THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

SLUHCV2009/0766

BETWEEN:

IN THE MATTER of an Application under section 2103A of the Civil Code Chapter 4.01 of the Revised Laws of Saint Lucia
and
IN THE MATTER of West Indies Associated States Supreme Court Prescription by Thirty Years (Declaration of Title) Rules No. 1970
and
IN THE MATTER of an application for the Declaration of Title to immovable property

FERDINAND JAMES

Claimant

and

1) PLANVIRON (CARIBBEAN PRACTICE) LIMITED
2) RODNEY BAY MARINA LIMITED

Defendants

Appearances:
Geoffrey Du Boulay for the Applicant/Defendants
Paulette Francis for the Respondent/Claimant

2017: June 30th
November 10th

DECISION

[1] **Smith J**: This application for summary judgment raises, for the first time, the interesting and important question of whether the **Land Registration Act** (hereinafter "the LRA") of

Saint Lucia enacted in 1984 impliedly repealed the **Supreme Court Prescription by 30 Years (Declaration of Title) Rules** (hereinafter "the Rules") promulgated in 1970.

[2] Even after the LRA came into force in 1985, it has been accepted by the Courts of Saint Lucia that a person claiming title by positive prescription could rely on the **Civil Code of Saint Lucia** to ground his or her substantive claim and move the court, procedurally, through the Rules to have the matter decided. If this application is successful, it would mean that, since the enactment of the LRA, the Court has been making prescriptive orders for title to land, for over thirty years, based on Rules that have been impliedly repealed. The issue is therefore of some moment and consequence to land law in Saint Lucia.

[3] The question of whether one piece of legislation impliedly repeals another arises when there is some irreconcilable conflict between the two. It seems that what must necessarily engage the Court is a juxtaposition of the two pieces of legislation in order to appreciate the nature and extent of the conflict, if any, and then to apply the relevant rules of statutory interpretation in an attempt to resolve the conflict. Before doing so, however, it might be useful to briefly state the background facts that led to this application.

The Background

[4] On 7th September 2009, the respondent, Mr. Ferdinand James, filed a petition under the Rules seeking a declaration of title to 7,000 square feet of immovable property forming part of Block 1255B Parcel 743 (the parcel). At the time of the filing of the petition, the first-named applicant, Planviron, was the registered proprietor with absolute title to the parcel, having been registered as the owner since 29th December 2003. By order dated 31st January 2011, Belle J. ordered that:

1. "That a Declaration of Title is hereby issued in favour of the Petitioner.

   THIS COURT DECLARES that pursuant to Article 2103A of the Civil Code, Cap 4:01 of the Revised Laws of St. Lucia 2001, the Petitioner Mr. Ferdinand James is the owner of 7,000 sq. ft of land to be dismembered from Block 1255B Parcel No. 743 in accordance with the Sketch Plan of Dunstan Joseph exhibited to the Petition.

2. That the Registrar of Lands is to rectify the Land Register for Block 1255B Parcel No. 743 to record the said Ferdinand James as being proprietor of 7,000 sq. ft. to be dismembered therefrom in accordance with the Sketch Plan of Dunstan Joseph."

[5] By notice of application filed on 19th May 2011, Planviron sought to set aside the order of Belle J. made under the Rules on the grounds, *inter alia*, that the proceedings were not instituted in accordance with the LRA, which impliedly repealed the Rules. It appears that for six years the application to set aside the order languished in the system until 7th June 2017. At that hearing, both parties informed this Court that they had agreed that the matter would best be resolved on an application for summary judgment to be brought by the Applicants/Defendants. The parties were in agreement that the Court should determine the application for summary judgment on the basis of written submissions alone, without the need for oral argument. The Court therefore made the necessary case management directions and the last set of arguments was filed on 30th June 2017. Having set out the background, I now turn to an examination of the Rules and the LRA to see where the conflict lies.

Prescription under the Civil Code & Rules

[6] Article 2103 of the **Civil Code** provides that:

> "All things, rights and actions, the prescription of which is not otherwise regulated by law, are prescribed by thirty years, without the party prescribing being bound to produce any title, and notwithstanding any exception pleading bad faith.
>
> 2103 A
> Title to immovable property, or to any servitude or other right connected therewith, may be acquired by sole and undisturbed possession for thirty years, if that possession is established to the satisfaction of the Supreme Court which may issue a declaration of title in regard to the property or right upon application in the manner prescribed by any statute or rules of court."

