

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION
2011/CLE/GEN/FP/00118**

**IN THE MATTER OF Section 17 and Section 27 of
The Quieting Titles Act, 1959
Ch 393 of the Statute Law of The Bahamas**

AND

**IN THE MATTER OF a Certificate of Title issued to
GINN-LA West End, Limited in
Supreme Court Action No. 2005/CLE/qui/00511**

AND

**IN THE MATTER OF the Fraudulent Conveyances Act
Ch 150 of the Statute Laws of the Bahamas**

BETWEEN

**RICARDO F PRATT
(In his capacity as Administrator of the Estate of Ruel Pratt)**

Plaintiff

AND

GINN-LA WEST END, LIMITED

First Defendant

AND

G-LA RESORTS HOLDINGS (BAHAMAS) LIMITED

Second Defendant

BEFORE The Hon. Mrs. Justice Estelle Gray-Evans
APPEARANCES: Mr Ricardo F Pratt Pro se
Mr Robert Adams along with Mrs Willie Moss and
Miss Taccara Wright for the defendants
HEARING DATES: 2014: March 3 - 6, 11-15; June 3, July 31, October 27
and November 4
DELIVERY DATE: 2017: January 26

JUDGMENT

Gray Evans J.

1. I begin this judgment by apologizing to the parties and counsel for the delay in its delivery, due to a number of reasons, not the least of which was the daunting task of wading through the voluminous material filed herein. The transcript of proceedings for 4 November 2014, the last day of closing submissions, was delivered by the Court Reporting Unit on 7 January 2016, and the following comments by the plaintiff, Mr Ricardo Pratt on the second day of his closing submissions, is indicative of the struggle:

“My Lady had requested that I provide an index of the documents which I have – albeit a bit late. In preparing for today’s hearing, I had the enormous task of sorting through my own documents and I found it extremely difficult. I believe there may be 15 or 16 affidavits, several bundles of authorities and numerous amounts of documents. And so in order for, I believe this matter to be resolved efficiently, I provided an index of the documents with the description of the documents and the location. It contains 26 documents....I believe that it will greatly assist the court when it is time for my Lady to write her judgment; given the state of my files or the documents that I have filed, I believe it will probably take my Lady maybe five years without this index.”

2. Moreover, the plaintiff’s goal post kept moving as, on each occasion we met, he either had another application or had filed another document, without leave, and then sought to have such application heard or such document or documents entered into evidence; in some cases, long after he had given his evidence. For example, the plaintiff, by the time he commenced his closing submissions on 27 October 2014, had filed three (3) affidavits of heirship and according to him, it was the third one filed on 15 May 2014, without leave, after both sides had closed their respective cases, on which he intended to rely, as the previous affidavits were “erroneous”. Then, even after filing a re-amended writ of summons with leave on 7 August 2014, the plaintiff filed yet another affidavit, on 22 October 2014, after counsel for the defendants had completed his closing arguments. Indeed, it became clear that each time the plaintiff’s evidence was challenged by the defendants, he went back to the drawing board, conducted further research, and re-drew his battle plan. As I said, the goal post kept moving.

3. And while it was tempting to strike out the plaintiff’s claim based on his statement that the affidavits of heirship on which he had relied during the trial were “erroneous”, because of the number of actions which the plaintiff has commenced in this court in relation to the same land or portions thereof, coupled with the certainty that if I had struck out his claim at that point, the

plaintiff would simply have commenced another action, I opted to proceed with consideration of the plaintiff's claim in light of the latest affidavit of heirship filed 15 May 2014.

The Parties

4. That being said, the late Ruel Pratt died in 1998, and on 13 April 2011 letters of administration in his estate in non-contentious probate action No. 00741 of 2010, was granted to "Ricardo F Pratt, Attorney by Deed of Power of Attorney for Franklyn Pratt...until such time as he shall apply for and obtain a Grant of Letters of Administration." Mr Pratt, who also claims to be the grandson of the late Ruel Pratt, is a businessman residing in the City of Freeport in the Island of Grand Bahama, one of the Islands of the Commonwealth of The Bahamas.

5. The first defendant, Ginn-La West End, Limited, and the second defendant, G-La Resorts Holdings (Bahamas) Limited, are companies incorporated under the laws of the said Commonwealth of The Bahamas and therein carrying on business.

Background

6. This action concerns a claim by the plaintiff to ownership of the following pieces, parcels or tracts of land in West End, Grand Bahama, namely:

- (1) All that piece parcel or tract of land containing 960 acres more or less situated in the settlement of West End in the Island of Grand Bahama and being the entire parcel or tract of land granted to John Bootle his heirs and assigns by virtue of a Crown Grant dated 15 December 1818 ("the 1818 Crown Grant") and recorded in the Registry of Records in Book L.1 at page 193 ("the John Bootle Tract"); and
- (2) All those pieces parcels or tracts of land containing 179.81 acres and 28.59 acres more or less also situated in the settlement of West End in the Island of Grand Bahama aforesaid and being portions of the John Bootle Tract ("the Property").

7. The plaintiff claims that he is a direct descendant and "heir" of the late John Bootle, the Crown Grantee and or the late George Johnson Bootle, his heir-at-law and the Commutee, and by virtue thereof, as well as certain agreements for sale and assignments of agreements for sale, he is the documentary title holder of the John Bootle Tract, including the Property.

8. The second defendant also claims to be the documentary title holder of the John Bootle Tract, including the Property, by virtue of several certificates of title and indentures of conveyances, including a certificate of title dated 26 May 2006 issued by Jeanne Thompson, J in Supreme Court Action No. 2005/CLE/GEN/511, and an indenture of conveyance dated 28 October 2011 made between the first defendant of the one part and the second defendant of the other part and recorded in the Registry of Records of the Commonwealth of The Bahamas in volume 11515 at pages 302 to 351.

The Pleadings

9. The plaintiff commenced this action against the defendants on 21 November 2011 by a specially indorsed writ of summons. Since then, he has, with leave, filed an amended and a re-amended writ of summons, the latter of which contains 37 pages, 72 paragraphs of allegations and 31 claims for relief, including, inter alia, the following:

- (1) A declaration that he is the legal and beneficial owner of the John Bootle Tract.
- (2) A declaration that he is the legal and beneficial owner of the said Property.
- (3) A declaration that the certificate of title issued to Ginn-LA West End, Limited in Supreme Court Action No. 2005/CLE/qui/00511 is null and void and of no effect in law or equity and should be set aside for the reason that the same was:

- a. obtained by fraud in violation of section 27 of the Quieting Titles Act, 1959 and is null void; and
 - b. not issued in accordance with section 17 of the Quieting Titles Act, 1959;
- (4) An order that the Certificate of Title issued to Ginn-LA West End, Limited in Supreme Court Action No. 2005/CLE/qui/00511 be and is hereby granted and issued to the Estate of Ruel Pratt.
 - (5) An order granting a certificate of title of the said Property to the Estate of Ruel Pratt.

