and Audrey are essentially seeking the removal of Mr. Hughes as personal representative and the substitution with themselves. They are also seeking the return of lands which they allege were unlawfully distributed. If those allegations must stand, then Viola, Collins and Audrey are required to present the Court with cogent and verifiable evidence indicating their lineage.

#### **Collins Richardson**

[36] Learned counsel Mrs. Ruan said that the Court should find that Collins' evidence is unreliable, self-serving and riddled with hearsay. He only could tell the Court what was told to him. In fact, it was only in 2004 that he came to know about the Estate or the disputed lands. In cross-examination, Mr. Richardson was certain that he first learnt about the disputed land from Mr. Ilford Richardson, a cousin-in-law (who himself had no lineal connection to the Estate). Yet in re-examination, Mr. Richardson stated that he had learnt of the division of the land from Mr. Hodge and found out about the Estate from Mr. Hughes. Learned counsel Mrs. Ruan therefore submitted that Collins is either confused or misleading the Court and should not be considered a reliable witness. Collins never met Mr. Darbur Richardson, he never met Mr. William Richardson and never met Ms. Judith Hughes. Mr. Richardson has not seen any birth or death records of any of the relevant parties.

#### **Viola Richardson**

- [37] Next, Mrs. Ruan said that Viola's evidence is unreliable, self-serving and should be given little weight. Viola did not tell the Court in either of her affidavits that she knew about the land being in dispute from the 1980s (a dispute which she recalls was between Mr. Kedro Hughes, later Albert Hughes and the Flemings). Viola admitted that she gave evidence as the lone witness but further admitted that it was never mentioned in any of her affidavits before the Court. As a result of the same matter in which Viola gave evidence in 1987, Mr. Hughes was able to apply to be Administrator of the said land and did so by first advertising in the Gazette for 90 days. Despite this, no one, including Viola, objected. She never told Collins about the case and neither did she bring any legal action in relation to the lands or spoke to Albert about the lands until 2007 (by her own admission). In her evidence before the Court, she was only able to recite information told to her by her mother (whom she admitted never met Alfred Richardson). Viola also admitted that she never examined birth or the death records of Alfred Richardson and in fact that these records may not even exist because of a fire in 1910. Neither she (Viola) nor any other person took any steps to appeal the 1987 decision in relation to the lands which form part of the Estate of Alfred Richardson.
- [38] Learned counsel Mrs. Ruan urged the Court not to act upon the affidavit evidence of persons who did not attend Court to be cross-examined in clear violation of the Court's order.
- [39] Finally, Mrs. Ruan urged the Court to dismiss the claim against Mr. Albert Hughes in his capacity as the Administrator of the Estate of Alfred Richardson.

## **CLAIMANTS' SUBMISSIONS**

### **Locus Standi**

[40] Learned counsel Ms. Ayodeji Bernard said that Rule 67.1 (3) of the Eastern Caribbean Supreme Court Civil Procedure Rules (CPR) defines an Administrative claim as a claim for the Administration of the Estate of a deceased person. As such, the purpose of administration proceedings is not to determine who is entitled to the assets in the Estate of the deceased but rather to ensure that the Estate is properly administered.

[41] CPR Rule 67.2(1)(b) states that:

*“An Administration Claim may be brought by any:*

*(b) person having or claiming to have a beneficial interest in the estate of a deceased person”.*

[42] As such, in order to avoid unscrupulous or trivial claims, the Rule requires that a person making an administration claim must have or at least claim to have a beneficial interest in the Estate of the deceased. On the other hand, in order not to exclude persons with a legitimate concern about the Administration of an Estate, there is no requirement for a claimant to prove beneficial interest in the Estate for which he or she has raised the concern.

[43] Learned counsel Ms. Bernard stated that once Viola, Collins and Audrey can show that they have sufficient reason to claim to have a beneficial interest, the wording of Rule 67.2 (1) allows them to bring an administrative claim. The mere fact that the Rule makes a distinction between a person ‘having’ or ‘claiming to have’ a beneficial interest is supportive of this position. A Court hearing an administrative claim is therefore not required to examine whether or not Viola, Collins and Audrey are beneficiaries of the Estate. Rather, the Court is to determine, on the evidence, whether or not Viola, Collins and Audrey have proffered sufficient evidence in order to establish that they are able to claim that they have a beneficial interest in the Estate.

