

IN THE SUPREME COURT OF GRENADA  
AND THE WEST INDIES ASSOCIATED STATES

IN THE HIGH COURT OF JUSTICE

CLAIM NO. GDAHCV 2011/0198

BETWEEN:

RONALD DAVID CEASAR

Claimant

and

TERESA CLEMENT

Defendant

**Appearances:**

Mr. Nigel Stewart and Mrs. Kindra Maturine-Stewart for the Claimant

Mrs. Daniella Williams-Mitchell and Ms. Nichole St. Bernard for the Defendant

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2014: March 17, 18, 24  
May 5;  
July 23.  
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**DECISION**

[1] **MOHAMMED, J.:** The island of Petite Martinique is one of the gems of the Grenadines which forms part of the tri-island state of Grenada, Carriacou and Petite Martinique. Although very small in land mass (586 square miles), there is a rich tradition of fishing, farming and boat building. The small population consists of persons who are related or distantly related, and the instant action contains these two ingredients. It concerns a dispute between two cousins, the Claimant and Defendant, over the ownership of 10,890 square feet or half an acre or 1 rood of land situate at Beausejour, Petite Martinique ("the 1 rood of land"). Both parties claim ownership of the 1 rood of land through various means but all leading back to their great grandparents, Alexander Noel and Virginia Noel.

- [2] The Claimant instituted the action seeking declaratory orders from the Court that the Defendant is only entitled to occupy as a licensee a house spot measuring approximately 40 feet by 40 feet which forms part of the Claimant's 1 acre of land ("the 1 acre" of land) and not the 1 rood of land; that the Defendant has committed acts of trespass by causing the 1 rood of land to be surveyed; that the Statutory Declarations of Anthony Johnson Clement and others dated 30<sup>th</sup> November 2010 ("the 30<sup>th</sup> November 2010 Statutory Declaration") and of Agatha de Couteau dated 23<sup>rd</sup> November 2010 ("the 23<sup>rd</sup> November 2010 Statutory Declaration") both recorded in the Land Registry of Grenada are null and void and are to be struck out; damages for trespass, and injunctive relief to stop the Defendant, her servants and/or agents from committing further acts of trespass on the Claimant's land. The injunctive relief was granted on the 13<sup>th</sup> May 2011.
- [3] The Claimant contends that he is the owner of the 1 acre of land conveyed to him by an Indenture of Conveyance made on the 3<sup>rd</sup> July 1984 between his grandmother Adriana Noel and the Claimant ("the 1984 deed"). His position is the 1 acre of land was owned by Virginia Noel, who by her will dated 14<sup>th</sup> October 1946 ("the Will") devised it to Adriana Noel and by a vesting order of the High Court dated 16<sup>th</sup> May 1984<sup>1</sup> ("the vesting order") it was vested in Adriana Noel.
- [4] The Claimant's case is that from the 1950s onwards the Defendant's mother, Mary Jane Clement and then the Defendant occupied a portion of the 1 acre of land, described as a house spot, as licensees, with the permission of the Claimant's predecessors-in-title. He states that save and except for the house spot the Claimant and his predecessors-in-title have always exercised acts of ownership with respect to the 1 acre of land and in or about September 2009 the Claimant granted the Defendant permission to construct another chattel house on the 1 acre of land just alongside the original house. However, in or about November 2010, the Defendant unlawfully caused a portion (the 1 rood of land) of the Claimant's land including the house spot to be surveyed.