10. At paragraphs 18 through 31 of his writ of summons the plaintiff originally pleaded his documentary title as follows:

- (18) By a Crown Grant dated 15th December 1818, the Crown granted All That piece parcel or tract of land containing 960.0 acres (but by more modern survey methods contains 1,150.0 acres more or less) situate in the vicinity of West End, on the said island of Grand Bahama, to John Bootle his heirs and assigns forever and which said Crown Grant is recorded in the Registry of Records in Book L.1 at page 193.
- (19) On or about 20th May 1843 the late John Bootle died testate, survived by his lawful widow Margaret Bootle and his lawful children George Bootle and Charlotte Bootle beneficially entitled to the John Bootle Tract and the property.
- (20) The Last Will and Testament of the late John Bootle was duly proven on 27th July 1843 and is recorded in the Registry of Records for the said Commonwealth in Book C.4 at page 270.
- (21) The late John Bootle, at the date of his death, was the paper owner of the John Bootle Tract inclusive of the property, which was devised by his said Last will and Testament to his lawful widow, the late Margaret Bootle and her heirs.
- (22) On or about 11th May 1847, the late George Bootle, being the heir of the late John Bootle and the heir of the late Margaret Bootle, paid the quit rents, as required to be paid in accordance with the provisions of the Crown Grant to John Bootle his heirs and assign, in respect of the John Bootle Tract and the property.
- (23) The late George Bootle, was the owner in fee simple in possession of the John Bootle Tract by virtue of being the "heir" referred to in the said Crown Grant and by virtue of being a devisee under the duly proven Last Will and Testament of the late John Bootle and by virtue of being the heir of the late Margaret Bootle and by virtue of a commutation dated 11th May 1847, (in respect of having paid the quit rents on the 960 acres of land inherited from the late John Bootle) recorded in the Crown Lands Office in the City of Nassau in the Island of New Providence one of the Islands of the said Commonwealth in Commutation Book C.2 at page 111.
- (24) The late George Bootle died on 17th July 1872 intestate and without issue and was survived by his lawful sister the late Charlotte Seymour (born Bootle) and his lawful nephew and heir, the late William Seymour beneficially entitled to the property.
- (25) The late Charlotte Seymour (born Bootle) died testate on 21st July 1892 and was survived by her lawful son and heir, the late William Seymour, who was the heir of the late John Bootle and the late Margaret Bootle and the late George Bootle and the late Charlotte Seymour (born Bootle).
- (26) On 9th March 1885 the late William Seymour, by virtue of being the "heir" referred to in the said Crown Grant to the late John Bootle and the heir referred to in his Last Will and Testament, had an expectancy, and became the owner in fee

simple in possession (or in expectancy) of the John Bootle Tract and the property.

- (27) The late William Seymour died intestate, and was the owner in fee simple in possession (or in expectancy) of the John Bootle Tract including the property at the date of his death on 21st November 1942 and was survived by his lawful daughter Savalitha Aramintha Pratt (born Seymour) and his lawful grandson and Heir-at-Law, the late Ruel Pratt legally and beneficially entitled to the John Bootle Tract and the property by virtue of being the Crown Grantee and or a title by descent.
- (28) The late Ruel Pratt died intestate and at the date of his death on 10th May 1998 was the Crown Grantee by virtue of being the heir of the late John Bootle and the "heir" referred to in the said Crown Grant to the late John Bootle or alternatively, was the owner in fee simple in possession of the John Bootle Tract and the property, by a title by descent and was survived by his lawful son and heir, Franklyn J Pratt legally and beneficially entitled to the John Bootle Tract and the Property.
- (29) The late Ruel Pratt, by virtue of being the "heir" referred in the said Crown Grant to the late John Bootle, was therefore the Crown Grantee and was at all material times, the paper owner of the John Bootle Tract and the property, the subject matter of Supreme Court Action No. 2005/CLE/qui/00511.
- (30) On 13th April 2011, Letters of Administration in the Estate of Ruel Pratt was granted by the Supreme Court on its Probate Side in Action No. 00741 of 2010 to Ricardo F Pratt, the Attorney by Deed of Power of Attorney of Franklyn J Pratt, the lawful great-great-great-grandson of the late John Bootle and lawful great-great-grandnephew of the late George Bootle.
- (31) By reasons of the matters aforesaid and by virtue of the said Crown Grant to John Bootle his heirs and assigns forever, the plaintiff is the owner of the John Bootle Tract and the property by virtue of being seized of the fee simple and by virtue of being the owner with the paper title.

11. The plaintiff accuses the defendant of trespass, wrongful entry, conversion, slander of title and interference with the plaintiff's property between the period 9 June 2006 and 10 May 2011 and he seeks general damages, aggravated damage and exemplary damages as against the defendants therefor.

12. The plaintiff alleges further that all of the documents upon which the defendants rely to prove their documentary title are fraudulent and, therefore, void and he seeks to have each of them set aside pursuant to the Fraudulent Conveyances Act.

13. In their defence and counterclaim filed 22 February 2012, save as specifically admitted therein, the defendants either deny or do not admit the plaintiff's claims and or statements of facts in his statement of claim, in addition to which, the defendants assert, inter alia, that the second defendant by virtue of certain indentures and ultimately by an indenture of Conveyance dated 28 October 2011 between the first defendant of the one part and the second defendant of the other part, the second defendant became seized of all those portions of the John Bootle Tract and the Property as were conveyed therein.

14. The defendants had also counterclaimed for certain relief. However, at the commencement of the trial the counterclaim was, on the application of the defendants, stayed with liberty to apply.

The Issues

15. From the plaintiff's perspective, the sole issue for determination is: Who has the better documentary title to the John Bootle Tract and the said Property?

16. From the defendants' perspective, the issues for determination are as follows:

- (1) Does the plaintiff have a legal or equitable estate in the John Bootle Tract or any part thereof (which would include the Property)?
- (2) Was the 2006 certificate obtained by fraud? And
- (3) Should the 2006 Certificate of Title be set aside on the application of the plaintiff?

17. In my view, a determination of the issue from the plaintiff's perspective, presupposes that the plaintiff has established that he has documentary title to the John Bootle Tract, including the Property, when he has not. In my judgment, therefore, the issues identified by the defendants are the issues to be determined in this trial.