- [44] Learned counsel Ms. Bernard stated that the evidence provided to the Court on behalf of Viola, Collins and Audrey is sufficient to establish that they are claiming to have a beneficial interest and as such Viola, Collins and Audrey have sufficient standing in order to bring an administrative claim.
- [45] CPR Rule 68.1 deals with probate claims including the revocation of a grant of Letters of Administration. Ms. Bernard submitted that there is no expressed requirement that a claimant should assert an entitlement as a beneficiary of the relevant Estate. The only requirement is that Viola, Collins and Audrey should state the nature of their interest in the Estate of the deceased person to which the claim relates. (CPR Rule 68.2 (2). In the case of *Alia Williams v Augustus Matthew* ANUHCV 2000/0311, the Antiguan High Court examined the issue of the required standing for a probate claim and determined that in the circumstances in which the Claimant is contesting the validity of the will and stated that if the will were deemed invalid she would be 'in the line of priority of those entitled to apply for grant of Letters of Administration, she had sufficient interest in the Estate to make a claim "*contingent though it may be*".
- [46] The Court in *Davis v. Angel* 2 Ph. 534 as cited in *Clowes v Hillard* 4 Ch D 413- per Lord Westbury opined that "*an existing interest whether it be vested or contingent, however future or remote, may, if it be a present interest, form the foundation of a right in the party representing it to come here with a bill to have the share secured,*".
- [47] Learned counsel Ms. Bernard said that Viola, Collins and Audrey are not of an unascertainable future contingent class - they are not persons who have a mere expectation of a future interest. They would fall within a class of persons who have an existing interest however future. They are already members of the class of beneficiaries, which at present is ascertainable; that is as beneficiaries under the Estate of Alfred Richardson who died without issue.

[48] Learned counsel Ms. Bernard said that the legal submissions that were advanced on behalf of Mr. Hughes which refers to Halsbury's Laws of England, Volume 17 is not applicable to the case at bar since Viola, Collins and Audrey are claiming to have a beneficial interest in the Estate of the deceased, Alfred Richardson, as lineal descendants of Alfred Richardson, and not as a possible next of Kin of any living person. The claim does not include a kin enquiry and as such paragraph 1491 of the said Halsbury's Laws of England is not applicable to the claim.

### **Claimants' Evidence**

[49] Learned counsel Ms. Bernard opined that considering Viola's, Collins' and Audrey's evidence, the Court ought to consider that they, in relation to an intestate estate, are required to adduce the best available evidence in support of their own interests and further are not required to show negatively and or exhaustively that there is no other person who could claim a nearer kinship than that proved by the Claimants, especially when that kinship or heirship has to be traced over a period of in excess of 100 years. In support of her argument, learned counsel Ms. Bernard relied on *Greaves v Greenwood* (1877) 2 Ex, D 289- 291. In that case the Court of Appeal stated that:

it doubted "whether there is any necessity for a man to do more than trace his heirship and, for prudence and safety's sake, exhaust the possibility of near heirship of modern existence, which he can reasonably be expected to do; but when he gets beyond living memory, and beyond his dealing with it in any way, I doubt whether he is bound to do more than say that he knows nothing about it".

[50] Ms. Bernard said that Viola, Collins and Audrey have adduced evidence that they were unable to find any documentary evidence which would establish that they are in fact the beneficiaries of the Estate of Alfred Richardson. Although the Court

need not determine whether or not they are beneficiaries, Ms. Bernard posited that the best evidence principle ought to guide the Court. Further, the evidence adduced by them is sufficient to convince the Court on the balance of probabilities, that they are Claimants who claim to have a beneficial interest in the Estate of Alfred Richardson and that as such that they have sufficient standing on which to bring a claim of the nature herein.

### **Duties of an Administrator and the Nature of his duties**

[51] Ms. Bernard next turned her attention to the duties of an Administrator. Learned counsel Ms. Bernard referred the Court to the case of *Iva Freeman and Ina Freeman; Elleman Freeman* (As personal representative of the Estate of Evelyn Freeman, deceased), Claim Number BVIHCV 2004/0151 which is instructive on the duties of an administrator of an Estate. The case involves Defendants, who were Administrators of the Estate of the deceased and who, like the Defendant herein, had dealt with the property of the deceased as if it belonged solely to them. The Claimant in that case sought orders that the Defendants had wrongfully intermeddled in the Estate as well as, among other things, orders which would have the effect of having the properties of the deceased returned to his Estate. Although the case can be distinguished from the case at bar in that the Claimant in that case was an acknowledged beneficiary of the Estate of the deceased and that the estate in said case was to be administered under the Intestates Estates Act, the aspects of the case that are instructive to the Court are as follows.

- Whether or not the Defendants in the said case acted in breach of trust, which would have made the transfers done to himself and his children capable of being set aside; or if the Defendants can be excused for such a breach;

- Whether or not the Defendants should be removed as executor if found to be in breach of trust and the Claimant's son be appointed in his stead.

[52] At paragraph 11 of that case, the Court refers to the judgment of Mr. Justice Mitchell in the case of *Clifton St. Hill v Augustin St. Hill*, an unreported case emanating from St Vincent, as setting out the law governing the duties of the Administrator of an Estate. What is of paramount importance is, the Court opined, that the Administrator of an intestate Estate is a trustee; having the duty of always satisfying the beneficiaries that he is properly administering the estate. Further, that unless he gets the approval and consent of the beneficiaries in administering the Estate, he is expected to apply to the Court for directions on the Administration of the Estate.