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<sup>1</sup> 16<sup>th</sup> May, 1984 in High Court action no 155 of 1984

- [5] The Defendant position is she is the owner of the 1 rood of land since her mother, gave it to her. She denies she is a licensee or that she has trespassed on the Claimant's 1 acre of land. She contends that her mother was given the 1 rood of land by her grandfather Alexander Noel in 1938, who also put her in physical possession. She denies that Virginia Noel owned the 1 acre of land in 1945 when she made the Will leaving it to the Claimant's grandmother Adriana Noel. Instead she contends that in 1938 the 1 acre of land was owned by the Defendant's grandfather, Alexander Noel and not his wife Virginia Noel, that when Alexander Noel died in 1939, Virginia Noel only inherited one third of his estate under the Intestates Estates Act and that the 1 rood of land did not form part of his estate since he had already given it in writing to the Defendant's mother in 1938.
- [6] In the alternative, the Defendant also pleaded a Defence of adverse possession on the basis that she and her mother have been in free and undisturbed possession of the 1 rood of land since 1938 and therefore the Claimant's action for possession and trespass is statute barred by virtue of the Limitations of Actions Act<sup>2</sup>.
- [7] Both parties agreed that the Defendant's mother and then the Defendant have occupied a portion of the Claimant's land in excess of 50 years. The Defendant has admitted that she caused the 1 rood of land to be surveyed and that she prevented the Claimant from surveying his land. She also admitted to the construction of the additional house in 2009 and that she caused the 23<sup>rd</sup> November 2010 Statutory Declaration and the 30<sup>th</sup> November 2010 Statutory Declaration to be prepared and recorded in the Deeds and Land Registry of Grenada, which state that she is the owner of the 1 rood of land.
- [8] At the trial, the Claimant gave evidence on his own behalf. He also called his father, Odinus Ceasar, his mother Eutina Ceasar and two other persons, Lenard Mitchell and Donald Rock, as his witnesses. The Defendant gave evidence on her

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<sup>2</sup> Chapter 173 of the Laws of Grenada.

own behalf and called her brother Anthony Johnson Clement, Rosetta Patrice, Edith Nedd and Agatha De Couteau as her witnesses.

- [9] The issues arising for determination from the pleaded case are:
- a) Was the 1 acre of land owned by the Claimant's predecessor in title, Virginia Noel or the Defendant's predecessor in title, Alexander Noel?
  - b) Did the Defendant's mother and the Defendant exercise acts in relation to the 1 rood of land adverse to the rights and interests of the Claimant to sufficiently dispossess the Claimant of it?
  - c) Is the Defendant a licensee of a house spot on the 1 acre of land?

**Was the 1 acre of land owned by the Claimant's predecessor in title, Virginia Noel, or the Defendant's predecessor in title, Alexander Noel?**

[10] It is not disputed that Alexander Noel and Virginia Noel lived on the 1 acre of land as husband and wife. The dispute is which of the two owned it. Neither party produced title documents to prove ownership of the 1 acre of land, either by Alexander Noel or Virginia Noel, and therein lies the conundrum faced by the Court since it has been placed in the unenviable position to draw inferences from the weak and unreliable documentary and other evidence produced by each party to determine the issue of ownership.

[11] The Claimant relied on land tax receipts<sup>3</sup>, the Will, the vesting order and the 1984 deed. The Defendant relied on a tax receipt, a declaration made by Alexander Noel on 9<sup>th</sup> October 1938 and a 1916 plan ("the 1916 plan").

[12] On a balance of probabilities I was not convinced by the Defendant that Alexander Noel was the owner of the 1 acre of land for the following reasons. Firstly, the 1916 plan<sup>4</sup> did not acknowledge or state that Alexander Noel was the owner of the

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<sup>3</sup> Reproduced in the Trial bundle on pages 173-182 inclusive

<sup>4</sup> Page 193 Trial Bundle

1 acre of land, and there was no evidence that the plan was prepared on his behalf or from his instructions. Although the Defendant alleged that Alexander Noel purchased the 1 acre of land from Phillip Joseph there was no evidence from the Defendant or her witnesses to support this contention. Indeed, the Defendant's main witness for the 1916 plan, Adella De Couteau stated in her witness statement<sup>5</sup> that Alexander Noel purchased the 1 acre of land from Phillip Joseph, but contradicted herself under cross-examination, which made her evidence unreliable and of no value. She stated that she was alive in 1916 yet she admitted that she was born in 1927. She insisted that Alexander Noel purchased 6 acres of land from Phillip Joseph but she admitted that she never saw a deed.