The Trial/Evidence

18. Evidence at the trial was provided by Ricardo Pratt along with Joacum Hollingsworth, Anthony Cooper, Sherrick Smith, Eva Ash-Simmons and Veronica Grant on behalf of the plaintiff; and by Bradley W. Callender and Paul Hanson on behalf of the defendants.

19. In most cases, witness statements were adopted as evidence-in-chief and each of the witnesses was subjected to cross examination. In the case of the plaintiff, by the time he made his closing arguments, he had filed fifteen affidavits, including three affidavits of heirship, and three witness statements, all 18 of which he said constituted his evidence-in-chief, although I noted in the end that there was quite a bit of overlapping and repetition of the evidence, both viva voce and documentary, among the affidavits and witness statements as well as with the plaintiff's submissions.

20. The plaintiff's first affidavit of heirship was filed on 5 February 2014 and he averred [verbatim] as follows:

- (1) That I am the Administrator of the estate of Ruel Pratt and as such, I am duly authorized and swear this affidavit in my capacity as the Administrator of the Estate of Ruel Pratt and on behalf of the said Estate.
- (2) The facts stated herein are based upon and within my own personal knowledge unless otherwise stated, and where I state otherwise, I state the sources and grounds of my information, which I verily believe to be true.
- (3) That I swear this affidavit in support of this action and to establish that there is privity of blood between the late John Thomas Bootle, Esq and the late Margaret Bootle and the late Ruel Pratt; and to establish that at the date of each of their respective deaths, the late George Bootle, the late James Bootle, the late John Bootle, the late William Bootle, the late Ellen Bootle, the late Charlotte Seymour (born Bootle), the late William Seymour and the late Ruel Pratt was the "heirs" referred to in the Crown Grant to John Thomas Bootle, Esq his heirs and assigns.
- (4) That the late George Bootle, the late James Bootle, the late John Bootle, the late William Bootle, the late Ellen Bootle, the late Charlotte Seymour (born Bootle), the late William Seymour and the late Ruel Pratt was the "heirs" referred to in the duly proven last will and testament of the late John Thomas Bootle, Esq and that they each had an expectancy in an undivided interest in the land, subject of the said last will and testament or alternatively, they each had a title by descent or inheritance, or a share in the equity of redemption being an estate in the John Bootle Tract, subject matter of the 1818 Crown Grant.
- (5) The late John Thomas Bootle, Esq married the late Margaret Bootle (born Johnson) on 24th July 1799. Attached and exhibited hereto is a true copy of the marriage certificate marked "RFP-1".
- (6) The late George Bootle and the late Charlotte Bootle, being the lawful children of the late John Thomas Bootle, Esq and the late Margaret Bootle (born Johnson) were baptized at Christ Church Parish, Nassau Bahamas. Attached and exhibited hereto is a true copy of the Baptismal Record marked "RFP-2".
- (7) A tract of land containing by admeasurement 960.0 acres more or less was surveyed and laid out to John Thomas Bootle, Esq on 16th July 1816 and recorded in Book B at page 95 in the Crown Lands Office in the City of Nassau. Attached and exhibited hereto is a true copy of the Survey Plan marked "RFP-3".
- (8) A Crown Grant dated 15th December 1818 was granted to John Thomas Bootle, Esq his heirs and assigns forever ("the 1818 Crown Grant"), in respect of All That Tract of land containing by admeasurement 960.0 acres more or less ("the John

Bootle tract") commencing at Bootle Point in the vicinity of Bootle Bay on the western end of the Island of Grand Bahama and recorded in the Registry of Records in Book L.1 at pages 193. Attached and exhibited hereto is a true copy of the Crown Grant marked "RFP-4".

- (9) The late John Thomas Bootle, Esq died on or about 27th July 1843 and by his duly proven Last Will and Testament which is recorded in the Registry of Records in Volume C.4 at page 270, the late John Thomas Bootle, Esq devised all of his real estate, including the John Bootle Tract and his personal property to his lawful widow, the late Margaret Bootle and her heirs for their use and benefit forever. Attached and exhibited hereto is a true copy of the Last Will marked "RFP-5".
- (10) The late George Bootle, the lawful son and heir of the late John Thomas Bootle, Esq and the late Margaret Bootle, paid the amount of quit rents due and owing on the John Bootle Tract, pursuant to Act 9 Vic c 10, on or about 11th May 1847 and commuted any future quit rents payable on the John Bootle Tract as evidenced by the commutation of the quit rents recorded in Book C.2 at page 111. Attached and exhibited hereto is a true copy of the Commutation marked "RFP-6".
- (11) The late Delegal Seymour married the late Charlotte Bootle, the lawful daughter of the late John Thomas Bootle Esq and the late Margaret Bootle, on 13th January 1854. Attached and exhibited hereto is a true copy of the Marriage Certificate marked "RFP-7".
- (12) The late William Seymour, the lawful son and heir of Delegal Seymour and Charlotte Seymour (born Bootle) and the lawful grandson and heir of the late John Thomas Bootle, Esq and his lawful widow, the late Margaret Bootle; and the lawful nephew and heir of the late George Bootle, was born at San Salvador, Bahamas on 8th March 1864. Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-8".
- (13) The late George Bootle died intestate on 17th July 1872 survived by his lawful nephew and heir, the late William Seymour, legally and beneficially entitled to his estate. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-9".
- (14) The late William Seymour married the late Jamima Seymour (born Adderley) on 27th July 1886. Attached and exhibited hereto is a true copy of the Marriage Certificate marked "RFP-10".
- (15) The late Savalitha Aramintha Seymour, the lawful daughter of William Seymour and Jamima Seymour (born Adderley) and the lawful great-granddaughter of the late John Thomas Bootle, Esq and the lawful grand-niece of the late George Bootle was born at San Salvador, Bahamas on 12th May 1887. Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-11".
- (16) On or about 26th July 1892 the late Charlotte Seymour (born Bootle), being the lawful daughter of the late John Thomas Bootle, Esq and the lawful sister of the late George Bootle, died testate as established by her duly proven Last Will and Testament recorded in the Registry of Records in Volume Y.8 at pages 24 to 28, survived by her lawful son and heir, the late William Seymour. Attached and exhibited hereto is a true copy of the duly proven Last Will and Testament marked "RFP-12".
- (17) The late Ruel Pratt, the lawful son and heir of the late James Whitfield Pratt and the late Savalitha Aramintha Pratt (born Seymour) and the lawful grandson and heir of the late William Seymour, and the lawful great-grandson of the late Charlotte Seymour (born Bootle) and the lawful great-grandnephew and heir of

the late George Bootle and the lawful great-great-grandson and heir of the late John Thomas Bootle, Esq and the late Margaret Bootle was born at Cat Island, Bahamas (formerly known as San Salvador) on 17th May 1922. Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-13".