[53] The Court in that case applied the Trust Act and found that the Defendants did not act reasonably and honestly; further, that the action of the First Defendant in transferring the property to herself and her child were "wholly selfish and dishonest, motivated by avarice and with complete and callous disregard for the rights of the other beneficiaries who were not strangers but full blood relations. The First Defendant's actions amounted to a blatant abuse of her duties as trustee of the Estate and are inexcusable. The Court in that case set aside the transfers and stated that 'in light of their unconscionable dealings with the Estate, it is only just and proper to remove the Defendants from office. They were both removed as administrators and the grant to them was revoked'

[54] Learned counsel Ms. Bernard stated that applying the above principles to the case at bar, Mr. Albert Hughes, as Administrator of the Estate of Alfred Richardson, held the properties which formed part of the Estate on trust for the beneficiaries. Further, that on the evidence, he acted in a manner that was callous and in total disregard for the rights of the beneficiaries of the Estate, or anyone claiming to have a beneficial interest in the Estate. Moreover, that he failed to take all

reasonable steps to have the beneficiaries notified of their entitlement to claim under the Estate, and failed to take the steps to notify them and to seek their consent and approval to administer the Estate. Also, that in light of his evidence that he was not sure that he had represented all the members of the family on his affidavit of kin and even more so knowing fully well by his own admission, that the Viola is his cousin, he took no steps to distribute the Estate according to law and as such wrongfully and unlawfully administered the Estate of Alfred Richardson.

[55] As if not enough, learned counsel Ms. Bernard said given that an Administrator of an intestate Estate is a trustee, it is a necessary implication that the Administrator of an Estate is bound by the provisions of the Trusts Act. She referred the Court to Section 1 of the TRUSTS ACT R.S.A. c. 70 which states that:

*[A] "trust" means the relationship that exists when a person (known as a "trustee") holds or has vested in him, or is deemed to hold or have vested in him, property that does not form, or that has ceased to form, part of his own Estate—*

*1. the benefit of any person (known as a "beneficiary") whether or not yet ascertained or in existence;*

*(b) for any valid charitable or non-charitable purpose that is not for the benefit only of the trustee; or*

*(c) for both (a) and (b);*

*and includes—*

*(d) the trust property; and*

*(e) the functions, interests and relationships under the trust;*

[56] Section 3(3) of the Act further states;

*"for greater certainty, section 18 of the Limitation Act applies to all trusts"*



[57] Section 9 (1) of the Act states that:

*"A beneficiary shall be identifiable by name or ascertainable by reference to a relationship to some person (whether or not living at the time of creation of the trust) or otherwise by reference to a description or to a class."*

[58] Ms. Bernard opined that it therefore stands to reason that Viola, Collins and Audrey who are, in essence, claiming to have an interest as beneficiaries, under this trust created by virtue of the Letters of Administration issued to Mr. Albert Hughes, need not be distinctly identified by name but can be ascertainable by reference to their relationship to the deceased, Alfred Richardson, or to a description such as the relatives/descendants of the siblings of the deceased or a class of persons again being the relatives/descendants of the siblings of Alfred Richardson, deceased.

[59] Ms. Bernard referred the Court to Section 56 of the Act which states:

*" (1) On the application of a trustee, a beneficiary, a settlee or his personal representatives, a protector, the Attorney General in the case of a trust established for a charitable purpose or, with the leave of the Court, any other person, the Court may—*

*(a) make an order in respect of—*

*(i) the execution, administration or enforcement of a trust*

*(v) any trust property, including an order as to the vesting, preservation, application, surrender or recovery thereof."*

[60] By virtue of the fact that the grant of Letters of Administration implies the creation of a trust in relation to property which falls under the Estate of the deceased, and further, since the Trust Act governs all trusts, Ms. Bernard therefore posited that

the Court has sufficient jurisdiction to make an order in relation to the administration of that trust and the preservation/recovery of the trust property.

### Limitation of Action

[61] Next, learned counsel Ms. Bernard referred the Court to Section 19 of the Limitations Act R.S.A, c, L60 Laws of Anguilla which states:

*“Subject to Section 18 (1), no action in respect of any claim to the personal estate of a deceased person or to any share or interest in such estate, whether under a will or on intestacy, shall be brought after the expiration of 12 years from the date when the right to receive the share or interest accrued”.*

[62] Section 18(1) of the Act states that :

*“No period of limitation applies to an action brought against a trustee-*

*(b) to recover from the trustee trust property or the proceeds thereof-*

*(ii) held by or vested in him or otherwise in his possession or under his control, or*

*(iii) previously received by him and converted to his own use”.*

[63] Section 18 (2) of the Act stipulates that:

*“Subject to subsection (1), the period with which an action founded on breach of trust may be brought against a trustee is-*

*(a) 3 years from delivery of the final accounts of the trust; or*

*(b) 3 years from the date on which the plaintiff has knowledge of the breach of the trust;*