- [13] Secondly, the declaration dated 9<sup>th</sup> October 1938 did not pass legal title of any land to the mother of the Defendant. Indeed, Counsel for the Defendant admitted in her closing submissions<sup>6</sup> that it is not a Deed vesting title of the 1 rood of land in the Defendant's mother but instead she has relied on it "as the root of intention of the Defendant and the Defendant's mother to occupy the 1 rood of land as owner." By a consent order dated 16<sup>th</sup> February 2012, pursuant to section 89 of the Evidence Act <sup>7</sup> the parties agreed that the 9<sup>th</sup> October 1938 declaration was over 30 years old and that it was executed by Alexander Noel. However, the declaration which states *"I Alexander Noel doth hereby declare on this 9<sup>th</sup> day of October 1938 that I have given to my daughter Mary Jane Clement (1) rod of land bounded by the North by Amelia Joseph, East by Budzie Joseph, West by Adella De Couteau. Petite Martinique"* does not comply with the requirements in law to pass legal title. For a document or deed to effectively convey legal title from one person to another, it must comply with section 22 of the Conveyancing and Real Property Act<sup>8</sup> which states that the actual words of limitation "fee simple" must be stated in

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<sup>5</sup> Paragraph 25

<sup>6</sup> Filed 11<sup>th</sup> June 2014 at paragraph 25

<sup>7</sup> Chapter 92 of the Laws of Grenada

<sup>8</sup> Chapter 64 of the Laws of Grenada

the document. There was no such compliance. Further, the document was not registered in the Deeds and Land Registry of Grenada.

[14] Thirdly, the tax receipt dated 28<sup>th</sup> March 1949<sup>9</sup>, which the Defendant sought to rely on as evidence of ownership of the 1 rood of land by her mother and then her, did not assist her since it had absolutely no probative value. The receipt is in the name which appears to be "Henry Noel Joseph" but the full name was unclear to the Court. It does not state the location of the land but it states that the said Henry Noel Joseph was of Petite Martinique. It was issued after the death of Alexander Noel and fails to establish any connection between Alexander Noel and the 1 acre of land. The receipts produced at pages 206 to 210 of the Trial Bundle in the name of Mary Jane Clement for the period 1977 to 1991 clearly stated that they were in respect of House Tax only and therefore could not be in respect of payment of land taxes for the 1 rood of land. Under cross-examination the Defendant admitted that she did not pay land tax but house tax in the name of Mary Jane Clement. The receipt at pages 211 to 212 of the Trial Bundle was a receipt in the name of the Defendant for the 1 rood of land after the Defendant caused it to be surveyed and in preparation of the 23<sup>rd</sup> November 2010 Statutory Declaration and 30<sup>th</sup> November 2010 Statutory Declaration.

[15] The Claimant's evidence was also weak. There was no direct evidence that Virginia Noel purchased the land from the De Couteau family in the 1920s. Although the description of the 1 acre of land in the Will, the vesting order and the 1984 deed are the same, the best roots of title are a sale or a mortgage<sup>10</sup> and it has been stated in these Courts that a Will does not qualify as a good root of title<sup>11</sup>. Further, a boundary with the De Couteau does not necessarily suggest that the De Couteau family sold some lands to Virginia Noel and retained some lands.

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<sup>9</sup> Page 205 Trial Bundle

<sup>10</sup> Gibson's Conveyancing 20<sup>th</sup> Ed at pages 109-110

<sup>11</sup> Unreported decision of Benjamin J in GDAHCV1997/0441 in *George Williams v Veronica Fortune Grant*.