- (18) The late William Seymour died intestate on 21st November 1941 survived by his lawful daughter the late Savelitha Aramintha Ferguson (formerly Pratt, born Seymour) and his lawful grandson and heir, the late Ruel Pratt, legally and beneficially entitled to his estate. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-14".
- (19) The late Savelitha Aramintha Ferguson (formerly Pratt, born Seymour) died intestate on 4th December 1972 survived by her lawful son and heir, the late Ruel Pratt being the lawful great-great-grandson and heir of the late John Thomas Bootle, Esq and the lawful great-grandnephew and heir of the late George Bootle. Attached and exhibited hereto is a true copy of the Death Certificate and a Letter from the Catholic Church attesting to her name at the date of her death marked "RFP-15".
- (20) The late Ruel Pratt married the late Joanna Pratt (born Bannister) on 26th February 1944. Attached and exhibited hereto is a true copy of the Marriage Certificate marked "RFP-16".
- (21) The late Ruel Pratt died intestate on 10th May 1998, survived by his lawful son and heir Franklyn J Pratt who is the lawful great-great-great-grandson and heir of the late John Thomas Bootle, Esq and the lawful great-great-grandnephew and heir of the late George Bootle, legally and beneficially entitled to his estate. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-17".
- (22) That I [Ricardo Pratt] am the lawful great-great-great-great-grandson of the late John Thomas Bootle, Esq and the late Margaret Bootle and the lawful great-great-great-grandnephew of the late George Bootle and was granted Letters of Administration in the Estate of Ruel Pratt, in my capacity as the Attorney by deed of Power of Attorney of Franklyn J Pratt, in Supreme Court Equity Action No. 2010/CLE/pro/00741 on 13th April 2011. Attached and exhibited hereto is a true copy of the Grant of Letters of Administration marked "RFP-18".
- (23) That the contents of this affidavit are true and correct to the best of my knowledge, information and belief.

21. The plaintiff's second affidavit of heirship was filed on 27 February 2014, a day after the defendant's skeleton arguments had been served on him in preparation for the trial scheduled to commence on 3 March 2014, and in which counsel for the defendants had pointed out some of the evidential deficiencies in the plaintiff's affidavit of heirship and his claim under the rules of descent.

22. In his second affidavit of heirship the plaintiff he averred [verbatim] as follows:

- (1) That I swear this affidavit in support of this action and to confirm that the late William Seymour was the only son of the late Charlotte Bootle-Seymour.
- (2) I have conducted a search of the Registry of Records and I found the following records of the births of the lawful children of the late Delegal Seymour and the late Charlotte Seymour-Bootle: Henrietta Seymour born 26th July 1852; Elizabeth Seymour born 5th March 1860; William Seymour born 6th March 1864; Flora Seymour born 13th April 1865.
- (3) That the Birth Record of the late William Seymour and the late Elizabeth Seymour states:

"Father's Surname: Seymour Christian or first Names: Delegal"
"Mother's Maiden Surname: Bootle Christian or First Names: Charlotte"
"Married Surname: Seymour".

Attached and exhibited hereto is a true copy of the birth certificate of Elizabeth Seymour marked "RFP-1".

- (4) I obtained a certified copy of the marriage record of the late William Seymour and his lawful wife, the late Jemima Seymour from the Bahamas Archives and it states:

"Christian and Surname: William Seymour, Jemima Adderley"

Attached and exhibited hereto is a true copy of the marriage record marked "RFP-2".

- (5) I have conducted an extensive search of the records maintained at the Bahamas Archives and at the Registrar General's Department and I found no record of any birth certificate(s) for any children born to the late William and Jemima Seymour between 1850 and 2013, other than the birth certificate for a female born 12th May 1887. Attached and exhibited hereto is a true copy of the birth certificate marked "RFP-3".

- (6) That the birth certificate of the late Savalitha Pratt-Ferguson (born Seymour) states:

"Child's Surname: Seymour Sex: Female"

"Father's Surname: Seymour Christian or First Names: William"

"Mother's Maiden Surname: Adderley Christian or First Names: Genniva"

"Married Surname: Seymour".

- (7) The late Savalitha Pratt-Ferguson (born Seymour) was the only child of the late William and Jemima Seymour (aka Jamima Seymour).

- (8) The late Jemima Seymour (aka Genniva Seymour; Jamima Seymour) being the lawful widow of the late William Seymour, died intestate on the 28th February 1951 survived by her only child, the late Savalitha Pratt-Ferguson (born Seymour). Attached and exhibited hereto is a true copy of the death certificate marked "RFP-4".

- (9) I applied to the Supreme Court for a grant of Letters of Administration in the Estate of James Whitfield Pratt (aka Whitfield Pratt) and I obtained a certified letter from Saint Bede's Roman Catholic Church in order to establish that his lawful wife, the late Savalitha Pratt-Ferguson (born Seymour) (aka Savelitha Pratt) was deceased and the said letter states that she died on the 4th December 1972 at the age of 85 and that she was buried at St Bede's Roman Catholic Church. Attached and exhibited hereto is a true copy of the letter marked "RFP-5".

- (10) In order to confirm that the birth certificate which I had obtained from the Registry of Records with only the last name of Seymour inserted thereon, was in fact that of the late Savalitha Pratt-Ferguson (born Seymour) (aka Savelitha Pratt) and to confirm the year of birth, I subtracted her age of 85 from the date of her death on 4th December 1972 (1972-85 yrs = 1887) and compared it to the date of birth on her birth certificate which states 12th May 1887.

- (11) The birth certificate of the late Ruel Pratt states:

"Child's Surname: Pratt Sex: Male Date of Birth: 17th May 1922"

"Father's Surname: Pratt Christian or First Names: Whitfield"

"Mother's Maiden Surname: Seymour"

"I am satisfied as to the correctness and sufficiency of this statement and register the birth this 30th day of June 1922.

Registrar: Clarke, Geo H". *Emphasis Supplied*

Attached and exhibited hereto is a true copy of the birth certificate marked "RFP-6".

(12) In a recorded document more than 90 years old, the Registrar General of the Bahamas, who is responsible for the register of births and the register of marriages maintained at the Registrar General's Department, was satisfied on 30th June 1922 that the late Whitfield Pratt (aka James Whitfield Pratt) and the late Savalita Pratt were lawfully married and that her maiden name was Seymour.