*Whichever period first begins to run”.*

- [64] Ms. Bernard was adamant that the claim is an action against the Personal Estate of the deceased, Alfred Richardson, and as such sections 18 and 19 of the Limitations Act are the relevant sections. Further, that having provided sufficient evidence to the Court to establish that although Letters of Administration were granted to Mr. Hughes in 1988, it was only in 2006 that Viola and Collins had knowledge that he had transferred the property for his own use as sole proprietor, in breach of the trust created. Learned counsel Ms. Bernard asked the Court to accept Ms. Viola Richardson's evidence.
- [65] The evidence of Viola is that she learnt this from a family member and that upon making checks with the Department of Lands and Surveys she discovered that the land was registered to Mr. Albert Hughes as sole owner. She further said that she saw it on the record. The Land Registers (as exhibited to the affidavit of Viola Richardson dated July 6, 2007 exhibit **VR 3** at pages 11-15 of Trial Bundle 2- Bundle of Affidavits) regarding the parcels of land under the Estate of Alfred Richardson clearly reveal that the said parcels, namely: 182 (VR3 (v) page 15) were transferred to Albert Hughes as proprietor in 2006; Parcel 186 (VR3 (iv) page 14) was transferred to said Albert Hughes in 2006, and Parcel 188 (VR3 (ii) page 12) was transferred to Eldry Hughes and Gregory Woodley (the Defendant's niece and her boyfriend) in June 2006, after having been transferred to him in March 2006. Even though Mr. Hughes sought to persuade the Court that he had caused the material lands to be registered in his personal name over 20 years ago, this clearly is untrue.
- [66] The actions of Mr. Hughes amount to a breach of trust since Mr. Albert Hughes, as Administrator, held the property of the estate of the deceased on trust. The property having previously received by him (particularly by virtue of him registering the property on transmission in his name), he has converted the property to his own use and as such no period of limitation applies. Further, that Mr. Hughes'

breach of duty as a trustee having been discovered by Viola, Collins and Audrey in 2006, coincide with the period when Mr. Hughes manifestly breached his duty by subdividing the land which form a part of the Estate and causing it to be registered in his own name, as proprietor and another parcel in his niece's name. Viola, Collins and Audrey initiated the claim founded on Mr. Hughes breach of his duties as a trustee in 2007. Their claim is therefore not statute barred.

[67] Learned counsel Ms. Bernard stated that sections 18 and 19 of the Limitations Act do not limit the claim of a beneficiary. In fact, the sections speak to "an action brought against a trustee" and "an action in respect of any claim to the personal Estate of a deceased person or to any share or interest in such Estate" which, in essence, includes a claim by persons claiming to have a beneficial interest in the Estate.

#### **Further Comment on the Evidence**

[68] Ms. Bernard opined that in a matter such as the present, where there is the absence of documentary evidence the credibility of the witnesses is paramount. Viola appeared to be very candid and forthright and was unshaken by cross-examination by learned counsel Mrs. Ruan. The Court ought to believe her evidence.

[69] Collins was also forthright with the Court and was quite clear and lucid on how he became aware that Mr. Hughes is his cousin. He was able to clearly tell the Court how Kedro Hughes, the father of Mr. Hughes, made him aware that Mr. Hughes is his cousin. Further, that his mother took him to West End when he was a boy to meet all his 'family'. Ms. Bernard submitted that the Court ought to take the witness "as it finds him" and to consider that the witness in his testimony, while somewhat appearing uncertain of the correct dates, was able to provide scenarios which is of much assistance to this Court. For example, the witness said that he

knew about the division of the land from Mr. Hodge in 2004 but that he learnt about the entire land from Ilford Richardson who came to see him at the hospital.

[70] Based on the documentary evidence provided to this Court, namely: the copies of the Land Register, the application for partition by the Defendant, Certificate of Amendment of Land Register dated 26/05/06 and the evidence of Viola and even Mr. Albert Hughes himself on cross examination, it is clear that the division of the land came about in the year 2006. As such, Ms. Bernard maintained that the Court should regard the evidence of Collins as credible and worthy of belief and that his inability to clearly state the date that he learnt of the partition and transfer of the lands by Mr. Hughes be attributed to a genuine inability to clearly recall exact dates but not as any intention to mislead the Court. Further, that his evidence ought not to be disregarded since he told the Court that he discovered the subdivision and that the claim was brought a little over a year after the subdivision, and as such is well within the statutory period.

[71] Ms. Viola Richardson, in her evidence, told the Court that she is the cousin of Mr. Hughes. Mr. Hughes and herself both share the same grandmother, Judy (Judith) Hughes, the sister of Alfred Richardson deceased. Further, that it was only on cross examination that Counsel for Viola, Collins and Audrey was able to elicit from Mr. Hughes, that Viola is in fact his cousin. What is of note is that having filed two affidavits before this Court, Mr. Hughes made no admission of the fact that Viola is his Cousin. In fact at paragraph 18 of his affidavit dated July 17<sup>th</sup>, 2007 he expressly states that Viola, Collins and Audrey alleged their connection to the Estate and that the said Viola, Collins and Audrey, without authentic records, have failed to establish their beneficial interests; further that similar sentiments are expressed by Mr. Hughes in paragraph 3 of his affidavit dated May 10<sup>th</sup>, 2011.

[72] Further, Ms. Bernard reminded the Court that Mr. Hughes admitted under cross-examination that despite knowing that Viola Richardson is his cousin and a descendant of Judy (Judith) Hughes, the same lineage as himself, he did not

afford her the opportunity to make claim under the Estate; specifically, that he did not call her in as a person having a beneficial interest, despite the fact that he, having transferred the properties under the Estate of Alfred Richardson for his own use and benefit, is also a descendant of Judith Hughes, sister of Alfred Richardson.