[7] Section 4 of the Rules then prescribed the manner of making such an application contemplated by the **Civil Code**:

> "An application for declaration of title to immovable property or to any servitude or other right connected therewith under article 2103A of the **Civil Code** shall be made by petition to the Court."

[8] Section 5 of the Rules sets out what should comprise the contents of the petition; section 6 deals with the affidavits to accompany the petition; section 7 requires that a plan accompanies the petition; section 8 requires summons and advertisements in order to provide notice to interested parties. Section 12 (4) provides that:

> "The Court, if satisfied that the applicant has acquired ownership of the property by 30 years prescription may issue a declaration of title."

[9] It is this statutory regime, the **Civil Code** read together with the Rules, which provided the hitherto unchallenged basis for declarations for prescriptive title to land made by the courts of Saint Lucia – even after the coming into force of the LRA.

Prescription under the LRA

[10] Then fourteen years after the promulgation of the Rules, the LRA was enacted. It introduced a new and different regime for the determination of claims to prescriptive title:

> "**PART 9**
> **PRESCRIPTION**
> **94. ACQUISITION OF LAND BY PRESCRIPTION**
> (1) Any person who claims to have acquired the ownership of land by positive prescription may apply to the Registrar in accordance with rules of court for registration as proprietor thereof…
>
> **95. PROCEDURE WHEN LAND ACQUIRED BY PRESCRIPTION**
> (1) On application by any person for registration as proprietor under section 94 (1) the application shall be advertised by the Registrar at the expense of the applicant in such manner as the Registrar may direct.
>
> (2) The Registrar shall give notice of any such application to the proprietor of the land affected and to any other person who may, in his or her opinion, be affected thereby.
>
> (3) After one month has elapsed from the date of giving notice under subsection (2) the Registrar, on being satisfied that the applicant has acquired the ownership of the land claimed, may allow the application and register him or her as proprietor of the land claimed, subject to any interests on the register which have not been extinguished by the possession.

PART 10
RECTIFICATION AND COMPENSATION
97. RECTIFICATION BY REGISTRAR

(1) The Registrar may rectify the register or any instrument presented for registration in the following cases –

(a) informal matters and in the case of omissions not materially affecting the interest of any proprietor;

(b) where any person has acquired an interest in land by prescription under Part 9;

(c) in any case and at any time with the consent of all the persons interested."

[11] The inconsistency is plain enough to see. Proceeding via the Rules takes an applicant before a high court judge, while the LRA vests the jurisdiction in the Registrar. If it were the case that both pieces of legislation took an applicant for prescriptive title before a high court judge, albeit through different originating processes, such an inconsistency could perhaps escape the "repugnant" categorization. But here there is a jurisdictional conflict: is it the registrar of lands or a high court judge who is to decide claims to prescriptive title in Saint Lucia? I shall return to an analysis of the extent of the conflict later in the judgment. What must now engage the attention of the Court is how to proceed when faced with two pieces of legislation, touching on the same subject matter, that do not fit together. What do the established canons of statutory interpretation say about inconsistent legislation of this kind?

Principles of Implied Repeal

[12] The first observation to make is that the Rules, promulgated as statutory instrument no. 7 of 1970, are subordinate or delegated legislation. The LRA is primary or substantive legislation enacted subsequent to the Rules. **Bennion on Statutory Interpretation**[1] provides the following guidance under the heading "Overriding effect of an Act":

> "An operative Act, as the expression of the will of the sovereign legislature, overrides inconsistent provisions of pre-existing law (whether statutory or not) and is itself overridden by any inconsistent subsequent Act."

[1] 6th edition, page 168

[13] In this case, what we have is not a pre-existing Act but subordinate legislation. On the matter of subordinate legislation vis-à-vis an Act, **Halsbury's Laws of England**[2] provides that:

> "Subordinate legislation may be revoked either by an Act or, where the powers conferred are sufficiently wide, by other legislation made in the exercise of delegated powers, and may in both cases be revoked either expressly or by implication."

[14] Since the LRA does not expressly repeal the Rules, the determination of this application hinges on whether the LRA impliedly repealed the Rules. In **Gosling v Green**[3] it was held that the principles to be applied for determining whether subordinate legislation has been impliedly revoked, whether by an Act or other legislation made under delegated powers, are the same as those which apply as between two Acts.