[16] However, there were material aspects of the Claimant's evidence which persuaded the Court that the Claimant's version of ownership of the 1 acre of land by Virginia Noel is more plausible. Firstly, the tax receipts produced by the Claimant for the period 1935 to 1983<sup>12</sup> showed payment of land tax for property at Beausejour, Petite Martinique. In particular, there are two receipts dated 1936 and 1937<sup>13</sup> in the name of Virginia Noel while Alexander Noel was alive. Even after Virginia Noel died in 1949<sup>14</sup> the property taxes which were paid were recorded in her name until 1984, the date of the 1984 deed. There was no evidence that Virginia Noel owned any other land in Petite Martinique, and when shown the said tax receipts under cross-examination, the Defendant denied seeing the word "Beausejour" at the top of the receipts even though the said word was clearly written and it stated "house and land".

[17] In **George Donald Barclay and Ors v Hilda Clement nee la Pierre**<sup>15</sup> adopted in **Magdelene Lendor v Winsford Frank and Viola Frank**<sup>16</sup> the Court concluded that the payment of taxes for land was not conclusive proof of ownership of land. While the Court still holds firm to this position, I find that from the receipts provided by both parties, the receipts provided by the Claimant clearly demonstrated that Virginia Noel had an interest in the 1 acre of land, as opposed to Alexander Noel.

[18] Secondly, the vesting order vested the 1 acre of land absolutely in Adriana Noel, which is consistent with the provisions of clause 3 of the Will. The Claimant's witnesses, Odinus Ceasar and Eutina Ceasar both admitted that they failed to disclose to their attorney, who was making the application for the vesting order, that the Defendant's mother and then the Defendant was in occupation of a portion of the 1 acre of land, and as such no notice was given to the Defendant of the said application. While this non-disclosure was relevant in the vesting order application and a Court of parallel jurisdiction can on under its inherent powers set

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<sup>12</sup> Reproduced in the Trial bundle on pages 170-182 inclusive

<sup>13</sup> Page 170 of Trial Bundle

<sup>14</sup> Page 159 of Trial Bundle

<sup>15</sup> Unreported decision of Price -Findlay J in GDAHCV2009/0177

<sup>16</sup> Unreported decision of Mohammed J in GDAHCV 2003/0620

aside the vesting order, there was no such pleaded Counterclaim by the Defendant. In such circumstances, it would be imprudent for the Court to make such an order. Therefore, until the order is set aside it remains lawful and in force.

[19] I therefore find that Virginia Noel was the owner of the 1 acre of land, she devised it to Adriana Noel in the Will, who conveyed it to the Claimant after obtaining the vesting order.

**Did the Defendant's mother and the Defendant exercise acts in relation to the 1 rood of land adverse to the rights and interests of the Claimant to sufficiently dispossess him?**

[20] The Defendant's alternative Defence is that from 1938 onwards her mother, and after her mother's death, the Defendant has been in undisturbed possession of the 1 rood of land and as such their acts of adverse possession have extinguished the Claimant's paper title to it. In support she asserted that they cultivated crops and reared animals on the 1 rood of land. The Claimant has disputed her claim of undisturbed possession of the 1 rood of land.

[21] Sections 4, 5 and 27 of the Limitation Act<sup>17</sup> enable a person who has the paper title to land to institute an action to recover possession of his land within 12 years from being dispossessed of the land. These sections contemplate that the paper owner must have become dispossessed of the land by adverse possession. The elements of adverse possession were described in **Riddall in Introduction to Land Law 5<sup>th</sup> ed**, as:

- (a) the taking of possession of land *without* the owner's authority with
- (b) the adverse possessor usually required be in actual physical possession of the land with
- (c) the *necessary intention to dispossess* the true owner.

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<sup>17</sup> Chapter 173 of the Laws of Grenada

[22] In interpreting the equivalent sections of the UK Limitations of Actions Act to sections 4 and 5 of the Limitations Act of Grenada, Lord Browne-Wilkinson in **JA Pye (Oxford) Ltd. & Ors v Graham and Another**<sup>18</sup> stated:

“It is to be noted that the right of action to recover the land is barred whenever twelve years have elapsed from the time when any right of action accrued: it does not have to be a period immediately before the action.”