[73] In the circumstances, the Court should conclude that Viola is a credible, reliable, candid and truthful witness so that much reliance ought to be placed on her evidence.

[74] In contrast, the Court ought to find Mr. Hughes as an unreliable and incredible witness. Further, that he was not very forthright in his answers, in particular on cross examination when he stated that he would not admit that he did the transfers for his own use, until counsel for Viola, Collins and Audrey had to refer him to the above mentioned land registers which indicate that the parcels of land were registered in his name.

[75] Ms. Bernard said that the fact that Mr. Hughes did not state that himself and Ms. Viola are cousins and the fact that this information had to be elicited on cross-examination are indicative of him trying to withhold critical information from the Court. The Court should further find that he is an unreliable and incredible witness not capable of belief.

[76] Ms. Bernard stated that accordingly, the Court should remove Mr. Hughes as the Administrator of the Estate of Alfred Richardson and appoint Viola, Collins and Audrey instead.

[77] Alternatively, Ms. Bernard argued that the Court should revoke the Letters of Administration that was granted to Mr. Hughes in relation to the Estate of Alfred Richardson. Importantly, the Court should compel Mr. Hughes to distribute the property in accordance with the relevant rules of intestacy

## Court Analysis and Conclusions

- [78] In a civil matter the burden of proof is on the Claimants and the standard of proof is on a balance of probabilities.
- [79] The Court has paid careful regard to the evidence that was adduced in support of the claim, particularly the evidence that was adduced under cross-examination to test the veracity of the assertions that were made. There is no doubt that much of what Viola said, she knew from her own knowledge even though some of what she told the Court she heard from other persons. There is absolutely no doubt that she is a very credible, reliable and honest witness who simply told the Court the truth. She was unshakable during cross-examination. Her evidence was consistent with the evidence that Mr. Hughes had provided during cross-examination.
- [80] In contradistinction, Mr. Collins did not know much of his own personal knowledge. Much of what he said in evidence in chief proved to be unreliable when tested under vigorous cross-examination by learned counsel Mrs. Tara Ruan. The fact that he had no documentary proof to substantiate his assertions serve to further undermine his claim. In relation to Audrey's claim, she failed to present any credible evidence to substantiate her claim against Mr. Hughes. Collins was unable to provide the Court with critical details in order to substantiate his claim of kinship to the deceased, Alfred Richardson. There was no concession by Mr. Albert Hughes that Collins was his cousin. Mr. Hughes denied even having heard of Darbur or William Richardson.
- [81] In the absence of any credible or reliable evidence, the Court was unable to conclude that Mr. Alfred Richardson's other siblings were William Richardson, deceased and Darbur Richardson, deceased. The only credible evidence was to the effect that Alfred Richardson had a sister Judith Hughes nee Richardson. It

would be recalled that Collins and Audrey were claiming to be entitled to an interest in the Estate through Darbur Richardson.

- [82] The Court takes cognizance of the fact that the lands in question which form part of the Estate were the subject of protracted litigation between Mr. Albert Hughes' father Kedro Hughes as plaintiff and other named parties, namely: the Flemings. The Court accepts as a fact that Kedro died before the High Court could have adjudicated on the matter and Mr. Albert Hughes continued the litigation. In that case, the learned trial Judge Bernard J, as she then was, opined that Mr. Albert Hughes was the great nephew of Mr. Alfred Richardson, deceased and that the land in question should revert to Mr. Albert Hughes in his capacity as the Administrator or Personal Representative of the Estate of Alfred Richardson.
- [83] It bears stating that it is an undisputed fact that Mr. Albert Hughes, in order to obtain Letters of Administration in 1986, caused an affidavit of kin to be filed in the Court. The affidavit indicated that Mr. Alfred Richardson had two siblings namely: Judith and Mary. The affidavit stated that the latter died without issue and predeceased Mr. Alfred Richardson.
- [84] Collins and Audrey have failed to provide the Court with the birth certificates of Alfred Richardson or with any birth documents of their grandparents who they allege were Alfred Richardson's siblings. There is great dispute between Viola, Collins and Audrey on the one hand and Mr. Hughes as to whether Darbur and William were indeed Alfred's siblings. In the absence of any credible or reliable evidence in this regard the Court is unable to determine as a fact that this is so. This aspect of Viola's, Collins and Audrey's case was further undermined by the failure of several of the witnesses who provided affidavit to appear in Court to be cross-examined and have the veracity of their statements tested.
- [85] In addition, Collins admitted in cross-examination that he did not know either Darbur, Judith or William. He said that Darbur Richardson was his great



grandfather. He did not know Alfred Richardson either nor was he aware of their dates of birth. All of what he said he was told by third persons. Indeed, he was told that himself and Albert were cousins but he had never seen Kedro's birth certificate. It was told to him when he was growing up that himself and Albert are cousins. He said that he is aware that Albert's father Kedro had brought a claim against the Flemings in relation to the lands which are the subject matter of the dispute. He said that he only learnt about the property while he was in hospital in 2004 when a young man from West End told him that they had a lot of land. He later changed his evidence during intense cross-examination by Mrs. Ruan as to who told him about the land and under what circumstances he came to learn about the lands which form part of the estate of Alfred Richardson.