(13) I obtained a certified copy of the marriage certificate of the late Ruel Pratt from the Registrar General's Department which states:

"Marriage Date: 26th February 1944

"Father's Information:

"Name: Whitfield Pratt".

Attached and exhibited hereto is a true copy of the marriage certificate marked "RFP7".

(14) That from reading the marriage certificate of the late Ruel Pratt, and the birth certificate which identifies the father of the male child as being Whitfield Pratt and the mother as being Savelita Pratt (maiden Seymour), I verily believe that the birth certificate is that of the late Ruel Pratt and that his mother and father were lawfully married and that he was given the name "Ruel Pratt" by his parents.

(15) I obtained a certified copy of a marriage certificate for my father, Franklyn Pratt and my mother, Pandora Pratt dated 28th November 1962 and it identifies Ruel Pratt as the father of Franklyn J Pratt. Attached and exhibited hereto is a true copy of the marriage certificate marked "RFP-8".

(16) On 21st December 2010 I swore an Oath For An Administrator in the Estate of James Whitfield Pratt filed in the Supreme Court and it states:

"I Ricardo F Pratt.....make oath and say: that James Whitfield Pratt late of the Settlement of Tea Bay, Cat Island, deceased, died intestate survived by his wife Savalitha Pratt (deceased) and his lawful son Ruel Pratt (deceased) and that I am the applicant and attorney by Deed of Power of Attorney of Franklyn Pratt, grandson and Heir-at-Law.....".

Attached and exhibited hereto is a true copy of the Oath for an Administrator marked "RFP-9".

(17) I provided the Supreme Court with certified copies of the birth certificate of the late Ruel Pratt, which did not have the name of "Ruel" on it; and the marriage certificate of the late Ruel Pratt; and the letter from St Bede's Roman Catholic Church and other documents filed in Probate Action No 182 of 2011 and a Justice of the Supreme Court adjudicated on the prima facie evidence as established by the documents and was satisfied that the late James Whitfield Pratt (aka Whitfield Pratt) was in fact lawfully married to the late Savelita Pratt (born Seymour) (aka Savalitha Pratt-Ferguson) and that Franklyn Pratt was the Heir-at-Law and the lawful son of the late Ruel Pratt; and the Heir-at-Law and lawful grandson of the late James Whitfield Pratt (aka Whitfield Pratt).

(18) On 21st June 2011 I was granted letters of administration in the estate of James Whitfield Pratt, in my capacity as Attorney by Deed of Power of Attorney of Franklyn Pratt, the eldest grandson and Heir-at-Law of the late James Whitfield Pratt (aka

Whitfield Pratt). Attached and exhibited hereto is a true copy of the grant of letters of administration marked "RFP-10".

- (19) That the contents of this affidavit are true and correct to the best of my knowledge, information and belief.

23. So, at the commencement of the trial on 3 March 2014, the plaintiff's claim that he was the person entitled to the fee simple interest in the John Bootle Tract, including the Property, and the case which the defendants were being called upon to meet, was as set out in the plaintiff's specially indorsed writ of summons filed 21 November 2011, and evidenced by the aforesaid February 2014 affidavits and the documents exhibited thereto.

24. Under cross examination, Mr Pratt said that his reference to John Thomas Bootle in his aforesaid affidavits of heirship was a reference to John Bootle the Crown Grantee and not to John Thomas Bootle, his son. And in response to counsel for the defendants' question as to the basis upon which he said that John Bootle, the Crown Grantee, had a middle name, "Thomas", the plaintiff said that it was the last will and testament of John Thomas Bootle which said "I appoint my beloved wife"¹.

25. Mr Pratt agreed with counsel for the defendants that the name of the testator's wife was not mentioned in the 1843 will. He also admitted that one could not take away from a reading of the 1843 will that the wife referred to therein was Margaret, the wife of John Bootle. However, Mr Pratt said that from other information which he had discovered during his research, he was of the view that the wife referred to in the 1843 will was Margaret.

26. As for that "other information", Mr Pratt said that his research revealed that the late Margaret Bootle was born Johnson; that she was the daughter of one Samuel Johnson; that the last will and testament of John Thomas Bootle was lodged for recording by the "Honourable S. Johnson"; that he searched the Registry of Records and the Archives for over a hundred years of documents and he found no record of a marriage between John Thomas Bootle and anyone else. Hence his assertion that John Thomas Bootle's wife was named Margaret and that she was the "wife" referred to in his 1843 last will and testament.

27. Counsel for the defendants also pointed out that John Thomas Bootle, the testator of the 1843 will was not the Crown Grantee and, therefore, Margaret Bootle was not John Thomas Bootle's wife. He then suggested to the plaintiff that the reference to John Thomas Bootle in the plaintiff's documentary evidence, for example, the baptismal register, was a reference to the son of the Crown Grantee, and not the Crown Grantee himself. In response to which the plaintiff said:

"Okay. If that is the son...John Thomas Bootle, Charlotte Jane Bootle are the children of John and Margaret Bootle. So if the Crown Grantee is John Bootle, who is the father of Charlotte Bootle, then it is immaterial whether John Bootle left this will or John Thomas Bootle left the will. If John Thomas Bootle's wife was not Margaret Bootle, so what? I am claiming under Charlotte Bootle, who the record shows is the daughter of the Crown Grantee, John and Margaret Bootle and so if John Thomas Bootle was married or not married, if this will is the son of John Thomas Bootle, my claim is through John Bootle and Margaret Bootle the parents of Charlotte. So this will, my Lady, Mr Adams. If you say and if you are correct in your assertion, if this is not the will of John Bootle who, was the Crown Grantee, then this will is immaterial to my claim; it's garbage."²

¹Transcript of Proceedings (TOP) 4 March 2014, page 45

²See TOP 4 March 2014 at page 51, lines 26 set seq

28. In response to counsel for the defendants' suggestion that the plaintiff's averments at paragraph 9 of his first affidavit of heirship that the late John Thomas Bootle died on or about 27 July 1843 and that he left the John Bootle Tract to the late Margaret Bootle were fabrications, Mr Pratt responded: "People make mistakes. If I say his name is John Thomas Bootle, that is immaterial; it's not a fabrication. If his name was John Bootle, I am claiming under Charlotte. I have never claimed under any of the children of John [Thomas] Bootle." According to Mr Pratt it was an "assumption and belief" on his part that the Crown Grantee's name was John Thomas Bootle.