[23] Where a Defendant asserts a Defence of adverse possession of land the burden shifts to the Defendant to prove the elements of his/her adverse possession as described aforesaid. In this regard, I have not been persuaded that the Defendant and her mother were ever in full, free and undisturbed possession of the entire 1 rood of land which she has asserted since she has failed to prove factual possession and the accompanying required intention to dispossess the Claimant. I have arrived at this conclusion for the following reasons.

[24] Firstly, the Claimant's cause of action with respect to the Defendant's claim to the 1 rood of land only accrued in 2010 when the latter caused the survey to be conducted and the 23<sup>rd</sup> November 2010 Statutory Declaration and 30<sup>th</sup> November 2010 Statutory Declaration to be filed in the Registry for Deeds. The 1 rood of land was never surveyed and boundary marks placed by the Defendant prior to 2010 which culminated with the filing of the instant action. This was consistent with all the evidence from the Defendant's witnesses save and except Agatha De Couteau who stated in cross-examination that the 1 rood of land was surveyed before Alexander Noel gave it to Mary Jane Clement and that it was then the boundary marks were placed to identify the 1 rood of land.

[25] Secondly, although the Defendant asserted that she and her mother occupied the 1 rood of land, her witnesses did not appreciate the extent of 1 rood of land. Anthony Johnson Clement, Agatha De Couteau and Edith Nedd all stated in cross-examination that they did not know the extent of 1 rood of land. Agatha De

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<sup>18</sup> [2002] 3 WLR 221, 229

Couteau even went further in cross-examination to state that the first house and the kitchen occupied the entire 1 rood of land, which clearly demonstrated that Agatha De Couteau equated the house spot with the 1 rood of land.

[26] Thirdly, it has been repeatedly stated that a Statutory Declaration “does not have the legal effect of vesting title in land”<sup>19</sup> and that “it is nothing more than a written document containing allegations of fact solemnly declared in form of law. It may have certain limited evidential value, but it is not an alternative method of conveying title to land”<sup>20</sup>. Therefore, a Statutory Declaration has very limited evidential value and in this case the Defendant’s witnesses Anthony Johnson Clement and Agatha De Couteau contradicted the information in the 30<sup>th</sup> November 2010 Statutory Declaration and 23<sup>rd</sup> November 2010 Statutory Declaration which demonstrated that the information contained therein were false. Although Anthony Johnson Clement stated in the 30<sup>th</sup> November 2010 Statutory Declaration that the Defendant was the owner in possession of the 1 rood of land<sup>21</sup>, under cross-examination he stated that he did not sign the said document and he denied any knowledge of it. Agatha De Couteau stated in the 23<sup>rd</sup> November 2010 Statutory Declaration that the Defendant “*is in full receipt of the rents and profits*”<sup>22</sup> concerning the 1 rood of land, yet she did not mention it in her witness statement and under cross-examination she admitted that the only land which the Defendant and her mother cultivated was land belonging to her family.

[27] Fourthly, the original structure and the new structure were all located on a small area of the 1 rood of land, which is consistent with the Claimant’s description of the house spot. The undisputed evidence was when the Defendant had the opportunity to build a new house, she broke down the old house and constructed the new structure almost on the original spot. She did not seek to build the new house on any other part of the 1 rood of land although it was vacant. This was

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<sup>19</sup> Henry J at paragraph 45 in *Nancy Jaleel v Neville Elcock and ors* GDAHCV 2003/0213 unreported

<sup>20</sup> Alleyne J in *Gordon Charles v Claire Holas* 151/1996 unreported

<sup>21</sup> Paragraphs 4 and 5

<sup>22</sup> Paragraph 8

confirmed by the Defendant's own witness, Anthony Johnson Clement who referred to the Defendant as "Sister Iny" stated at paragraph 19 of his witness statement<sup>23</sup> *"If Sister Iny wanted to claim more land she would not have broken the kitchen to accommodate the new house and she would have simply had it put up close by, as all the land in the area is vacant and undisturbed."*