[15] In **Churchwardens and Overseers of West Ham v Fourth City Mutual Building Society**[4], A.L. Smith J held that:

> "The test of whether there has been a repeal by implication by subsequent legislation is this: Are the provisions of a later Act so inconsistent with, or repugnant to, the provisions of an earlier Act that the two cannot stand together? In which case '*Leges posteriors contrarias abrogant.*'"

[16] But there is a presumption against implied repeal. In **R v Governor of Holloway Prison, Ex p Jennings**,[5] Lord Roskill said:

> "My Lords, I do not doubt that the principles applicable to the implied repeal of an earlier by a later statute are well established. But today those old cases must be approached and applied with caution. Until comparatively late in the last century statutes were not drafted with the same skill as today."

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[2] Fourth edition reissue, Volume 44 (1), para 1526
[3] [1893] 1 QB 109
[4] [1892] 1 QB 654.
[5] [1983] 1 AC 624.

[17] The point is also made in **Halsbury Laws of England** that repeal by implication "is found by the courts with reluctance because the precision of modern drafting means that necessary repeals are usually effected expressly."[6] It goes on to state that:

> "The rule is, therefore, that one provision repeals another by implication if, but only if, it is so inconsistent with or repugnant to that other that the two are incapable of standing together. The courts are particularly reluctant to hold that constitutional amendments have been impliedly repealed."

Are the Rules Repugnant?

[18] The question which the Court must ask itself is therefore this: Are the provisions of the Rules so inconsistent with or repugnant to the provisions of sections 94, 95 and 97 of the LRA that the two are incapable of standing together?

[19] Saint Lucia, like a number of other jurisdictions across the Commonwealth, made the decision to bring all lands in Saint Lucia under one unified system in order to simplify land adjudication and registration and to bring certainty to ownership of land. This vision and ambition was fulfilled through the Land Registration Titling Project (LRTP). The LRTP birthed two interlocking pieces of legislation, the **Land Adjudication Act** (LAA) and the **Land Registration Act**, both enacted in 1984. The seminal and most authoritative statement of the effect of these two Acts was made by Byron JA in the OECS Court of Appeal decision in **Webster v Fleming**[7] in relation to their Anguillan counterparts but applies with equal force to their St. Lucian equivalents:

> "All land in Anguilla came subject to these Ordinances which together prevailed over all other laws relating to land adjudication and registration. The end product of this judicial adjudication process was the compulsory creation by the Registrar of Lands of a first registration of land with absolute or provisional title on the Land Register …by virtue of the final adjudication record emanating from the judicial process under the Land Adjudication Ordinance. Such a first or subsequent registration can be defeated and rectified only on proof of mistake or fraud under the Registered Land Ordinance."

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[6] Supra, at para 1299.

[7] (1995) Anguilla Civil Appeal No. 6 of 1993 at page 5.

[20] The Court of Appeal reaffirmed this position in **Joseph and Others v Francois** and **Matty and Others v Francois** (consolidated appeals no. 0025 of 2011 and 0037 of 2012) when Chief Justice Pereira stated:

> "In our view the learned judge was right to recognize the intervention of the LRTP which by the conjoint effect of the LAA and the LRA, provided an entirely new all-embracing and comprehensive scheme designed to adjudicate upon and provide registered title to all lands in St. Lucia. It provided for a process for hearing disputed claims or claims to the same land by different parties; for the conduct of investigations to ascertain ownership, and finally for appeals from the decisions of the adjudicator as to ownership and other rights claimed. It was a holistic scheme implemented for the purpose of bringing certainty to the ownership and identification of lands in Saint Lucia. It provided for a system of land registration (the "Torrens system") similar to that undertaken and implemented in the 1970s in a number of Commonwealth Caribbean States and United Kingdom Overseas Territories."

[21] The Privy Council in **Louisien v Jacob**[8] observed that the LRA provided "*not only for first registration of title to land adjudicated under the LAA, but also for the operation of the whole system of registered land for the indefinite future*." Ms. Francis relied on a reference by Chief Justice Pereira in **Joseph v Francois** that the Rules coupled with the **Civil Code** prescribed title to land by 30 years, but since this case was not concerned with implied repeal of the Rules by the LRA, it cannot, in this respect, aid the deliberation.