[86] However, Viola provided some very useful evidence in support of her claim that she learnt from her mother and grandmother that Alfred Richardson died leaving siblings. Even though she had no documentary proof the Court found her evidence to be reliable and credible. She said that she was raised by Judith Hughes. She had no documents to prove that Judith was Alfred's sister since she believes that the records that she required to prove that Judith was his sister were burnt in the Methodist Church in St. Kitts. However, she was sure that Albert Hughes was her first cousin and in fact he also acknowledged this fact. They shared the same grandmother, Judith Hughes.

[87] During cross-examination by learned counsel Mrs. Ruan, it was highlighted that Viola has never seen any birth records of Alfred, William or her grandmother Judith Hughes. Nothing turns on this however because it turns out to be that Mr. Albert Hughes is similarly circumstanced and he was forced to admit that he is claiming to be entitled to benefit from Alfred Richardson's Estate through Judith Hughes.

[88] Much of what Viola said was corroborated by Mr. Hughes under strenuous

cross-examination by learned counsel Ms. Bernard. Viola said that while she knew her mother's date of birth she had never seen the record of her date of birth. She said that her solicitor prepared the family tree based on the instructions that she gave to the solicitors.

[89] It is significant that in the affidavit of kin that Mr. Hughes had filed in support of obtaining the Letters of Administration, he had stated in the family tree that Judith Hughes was Alfred Richardson's sibling. However, when he administered the Estate he did not see it fit to ensure that Viola received any share in the Estate even though he was claiming through their common grandmother, Judith Hughes nee Richardson.

[90] Under further vigorous cross-examination by learned counsel Ms. Bernard, Mr. Hughes was forced to admit that he grew up with Viola and that the Judith Hughes who was referred to in the affidavit of kin was his as well as Viola Richardson's grandmother. It is also significant that when pressed in cross-examination he was forced to admit that they are cousins, thereby corroborating Ms. Viola Richardson's evidence and unwittingly buttressing her claim.

[91] It bears repeating that the Court has no doubt that Viola Richardson was a credible and reliable witness who was very truthful. She simply sought to provide the Court with honest evidence that was available to her. In contradistinction, Mr. Hughes did not paint a picture of being a forthright and genuinely honest gentleman. He sought to mislead the Court.

[92] The Court accepts learned counsel Ms. Ayodeji Bernard's submissions that the Court should carefully examine Mr. Hughes' evidence when he told the Court that he did not have any documentation to prove that Judith Hughes was Alfred Richardson's sister yet he felt content to list her in the affidavit of kin as the deceased's sister. He however seeks to deprive Viola to any claim in the Estate of

Alfred Richardson on the mere basis that she has no documentation to show that she is related to Alfred Richardson. How disingenuous!

[93] Interestingly, Mr. Hughes said that when he filed the affidavit of kin he was unsure that he had stated all of Alfred Richardson, deceased, siblings. In fact, he said there could have been others, yet he is now adamant that he is the only person who is entitled to benefit under the Estate. Mr. Hughes said that based on the High Court decision, he felt that he was the only person who was entitled to benefit under Alfred Richardson's Estate. It is clear to the Court that he feels that because he took over the Court case with the Flemings and saw it through to completion that he alone must benefit from the Estate of Alfred Richardson. This is a very selfish, unreasonable and unlawful posture to adopt.

[94] He was forced to admit that he has put the land to his own use. However, he was also adamant that if there are other beneficiaries who are entitled to benefit they would have to prove their entitlement. Mr. Hughes said that at the time when he swore the affidavit of kin he was not aware of Darbur Richardson nor Wilbur Richardson being Mr. Alfred Richardson's siblings. He is still not so aware.

[95] The Court is of the view that the better approach is not simply to determine whether a Claimant has standing to bring the claim but rather to first examine the nature of the claim and thereafter determine matters of standing or locus standi.

[96] In view of the totality of circumstances, it is clear that Collins was unable to attain the evidential threshold required to establish that he is a person of kin in relation to Alfred Richardson, deceased. His evidence was far from convincing and in the absence of any documentary proof his position that he is the descendant of another of Alfred's siblings could not stand up to scrutiny. In addition, he was less than a convincing witness when his evidence was tested in cross-examination. He had to resile from most of what he said in his evidence in chief in seeking to establish the familial relationship with Alfred Richardson and Darbur Richardson.

The Court has no difficulty in concluding as urged by learned counsel Mrs. Ruan, that his evidence is unreliable. Insofar as Mr. Collins claim is concerned, I agree that he has not established any basis for bringing or seeking to bring a claim against Mr. Albert Hughes, the Administrator of the Estate of Alfred Richardson, deceased.

[97] The Court did not find Mr. Collins Richardson's evidence to be of much assistance. Most of his evidence was equivocal and he seemed very uncertain when pressed during skilful cross-examination by learned counsel Mrs. Ruan. He was not a very convincing witness, particularly under cross-examination. Most of what he had to say was hearsay and inadmissible. There was no admissible, reliable, independent evidence to substantiate his claim to heirship. It did not help that Collins Richardson was unable to locate the birth certificates of Mr. Alfred Richardson or the other person, namely: Darbur Richardson and William Richardson who are alleged to be Alfred Richardson's siblings.