29. In relation to his averment at paragraph 10 of his affidavit of heirship that George Bootle was the lawful son and heir of John Thomas Bootle and the late Margaret Bootle, counsel for the defendant suggested to Mr Pratt that the George Bootle to whom he had referred was not the same as George Johnson Bootle, the commuttee, and son of John and Margaret Bootle in the baptismal register. The plaintiff disagreed and said that when he typed the document he simply left out the name "Johnson"; that he could have referred to "him" as the late "George J Bootle", the late "George Johnson Bootle", the late "G J Bootle", but he chose to put the late "George Bootle", his given name; that he was the "George Bootle" who had paid the quitrents on the John Bootle Tract, and the lawful son and heir of the late John Thomas Bootle and the late Margaret Bootle.

30. When Mr Adams drew to Mr Pratt's attention that the death certificate produced by the plaintiff as evidence of George Johnson Bootle's death also showed that the George Bootle to whom that certificate related was 55 years old at the time of his death on 17 July 1872 and suggested that that could not have been George Johnson Bootle who was born in 1802, Mr Pratt responded with: "It [the death certificate] should have indicated his correct age [70] but as we go through you will see that a death certificate from 1872 is no different from a death certificate in 2008 or 2006 where the person recording the death provides the wrong age, the wrong race, the wrong date of death, the wrong occupation." He, therefore, disagreed that the aforesaid death certificate was not that of George Johnson Bootle and said that in any event: "whether or not this is his death certificate is immaterial because the man is dead."

31. As his reason for contending that the aforesaid death certificate was that of George Johnson Bootle, Mr Pratt said: "In my search of the Registry of Records, I found this document. I commenced my search between 1866 which is the date that I know that George Bootle executed a conveyance to Joseph Johnson dated 1866. I then found another conveyance executed by Charlotte Chambers in 1874. I commenced my search at 1874 when his alleged daughter sold a piece of land and I then went back and I found this death certificate at 1872."

32. In response to counsel for the defendants' question as to whether he had any evidence to rebut the recital that Charlotte Wyllly Chambers was the daughter and sole surviving heir-at-law of George Johnson Bootle, the oldest son and heir at law of John Bootle, deceased, in a warranty deed dated 25 July 1921 between Alice Julia Aikenhead and George W Jonas whereby Ms Aikenhead conveyed to Mr Jonas the entirety of the 960 acres comprising the John Bootle Tract, excepting those parts earlier conveyed for church and cemetery purposes and by her predecessors in title to other parties, Mr Pratt said that he had conducted a search of the Registry of Records and found no birth certificate for Alice Julia Aikenhead, born Chambers or for Charlotte Wyllly Chambers; that he found no marriage record of George Johnson Bootle to any Wyllly or anybody else; that he found no record that Charlotte Wyllly Chambers was in fact married. He, therefore, concluded that Charlotte Wyllly Chambers was not born Bootle and, therefore, was not the daughter and sole surviving heir-at-law of George Johnson Bootle, and he disagreed with the defendants' contention otherwise.

33. Mr Pratt, however, agreed with Mr Adams that the fact that he did not locate any particular records in the course of his research was not evidence that Charlotte Wylly Chambers was not the daughter and sole surviving lawful heir of George Johnson Bootle. However, he disagreed with counsel for the defendants' suggestion that in light of the aforesaid statements in the aforesaid warranty deed his assertion that the late George Johnson Bootle died intestate and without any lawful children was untrue.

34. The plaintiff said that except for George Johnson Bootle and Charlotte Jane Bootle, he had no record of when the others of John and Margaret Bootle's six children had died; nor could he say whether they were alive at, or dead prior to, George Johnson Bootle's death in 1872. However, he disagreed with counsel for the defendants' suggestion that because he did not know if the other children/siblings were dead in 1872, there was no proper or credible basis for him to make the assertion that Charlotte Jane Bootle, whom he asserts died in 1892, was the only sibling of George Johnson Bootle alive at the time of his death in 1872.

35. Mr Pratt then gave the following reasoning for his disagreement with counsel's suggestion:

"Based on the date of the conveyance from Charlotte Chambers to the late Roger Nesbitt dated 1874 which was witnessed by Alice Julia Aikenhead and based on the conveyance from the late Charlotte Chambers to the Church of England in 1880, and based on the conveyance from the late Charlotte Chambers to the late Alexander Nesbitt around 1880, all witnessed by Julia Aikenhead, I can say with a high degree of certainty that the late George Johnson Bootle was dead. I found no record of any grant of letters of administration issued to the late Charlotte Chambers, none. No grant of probate and no grant of letters of administration after the death of the late George Bootle who was alive in 1866 because on the conveyance from the late George Bootle, which was witnessed by the late Charlotte Wylly-Chambers in 1866, he says this land is his. Six years later, 1872, when I say he died, according to his death certificate the late Charlotte Chambers in 1874 started selling the land and she didn't stop selling the land."

36. Mr Adams then suggested to Mr Pratt that his claim that the Charlotte Bootle in the marriage register who married Delegal Seymour in January 1854 in San Salvador was the Charlotte Jane Bootle in the aforesaid baptismal register and the daughter of John and Margaret Bootle was incorrect; that they were in fact different people. In response, Mr Pratt said: "You could suggest whatever you want. The records speak for themselves."

37. Mr Adams then pointed out, and Mr Pratt accepted, that since Charlotte Jane Bootle was born in 1804, if she was the person who married Delegal Seymour in 1854, she would have been 50 at that time and if William Seymour was indeed Charlotte Jane Bootle's son, she would have been 60 at the date of his birth in 1864. Mr Pratt's response was: "there is absolutely nothing wrong with that" as "many old women get married".

38. Mr Adams pointed out that the copy last will and testament of Charlotte Seymour produced by the plaintiff was executed by the testatrix marking her "X" and he suggested that the marking of the "X" as the "signature" to the will was consistent with someone who could not read and write. Mr Pratt agreed, but said that "it was also consistent with old age and infirmity at the age of 90 by a dying woman on her death bed, as Charlotte Jane Bootle was born in 1804 and would have been 90 years old at the time". However, Mr Pratt conceded that he had no way of knowing the status of Charlotte Seymour's health when she executed her will nor did he know whether at the time she made her will, she was about to die.

39. Mr Pratt agreed with counsel for the defendants that nowhere in the will of Charlotte Seymour was any mention made of her alleged son William. Mr Pratt also pointed out that Charlotte Seymour also had three daughters and none of them was mentioned in the will.

However, he said: “a person can devise their land to whoever they feel like when they are dying; doesn’t mean a thing.”