[22] These judicial pronouncements speak clearly and definitively to what was the aim and objectives of the LRTP and how these aims and objectives were achieved through the two Acts with the result that the LRA now governs "the operation of the whole system of registered land for the indefinite future". All dispositions, transmissions or other dealings with land (including applications for prescriptive title) should now be determined in accordance with the provisions of the LRA. Indeed, as pointed out by Mr. Du Boulay, the long title to LRA provides that it is "*AN ACT to make provision for the registration of land and for dealing in land so registered…*"

[8] [2009] UKPC 3.

[23] If it could be shown that the LRA does not adequately provide for acquiring title by prescription, it could perhaps be argued that there is room for the view that the LRA and the Rules should be treated as inter-dependent. But this does not appear to be the case.

[24] Section 28 of the LRA provides for overriding interests, including prescriptive rights at 28 (f), as follows:

> **28. Overriding interests**
>
> Unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interests as may subsist and affect the same, without their being noted on the register—
>
> (a) servitudes subsisting at the time of first registration under this Act;
>
> (b) servitudes which arise from the situation of the property or which have been established by law;
>
> (c) rights of compulsory acquisition, user or limitation of user conferred by any other law;
>
> (d) leases or agreements for leases for a term not exceeding 2 years;
>
> (e) any unpaid money which, without reference to registration under this Act, are expressly declared by any law to be a charge upon land;
>
> (f) rights acquired or in process of being acquired by virtue of any law relating to the limitation of actions or by prescription;
>
> (g) the rights of a person in actual occupation of land or in receipt of the income thereof save where inquiry is made of such person and the rights are not disclosed;
>
> (h) electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, wires and dams erected, constructed or laid under any power conferred by any law;
>
> (i) community property as described in article 1188 et seq. of the Civil Code;
>
> However, the Registrar may direct registration of any of the liabilities, rights and interests hereinbefore defined in such manner as he or she thinks fit.

[25] It is clear from a reading of section 28 that even the absolute and indefeasible title of a registered proprietor is subject to overriding interests such as prescriptive rights which may not be noted on the register, but which the Register has power to register in such manner

as he or she thinks fit. Prescriptive rights are therefore contemplated and provided for under the LRA. As already set out above, sections 94, 95 and 97 of the LRA then prescribe a procedure to be followed by any person claiming prescriptive title to lands registered under the LRA.

Conflict between the LRA and the Rules

[26] There is a substantive conflict between the LRA and the Rules: (1) under the Rules, it is a high court judge that considers the application for prescription while under the LRA it is the Registrar; (2) under the Rules, the judge, if satisfied that the applicant has acquired ownership of the property by 30 years prescription, may issue a declaration of title, while under the LRA the Registrar may register the applicant as proprietor of the land claimed; (3) under the Rules, the judge is limited to issuing a declaration of title and has no power to rectify the register while under the LRA it is the Registrar to whom exclusive power is given to rectify the Register where prescriptive title is proven. The Court is given powers of rectification but only where it is satisfied that registration was obtained through fraud or mistake.

[27] The registrar of lands is at the centre of the LRA and is vested with responsibility for administering the land registration system. Under Part 9, it is the registrar that has jurisdiction to adjudicate upon applications brought by persons claiming an interest in land by positive prescription. The Rules, which prescribe that an applicant proceed by petition before a high court judge, falls into a stark and sharp jurisdictional conflict with the Act. If two persons claim prescriptive title to the same piece of land, it must surely lead to an unsatisfactory state of affairs if one moved the court through the Rules while the other moved it through the LRA. It can hardly be gainsaid that this would lead to uncertainty.

[28] But Ms. Francis contends that the two pieces of legislation can stand together since an applicant could choose to proceed under the Rules to obtain a declaration of title from a high court judge and then proceed under section 97 of the LRA to have the registrar of lands register his prescriptive title. The argument seems to be that getting the declaration of prescriptive title from a high court judge does not offend the LRA since the judge cannot

go beyond the making of a bare declaration. He cannot rectify the register or order its rectification since this is the sole province of the registrar. The beneficiary of such a declaratory order would ultimately have to go registrar in any event. Therefore, the argument goes, the two can co-exist.