[98] There is no evidential basis for the Court to conclude that Mr. Collins Richardson has a sufficient interest in the Estate. The evidence in support of his claim that he provided the Court was unreliable and very unconvincing and he seemed to know very little about much of what he was saying. In addition, Collins did not paint a good picture when on several occasions he was forced to resile from positions that he had taken. It is passing strange that he did not seek to provide any evidence from older persons in the community who had knowledge of the relevant relationships. Equally interesting is the fact that other persons who deposed to affidavits in support of his claim simply did not attend Court, and no excuse was given for their absence.

[99] Accordingly, Collins has failed to establish his claim against Mr. Albert Hughes in his representative capacity. Audrey did not testify in the matter. In addition, several of the deponents who provided witness statements on her behalf did not attend Court to have their evidence tested. This was in violation of the Court's order

which specifically required them to do so. Accordingly, the Court was unable to attach any significant weight to those affidavits. In addition, her claim suffers from the same impediments to which the Court referred in addressing Collins claim.

[100] Accordingly, Audrey's claim failed to meet the evidential threshold required to substantiate her claim to be entitled to benefit under Mr. Alfred Richardson's Estate and this is so in the absence of any documentary evidence. Her claim therefore stands dismissed.

[101] There is no doubt that based on the credible and reliable evidence adduced, Ms. Viola Richardson has succeeded in providing the Court with the evidential basis for concluding that the relevant familial connection between herself and Alfred Richardson, deceased, existed. As indicated earlier, even in the absence of documentary evidence she was a very convincing and compelling witness. She was truthful when she said that she is the granddaughter of Judith Hughes.

Mr. Albert Hughes also accepted this to be true. Accordingly, her claim against Mr. Albert Hughes in his capacity as the Administrator of the Estate of Alfred Richardson's succeeds.

### **Removal of Personal Representative**

[102] I come now to address the issue of whether I should accede to the request to remove Mr. Albert Hughes as the Administrator of the Estate of Alfred Richardson. It is the law that a personal representative may be removed either by the revocation of his grant or by the appointment of a substituted personal representative or by the termination of the appointment. If the grantee commits a serious breach of his duties, the Court, in an appropriate case, will revoke the grant and make a new one in order to secure the proper administration of the Estate.

[103] It is proposed now to address in further detail the legal issues that have been joined in the case at bar, and which would impact on the orders the Court should make.

### **Breach of Trust**

[104] It is the law that the administrator of an Estate holds the property in trust for the beneficiaries. See *Clifton St. Hill v Augustin St. Hill* *ibid*. Insofar as Mr. Hughes was a trustee of the Estate of Alfred Richardson, the Court accepts learned counsel Ms. Bernard's submission that Mr. Hughes acted in breach of trust when he caused the property to be registered in his name in his personal capacity. He thereafter improperly and in breach of trust caused parcel 170 to be transferred into his niece's name. This amounts to a blatant breach of his duties as a trustee. The question may be asked, why didn't Viola assert her rights against Mr. Albert Hughes more aggressively?

[105] Also, it is evident that Mr. Hughes failed to take all reasonable steps to ensure that the beneficiary of the Estate, Viola Richardson, who was known to him, was properly notified of her entitlement to claim under the Estate.

[106] The Court is concerned about Viola's apparent age. However, the Court is minded to appoint Viola as a joint Administrator of the Estate. Mr. Albert Hughes and Viola are obliged to administer the Estate in accordance with the provisions of the Inheritance Act 1872, Federal Acts of the Leeward Islands, Cap 90. See in the **Estate of William Benjamin Industrious** BVIHP 2002/0084 at paragraph 12, the judgment of His Lordship Mr. Justice Hugh Rawlins, as he then was.

### **Limitation of Action**

[107] The Court accepts as a fact that the date on which Viola became aware that

Mr. Albert Hughes had caused the property into his own name was in 2006. One year later, she caused the claim to be filed against him. It was subsequently amended. There was a ruling in the claim which was subsequently appealed. The matter was remitted to be tried. There is no legal basis for holding that her claim is statute barred. The Court finds the arguments advanced by learned counsel Ms. Bernard very persuasive. On this aspect of the claim, the Court accepts Ms. Bernard's argument's in their entirety.

### **Revocation of Grant**

- [108] The Court is not of the view that the justice of the case requires that the grant of Letters of Administration to Mr. Albert Hughes be revoked. The Letters of Administration was granted over 20 years ago and nothing was done to compel Mr. Hughes to act in accordance with the law. He has acted quite improperly. Thankfully, most of the lands that form a part of the Estate of Alfred Richardson is intact and not encumbered.
- [109] Indeed, the Court is not of the view that the circumstances are so severe to warrant the revocation of the Letters of Administration which was granted as far back as 3<sup>rd</sup> March 1986. There is no doubt that Mr. Hughes has not acted properly in his dealing with the lands which form part of the Estate of Alfred Richardson. However, on Mr. Hughes's evidence the clear impression is given that once he is satisfied that there are other persons who are lawfully entitled to benefit from the said Estate, he would take the necessary steps to comply with the law. The Court accepts the bonafides of this position. He seems to harbour no ill will towards his cousin Viola Richardson.
- [110] In the circumstances, the Court declines to order that the Letters of Administration that was granted should be revoked.