[28] Fifthly, although the Defendant asserted that she and her mother cultivated and reared animals on the entire 1 rood of land, her evidence was not supported by her own witnesses. The Defendant denied working any land of the De Couteau family, yet Agatha De Couteau stated in cross-examination that the only property worked by the Defendant's mother and the Defendant was property which belonged to her family, the De Couteau family in Petite Martinique. This was consistent with the evidence of Eutina Ceasar, the Claimant's mother, who said at paragraph 11 of her witness statement *"I know that Mary Jane Clement used to work other property while she occupied the said house spot with my mother's permission. She used to work a piece of land belonging to the De Couteau family of Petite Martinique aforesaid which piece of land is in boundary with my son's Acre of land"*.

[29] Agatha De Couteau also stated that the Defendant had three sheep which were all tied close to the house and a chicken cubb which was also close to the house. Under cross-examination, Anthony Johnson Clement also confirmed that the animals were all tied around the house and he went further to confirm that the Defendant and her mother only grew crops around the house. Edith Nedd stated in cross-examination that the Defendant and her mother only worked lands belonging to the De Couteau family, they only reared two or three sheep which were tied around the house and that the Defendant cut grass to feed them.

[30] Finally, Eutina Ceasar stated that Adriana Noel, Veronica Ceasar and she cultivated the 1 acre of land before and even for a period after her marriage. The

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<sup>23</sup> Page 251 of Trial Bundle

Claimant and his witnesses Odinus Ceasar and Lenard Mitchell were unchallenged in their evidence that during the period 1977 to 2010 they cleaned and cleared the 1 acre of land of small shrubs and bushes either once or twice a year save and except around where the house was located. Odinus Ceasar said that they were never prevented by anyone from clearing the 1 acre of land.

[31] Despite the evidence given by the Defendant and her witnesses in their witness statements, which was a denial of the Claimant's position, under cross-examination the Defendant and her witnesses confirmed the Claimant's position. The Defendant admitted that Adriana Noel and Eutina Ceasar cultivated the 1 acre of land save and except the house spot until 1973 and that the Claimant and his family cleared the land up until 2010. She even admitted that she used to accommodate the persons clearing the land by allowing them to store their tools in her house.

[32] Under cross-examination Anthony Johnson Clement admitted that Adriana Noel and Eutina Ceasar lived on the land, before Eutina got married and that the Claimant and his family cleared the entire 1 acre of land, including where the old house was, after they stopped cultivating the land. Edith Nedd in cross-examination admitted that Adriana Noel and Eutina Ceasar lived on the land with Veronica Ceasar, who worked the land. Rosetta Patrice admitted that she knew Virginia Noel and that Veronica Ceasar, Adriana Noel and Eutina Ceasar all lived on the land and they used to work and cultivate the land. Even Rosetta Patrice who stated in cross-examination that a strange man by the name of "Buffie" cleared the land supports the Claimant's contention that he and his family cleared the land.

[33] The Defendant also contradicted herself with respect to her communication with Donald Rock, who stated that around 2001 as the agent of the De Couteau family he was asked by some of the family members who lived abroad and who wished to sell a piece of the De Couteau land to undertake a survey of a portion of their

land and to accompany the surveyor to their property. He testified that the Defendant allowed him to use her telephone to contact Eutina Ceasar for her to identify the boundaries with the surveyor. Although the Defendant denied this during cross-examination, she later admitted seeing Eutina Ceasar, Donald Rock and the surveyor present when the survey was conducted.

**Is the Defendant a licensee of a house spot on the one acre of land?**

[34] The Claimant has alleged that the Defendant is a bare licensee of a house spot, which the Defendant denied. His evidence is that the Defendant's mother was granted permission in the 1950's by Adriana Noel to occupy a house spot on the 1 acre of land. Rosetta Patrice confirmed in cross-examination that after Virginia Noel died in 1948, Adriana Noel continued to live in Virginia's house with her sister Veronica Ceasar and her daughter Eutina Ceasar, but there was no evidence apart from hearsay evidence that Adriana Noel granted a license to the Defendant's mother for her to occupy the 1 rood of land.