[29] Not only is there some attractiveness to this argument, but also, in practice, this is how it has worked for over thirty years, apparently without any confusion or uncertainty. As Ms. Francis points out, no judge of the Eastern Caribbean Supreme Court or counsel has challenged this practice. Indeed, it might be said that a finding now of implied repeal would introduce uncertainty and disruption of a functioning system. Be that as it may, when it comes down to the forensic crunch, the Court must give effect to the clear and unambiguous will of a sovereign parliament that jurisdiction to decide prescriptive title to land in Saint Lucia vests in the Registrar. The legal challenge to the Rules having finally come, it cannot be ignored. To allow it to stand, even in the face of irreconcilable conflict with the LRA, because it might unleash a torrent of challenges to declarations of title granted under the Rules would amount to an abdication of the judicial responsibility to interpret and apply laws validly enacted by a sovereign legislature.

[30] But leaving aside for a moment what some might term the academic nicety and high-sounding ideal of giving effect to laws enacted by a sovereign legislature, from a practical and common sense perspective, the two pieces cannot co-exist. I will attempt to develop Ms. Francis's argument to its logical conclusion. Suppose that a person receives a declaration of title from a high court judge under the Rules. Then suppose that he moves the registrar of lands to rectify the register under the section 97 of the LRA to give effect to that declaration of title. The registrar may rectify the register in accordance with the declaration of the high court judge, in which case there is no practical difficulty. But suppose that the registrar decides to assume her jurisdiction (which is conferred upon her under the LRA), to determine the question herself and comes to a different conclusion than the high court judge. The obvious and unacceptable conflict is that a registrar would, in effect, be reversing the judgment of a high court judge. It is the possibility of such an outcome that makes the Rules repugnant to the LRA.

[31] The rule of law is supposed to assure to citizens certainty of the law. And while it might be argued that certainty of law is a chimera, it undermines certainty if this Court were to allow the Rules to stand. I say so because if the Rules remain on the statute book, it will invite the public to make applications under its provisions. Time and money will be expended. A person may obtain a declaration to title thinking that it equates to ownership of land, only to discover at some later time that the fruit of his declaration has rotted because the registrar of lands conducted an investigation of her own which caused her to refuse to rectify the register in accordance with the declaration of title.

[32] There is another argument for allowing the Rules to stand that centres on section 80 of the LRA which reads as follows:

> "**80. TRANSMISSION BY COMPULSORY ACQUISITION OR JUDGMENT OF COURT**
>
> Where the Crown or any person has become entitled to any land, lease or hypothec under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on application of any interested person supported by such evidence as he or she may require, register the Crown or the person entitled, as proprietor.

[33] The argument that a declaration of prescriptive title under the Rules could fall within the scope of section 80 is defeated when one considers the intention of the legislature that all dealings with land under the LRA must be dealt with in accordance with the provisions of the LRA. The maxim *generalis clausula non porrigitur ad ea quae antea specialitersunt comprehensa* is applicable: a general clause does not extend to things previously dealt with by special provision. As the heading to that section suggests, section 80 covers situations where title to registered land becomes vested in a person or entity such as through compulsory acquisition by the Crown or if a Court makes a finding of mistake or fraud in the registration of a proprietor. I do not think it can extend to a prescriptive order made under the Rules since prescription is specifically provided for under the LRA itself.

[34] In **Spiricor of Saint Lucia Limited v Attorney General and Hess Oil St. Lucia Ltd**[9], the Court of Appeal considered the question of whether the LRA had repealed certain provisions of the **Civil Code**. Unlike the Rules, the **Civil Code** is substantive legislation. The Court of Appeal, unhesitatingly, declared that LRA repealed conflicting provisions in the **Civil Code**. In that case, the appellant relied heavily on the provisions of Articles 957 and 1382 of the **Civil Code** of 1957 to support his contention that it was entitled to ownership and possession of the certain property without the necessity for registration under the LRA.