[111] Neither is there any utility in ordering that the lands in question be transferred back into the name of the Estate of Alfred Richardson as urged by learned counsel Ms. Bernard. This may have serious and unnecessary financial implications for the Estate.

### **Revocation of Administration**

[112] Insofar as Viola has proved that she is indeed an heir of Judith Hughes, and this evidence has been corroborated by Mr. Albert Hughes under cross-examination, she is entitled to share in the Estate of Alfred Richardson as a beneficiary. The Court so declares.

[113] Taking into consideration the totality of circumstances, the Court is of the view that in the absence of any submission as to the capacities of persons who are recommended to be appointed the Administrator in place of Mr. Hughes, the Court should not accede to the request to remove him as Administrator of the Estate. Even though the properties are now improperly registered in Mr. Albert Hughes' sole name, this could easily be corrected.

[114] The better course, in the Court's view, is that Mr. Albert Hughes and Viola should be equally entitled to administer the Estate of Alfred Richardson. The Court so rules.

[115] The property which formed the Estate is to be valued by a valuator agreed to between Mr. Albert Hughes and Ms. Viola Richardson and the property is to be distributed in accordance with the relevant laws of intestacy.

[116] The general rule is that costs follow the event. In contentious probate matters it is usual for the Court to order that the costs be paid out of the Estate. However, in appropriate cases the Court is free to depart from that general rule. The Court has an unfettered discretion as to costs provided that it acts judiciously and in special



circumstances a different order may be made. There are special circumstances in which there is no order as to costs.

[117] In the case at bar Mr. Collins Richardson and Ms. Audrey Brooks have not succeeded in their claims against Mr. Hughes in his capacity as the Administrator. The usual order would be that they should pay the costs to the Estate of Alfred Richardson. The Court is not of the view that the justice of the case warrants the Court's departure from the general rule even though neither of the two claimants have acted unreasonably in filing and pursuing the claim. To the contrary, even though they genuinely felt that they were entitled to claim as beneficiaries against the Estate, their difficulty was their failure to provide the Court with credible and reliable evidence to support their claim. Their claim failed to meet the evidential threshold despite their best efforts. In the circumstances, the Court most reluctantly order Mr. Collins Richardson and Ms. Audrey Brooks to pay prescribed costs to the Estate of Alfred Richardson.

### **Conclusion**

[118] In view of the foregoing, judgment is hereby given for Ms. Viola Richardson against Mr. Albert Hughes as the Administrator of the Estate of Alfred Richardson.

[119] Mr. Collins Richardson's and Ms. Audrey Brooks' claim against Mr. Albert Hughes in the above capacity is dismissed.

[120] In view of the premises, the Court orders and declares as follows:

- (a) That Ms. Viola Richardson and Mr. Albert Hughes are legally entitled to benefit from the Estate of Alfred Richardson, deceased.

- (b) That Mr. Albert Hughes holds all of the lands which form part of the Estate of Alfred Richardson in trust for himself and the beneficiaries of the Estate of Alfred Richardson.
- (c) Ms. Viola Richardson is hereby appointed a joint Administratrix of the Estate of Alfred Richardson together with Mr. Albert Hughes who is an Administrator of the Estate of Alfred Richardson.
- (d) The estate of Alfred Richardson must be distributed in accordance with the Rules of Primogeniture pursuant to the Inheritance Act 1872.
- (e) That the lands which are the subject matter of the claim and form part of the Estate of Alfred Richardson are as follows-

Registration Section	Block	Parcel	Size
West End	1801B	195	0.25acre
West End	1801B	188	0.30acre
West End	1801B	187	11.09acre
West End	1801B	186	0.25acre
West End	1801B	182	0.30acre

- [f] The Court further declares that Mr. Albert Hughes has improperly and in breach of trust caused the lands which form part of the Estate to be transferred into his personal name (after it was originally transferred in the name of the Estate) .
- [g] In relation to the property that Mr. Hughes has allegedly transferred to his niece, it is unclear as to whether this was by way of gift or sale. Accordingly, the Court orders that Mr. Hughes seeks to recover the land which he has improperly transferred to his niece. Alternatively, that the parcel of land be valued and be brought into account in the

distribution of the Estate of Alfred Richardson. The costs associated with valuing this parcel of land are to be borne by the Estate.

[h] It is further ordered and declared that Mr. Albert Hughes, in his capacity as the Administrator of the Estate of Alfred Richardson shall render an account of his dealings with the Estate from the date of obtaining the Letters of Administration to the date of this judgment.

[i] Ms. Viola Richardson is entitled to prescribed costs which are to be borne by the Estate of Alfred Richardson.

[j] Mr. Collins Richardson and Ms. Audrey Brooks are ordered to pay prescribed costs to the Estate of Alfred Richardson.

[121] The Court commends both learned counsel for their industry.

**Louise Esther Blenman**  
Resident High Court Judge  
Anguilla