[35] Instead, the actions of the Defendant leading up to the construction of the second house has persuaded me that the Defendant's mother and later the Defendant was granted permission to occupy the house spot. Under cross-examination the Defendant admitted that in Petite Martinique family members are close and the community is close-knitted. There was conflicting evidence from Eutina Ceasar and the Defendant surrounding the issue of permission to the Defendant when the new house was to be constructed in 2009. Eutina Ceasar said that the Defendant called her seeking permission to construct a new house on the property<sup>24</sup>. Under cross-examination Eutina Ceasar admitted that she never discussed the Claimant's ownership of the 1 acre of land with the Defendant and the Claimant admitted that he did not know about the new house until after it was built. The Defendant in her examination-in-chief<sup>25</sup> referred to a conversation with Eutina

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<sup>24</sup> Paragraph 12 of the witness statement of Eutina Ceasar.

<sup>25</sup> Paragraph 27 of the witness statement of the Defendant

Cesar concerning the construction of the said house but denied that the reason for the conversation was to seek permission to build it. However in cross-examination she admitted calling Eutina Cesar to inform her of the construction but not to seek permission.

[36] In my view, if the Defendant believed that she was the owner of the 1 rood of land then she would not have even informed Eutina Cesar of the construction of her new house. The only reason to me that she informed Eutina Cesar of the construction is because she knew that she was on the land with the permission of Eutina Cesar's mother.

[37] Further, the Defendant admitted that before the survey commissioned by her was done in 2010, notice was given to Agatha De Couteau and Eutina Cesar on the basis that they owned lands in boundary with the land to be surveyed. In my view, the notification to Eutina Cesar was an acknowledgement by the Defendant that someone connected to the latter owned the 1 acre of land.

[38] Finally, even the Defendant's witness, her brother Anthony Johnson Clement unwittingly acknowledged that the Defendant and her mother's occupation of the portion of the 1 acre of the land was limited to the house spot. As stated previously, he said in his examination-in-chief, referring to the Defendant as "Sister Iny" stated at paragraph 19 of his witness statement<sup>26</sup>, *"If Sister Iny wanted to claim more land she would not have broken the kitchen to accommodate the new house and she would have simply had it put up close by, as all the land in the area is vacant and undisturbed."*

## Conclusion

[39] Virginia Noel was the owner of the 1 acre of land described in the 1983 deed and the Claimant became the owner of the said 1 acre by the 1984 deed. The

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<sup>26</sup> Page 251 of Trial Bundle

Defendant is not the owner of the 1 rood of land and she has not acquired any rights to possession of the 1 rood of land by adverse possession to dispossess the Claimant. The Defendant is only entitled to occupy the house spot on the 1 acre of land as a licensee.

### **Order**

- [40] It is declared that the Defendant occupies and is only entitled to occupy a house spot as licensee forming part of the Claimant's property described in Indenture of Conveyance made the 3<sup>rd</sup> July 1984 between Adriana Noel of the one part and the Claimant of the other part and recorded in the Deeds and Land Registry of Grenada in Liber 013 at page 622.
- [41] It is declared that the Defendant in causing a portion of the Claimant's property comprising 10,890 Square Feet English Statute Measure to be surveyed, committed acts of trespass on the Claimant's property.
- [42] The Statutory Declarations dated 30<sup>th</sup> November 2010 and 23<sup>rd</sup> November 2010 are declared null and void and are struck out from the records of the Deeds and Land Registry of Grenada.
- [43] The Defendant to pay the Claimant damages for trespass. The damages are to be assessed by the Master in default of agreement by the parties.
- [44] The Defendant to pay the Claimant costs of the action in the sum of \$7,500.00.

**Margaret Y. Mohammed**  
High Court Judge