40. When counsel for the defendants pointed out to Mr Pratt that the aforesaid will for Charlotte Seymour stated that she lived in Nassau and that she was a widow at the time, Mr Pratt, without any evidence other than his “say-so” to back it up, said that after her husband died Charlotte moved to Nassau; that her father, John Bootle, again without any evidence other than his “say-so”, owned half of New Providence.

41. In response to counsel for the defendants’ question whether he had any evidence that the Charlotte Seymour who signed the will which he produced was the Charlotte Seymour who married Delegal Seymour in San Salvador, Mr Pratt said that he searched the Registry of Records and that was the only document that he found with the name Charlotte Seymour, widow, of New Providence.

42. Mr Pratt agreed with counsel for the defendants that as the birth certificate which he produced as evidence of his claim that William Seymour and Jemima Seymour born Adderley had a daughter named Savalitha, only showed the surname Seymour, it did not prove that Savalitha Seymour was born to William and Jamima Seymour. The plaintiff agreed with counsel for the defendants that based on his evidence, Savalitha could have been born to another couple – not necessarily William and Jamima Seymour.

43. However, he said that his assertion at paragraph 18 of his 5 February 2014 affidavit that Savalitha Pratt Ferguson born Seymour was the only child born to William and Jamima Seymour was based on him having found only the birth certificate for 12 May 1887, and no evidence of any other child born to William and Jamima Seymour.

44. Mr Pratt also agreed that the passport referred to and exhibited in his 27 February 2014 affidavit does not say that Savalitha’s parents were Jamima and William Seymour. However, he says the passport shows that Savalitha was born Seymour on 12 May 1887 and that her place of birth was Cat Island, the same as the information on the aforesaid birth certificate.

45. In relation to the birth certificate purporting to be that of Ruel Pratt, Mr Pratt agreed with counsel for the defendants that it did not have a Christian first name and that it was not evidence that the late Ruel Pratt was in fact born to Savalitha Pratt born Seymour. In response to counsel for the defendants’ question as to whether he had other evidence to establish that Ruel Pratt was born to Savalitha Seymour Pratt, Mr Pratt said that the marriage certificate of Ruel Pratt and Joanna Pratt nee Bannister (his second piece of evidence) exhibited to his February 2014 affidavits which states Ruel Pratt’s father’s name as “Withfield” Pratt; and the probate documents in non-contentious Probate Action No. 00182 of 2011, being the oath for administrator and the grant of letters of administration (his third piece of evidence), when read together) establish that Ruel Pratt was born to Savalitha Pratt and Whitfield Pratt.

46. In relation to his assertion that the marriage certificate of Ruel Pratt was further evidence that he was the son of Savalitha Pratt, Mr Adams pointed out that in his opening statement Mr Pratt had stated that Savalitha Seymour Pratt had ten children and that Whitfield Pratt had left her with those ten children; that based on information which he, Mr Pratt, had, Whitfield Pratt had about 25 children – 15 outside of the marriage and 10 within the marriage – and Mr Pratt agreed with Mr Adams that by looking at the marriage certificate with only Ruel Pratt’s father’s name stated thereon, Ruel Pratt could have been a part of the 15 outside children. He also agreed that the marriage certificate of Ruel Pratt was not evidence that the late Ruel Pratt was born to Savalitha Seymour Pratt.

47. As for his third piece of evidence, Mr Pratt conceded that the oath for administrator was prepared by him and that it was self-serving, but said that it had been accepted by a judge of

the Supreme Court as sufficient to prove that the late Ruel Pratt was the lawful son of the late James Whitfield Pratt and Savalitha Pratt. He, therefore, disagreed with counsel for the defendants' suggestion that he had failed to produce credible evidence of the fact that Ruel Pratt was born to Savalitha Seymour Pratt.

48. As indicated, the plaintiff, after his cross-examination, indeed, after the evidence on both sides had been given, filed a third affidavit of heirship on 15 May 2014 in which he avers, inter alia, as follows [verbatim]:

- (1) I swear this affidavit in support of this action and to establish that there is privity of blood between the late John Bootle and the late George Johnson Bootle and the late Charlotte Seymour (born Bootle) and the late William Seymour and the late Savalita Pratt (born Seymour) and the late Ruel Pratt.
- (2) On 24th July 1799, the late John Bootle married the late Margaret Bootle (born Johnson). Attached and exhibited hereto is a true copy of the Marriage Record marked "RFP-1".
- (3) The late George Johnson Bootle, who was the oldest son and heir of the late John Bootle and the late Margaret Bootle, was born on the 13th July 1802. Attached and exhibited hereto is a true copy of the Baptismal Record marked "RFP-2".
- (4) On or about 1825, the late John Bootle and the late Margaret Bootle died intestate.
- (5) The late Charlotte Seymour (born Bootle), being the daughter of the late George Johnson Bootle, was born in 1830. Attached and exhibited hereto is a true copy of the 1831 Slave Return of George Johnson Bootle marked "RFP-3".
- (6) On 13th January 1854 the late Charlotte Seymour (born Bootle) married the late Delegal Seymour. Attached and exhibited hereto is a true copy of the Marriage Record marked "RFP-4".
- (7) On 6th March 1864, the late William Seymour, being the oldest son and heir of the late Charlotte Seymour (born Bootle) and the grandson and heir of the late George Johnson Bootle was born at San Salvador, Bahamas. Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-5".
- (8) On 17th July 1866, the late George Johnson Bootle died intestate and was survived by his daughter, the late Charlotte Seymour (born Bootle), and his grandson and heir, the late William Seymour who was legally and beneficially entitled to his real and personal estate, including the John Bootle Tract and the 200.0 acres of land situate at Bootle's Cove, Grand Bahama. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-6".
- (9) On 27th July 1886, the late William Seymour married the late Jamima Seymour (born Adderley). Attached and exhibited hereto is a true copy of the Marriage Certificate marked "RFP-7".
- (10) On 12th May 1887, the late Savalita Pratt (born Seymour), being the only child of the late William Seymour and the late Jamima Seymour, and the great-granddaughter of the late George Johnson Bootle, was born at San Salvador, Bahamas. Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-8".
- (11) On 21st July 1892, the late Charlotte Seymour (born Bootle) died testate, at the age of 62 years old, and was survived by her son and heir, the late William Seymour. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-9".