[35] Byron CJ (Ag) who delivered the judgment of the Court stated:

> "The Registered Land Act of 1984, however, made significant changes to the regime of land registration and ownership. The most important is that the transfer of land, contrary to provisions of Articles 957 and 1382 of the Civil Code is no longer based on the consent of the vendor but on the completion of the registration process under the provisions of the Act. This is the effect of section 23 which reads:
>
> > 'Subject to the provisions of section 27 and 28 the registration of any person as the proprietor with absolute title of a parcel shall vest in that person the absolute ownership of that parcel together with all rights and privileges belonging or appurtenant thereto, free from all other interests and claims whatsoever…'

[36] The chief justice then went on to point out other provisions of the LRA which buttressed the necessity for registration in the process of transfer of ownership. The chief justice then stated:

> "The effect of these provisions is clear. The only method of transferring title of registered land is by registration under the Act. Thus, the rights of a vendor, who is the registered proprietor, as well as those of any subsequent purchaser are governed by the state of the register, to the extent that the purchaser has no legal interest unless he has completed the transfer by registration. The registered proprietor remains the owner of the legal title. This proposition would determine the rights of a third party who has purchased the same property whether he has completed his transfer by registration or not…
>
> I have had the opportunity to study the excellent work 'Coutume de Paris to 1988, The Evolution of Land Law in St. Lucia' by Winston F. Cenac Q.C., LL.B. (Lond.).

[9] Saint Lucia, Civil Appeal No. 3 of 1996.

At page 93 he says:

'It is submitted, however, that Articles 957, and 1382 are impliedly repealed by Sections 56(2) of the Land Registration Act, 1984. The concept that entry in the register alone confers title is central to the scheme of the new registration system and any provision which derogates from that central idea or which casts doubt on it should be removed from the Statute Book. The conflict between section 56(2) of the 1984 Act and section 957 of the 1957 Civil Code is an example of the problems which general legislative provisions can create without proper attention being paid to consequential amendments.'

I confess complete agreement with that submission. Despite the fundamental changes in the law relating to registration of title to land the Registered Land Act, 1984 did not expressly repeal the preexisting inconsistent regimes. The side note to section 3 of that Act reads "Reconciliation with other laws". Section 3 itself reads:

> "(1) Except as otherwise provided in this Act, no other law and no practice or procedure relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act..."

In my view the term "reconciliation" is euphemistic. Section 3, in reality, has the effect of repealing laws practices and procedures which are inconsistent with the Act.[10] I would like to emphasize the point made by the learned author Cenac Q.C. As a drafting technique it is unsatisfactory, because it creates uncertainty by allowing conflicting provisions to remain on the Statute Books and it imposes the duty of making comparisons between the provisions of the Civil Code of 1957 and of the Act. This is an important branch of the law and the matter should be remedied by removing or modifying the inconsistent provisions. However, there is no doubt that the provisions of sections 23, 26, 37(1) and 56 of the Registered Land Act 1984 are inconsistent with Articles 957 and 1382 of the Civil Code to which reference was earlier made. I would therefore rule that the effect of section 3 of the Registered Land Act,1984 is to repeal Articles 957 and 1382 of the Civil Code of 1957. Article 1980 is also inconsistent with the provisions of the Act for the reasons I have pointed out and for others that are not material to this appeal. I have come firmly to the to the view that it too has been repealed by the Registered Land Act, 1984."

[37] **Spiricor** dealt with express repeal while the case at bar turns on implied repeal. Nevertheless, Chief Justice Byron gave a ringing endorsement of the analysis of Winston Cenac QC that any provision which derogates from or casts doubt on the central scheme

[10] *Quaere*: whether the reliance by the Court of Appeal on that particular wording of section 3 of the LRA was made *per incuriam* since section 3 appears to have been amended in 1987, as a result of which that wording relied upon by the Court of Appeal was not in existence when it made its decision in 1996.

of the LRA should be removed from the statute books. I am of the view that the Rules cast doubt on a central feature of the LRA which is that the registrar is vested with the jurisdiction to determine claims to prescriptive title and, for that reason, should be removed from the statute books.

Disposition

[38] The finding of this Court is therefore that the Respondent/Claimant has no prospect of successfully defending the application to set aside the order of Belle J made on 31st January 2011 and therefore the following orders are made.

(1) It is hereby declared that the **Supreme Court – Prescription by 30 years (Declaration of Title) Rules** have been impliedly repealed by the **Land Registration Act**.

(2) Summary Judgment is granted in favour of the Applicants.

(3) The order of the Honourable Justice Belle in SLUHCV 2009/0766 dated 31st January 2011 is set aside.

(4) Each party shall bear his or its own costs.

Justice Godfrey Smith SC
High Court Judge

By the Court

Registrar