- (12) On 17th May 1922, the late Ruel Pratt, who was the son and heir of the late James Withfield Pratt and the late Savalita Pratt (born Seymour); and the grandson and heir of the late William Seymour; and the great-grandson of the late Charlotte Seymour (born Bootle); and the great-great-grandson and heir of the late George Johnson Bootle, was born at Cat Island, Bahamas (formerly known as San Salvador). Attached and exhibited hereto is a true copy of the Birth Certificate marked "RFP-10".
- (13) On 23rd February 1930 the late James Whitfield Pratt died intestate survived by his lawful wife, the late Savalita Pratt (born Seymour) and their lawful children including the late Ruel Pratt.
- (14) On 23rd November 1941, the late William Seymour died intestate survived by his lawful daughter, the late Savalita Ferguson (formerly Pratt, born Seymour) and his grandson and heir, the late Ruel Pratt, legally and beneficially entitled to his estate. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-11".
- (15) On 11th December 1939, the late Savalita Pratt (born Seymour) married the late Sylvester Ferguson and the marriage certificate identifies that her father's name is "WILLIAM SEYMOUR" and that she was a widow. Attached and exhibited hereto is a true copy of the Marriage Certificate marked "RFP-12".
- (16) On 4th December 1972, the late Savalita Ferguson (formerly Pratt, born Seymour) died intestate survived by her lawful son and heir, the late Ruel Pratt and a letter from Saint Bedes Roman Catholic Church establishes her name and her age at the date of her death. Attached and exhibited hereto is a true copy of the Death Certificate and Letter marked "RFP-13".
- (17) On 26th February 1944, the late Ruel Pratt married the late Joanna Pratt (born Bannister) and the marriage certificate identifies that his father's name is "WITHFIELD PRATT", Attached and exhibited hereto is a true copy of the Marriage Certificate marked RFP-15".
- (18) On 10th May 1998, the late Ruel Pratt died intestate, survived by his oldest lawful son and heir, Franklyn J Pratt, legally and beneficially entitled to his estate. Attached and exhibited hereto is a true copy of the Death Certificate marked "RFP-15".
- (19) On 13th April 2011, I was granted Letters of Administration in the Estate of Ruel Pratt, in my capacity as the Attorney by a Deed of Power of Attorney of Frankly J Pratt, in Supreme Court Equity Action No 2010/PRO/npr/00741. Attached and exhibited hereto is a true copy of the grant of Letters of Administration marked "RFP-16".
- (20) On 30th March 2011 an Affidavit of Marriage was filed in Supreme Court Equity Action No 2011/PRO/npr/00182, which established the marriage of the late James Withfield Pratt to the late Savalita Pratt (born Seymour). Attached and exhibited hereto is a true copy of the Affidavit marked "RFP-17".
- (21) On 30th March 2011 an Affidavit of Name was filed in Supreme Court Equity Action No 2011/PRO/npr/00182, which established the name of the late Ruel Pratt, which was not inserted on his Birth Certificate, and established that he was the son of the late James Withfield Pratt and the late Savalita Pratt (born Seymour). Attached and exhibited hereto is a true copy of the Affidavit marked "RFP-18".
- (22) On 21st June 2011, I was granted Letters of Administration in the Estate of James Withfield Pratt in my capacity as the Attorney by a Deed of Power of Attorney of Franklyn J Pratt, in Supreme Court Equity Action No

2011/PRO/npr/00182. Attached and exhibited hereto is a true copy of the grant of Letters of Administration marked "RFP-19".

- (23) On 16th April 1948, the late Savalita Ferguson (formerly Pratt, born Seymour) was issued British Passport No 20411 and the passport indicates that she was born at Cat Island, Bahamas on 12th May 1887 and that her name was Savalita Ferguson (nee Seymour). Attached and exhibited hereto is a true copy of British Passport No 204121 marked "RFP-20".
- (24) On or about 31st March 2014, I obtained a certified copy of the Register of Births for the island of San Salvador (Cat Island) and Item No 11 of the Register of Births ending 30th June 1887 indicates, a female (with no name) and the name of William Seymour and Gemima Seymour (formerly Adderley) born on the 12th May 1887. Attached and exhibited hereto is a true copy of the Register of Births marked "RFP-21".
- (25) That the contents of this Affidavit are true and correct to the best of my knowledge, information and belief.

49. The parties returned to court on 3 June 2014 for a status hearing, at which the plaintiff alerted the Court and the defendants of his intention to apply for leave to: (i) recall the defendant's main witness, Mr Bradley W. Callender; (ii) have certain public documents admitted into evidence; and (iii) re-amend his amended writ of summons to establish his chain of title by descent³.

50. Those applications were heard and disposed of on 31 July 2014 and the proceedings adjourned to 27 October 2014 for closing arguments.

51. The plaintiff was granted leave to re-amend his writ of summons to include a claim that "Charlotte Wylly Chambers was not the daughter of George Johnson Bootle" as alleged by the defendants; and that based on his documentary evidence, the plaintiff was the descendant of George Johnson Bootle's daughter, Charlotte Bootle, and not his sister, Charlotte Jane Bootle, as he had originally pleaded. Indeed, according to Mr Pratt at the time, his claim as originally pleaded was on the basis that George Johnson Bootle was his "third great granduncle" whereas he was, in fact, his "third great grandfather".

52. The plaintiff's re-amended writ of summons was filed on 7 August 2014 and he alleges at paragraphs 18 through 31 thereof as follows:

- (18) By a Crown Grant dated 15th December 1818, the Crown granted All That piece parcel or tract of land containing 960.0 acres (but by more modern survey methods contains 1,150.0 acres more or less) situate in the vicinity of West End, on the said island of Grand Bahama, to John Bootle his heirs and assigns forever and which said Crown Grant is recorded in the Registry of Records in Book L.1 at page 193 ("the 1818 Crown Grant");
- (19) On 15th December 1818 the late John Bootle his heirs and assigns became seised of the equity of redemption and the fee simple estate in possession of the John Bootle Tract by virtue of the 1818 Crown Grant;
- (20) On or about 1823, the late John Bootle and his wife the late Margaret Bootle died intestate, survived by their lawful children including their oldest lawful son and heir, the late George Johnson Bootle, who, by virtue of being the "heir" referred to in the 1818 Crown Grant, became seised of the fee simple estate in possession of the entire John Bootle Tract, inclusive of the said Property;

³See TOP 3 June 2014, page 9, line 25.

- (21) On or about 1830 the late Charlotte Seymour (born Bootle) being the only child and heir of the late George Johnson Bootle, was born;
- (22) On or about 11 May 1847, the late George [Johnson] Bootle, as the owner in fee simple in possession of the John Bootle Tract, paid the quit rents due and owing and as required to be paid in accordance with the provisions of the 1818 Crown Grant and any future quit rents was commuted in accordance with the provisions of 9 Act Vic. C 10 Statute Laws of the Bahama Islands, and the commutation of the future quit rents dated 11th May 1847 is recorded in Commutation Book C.2 at page 111 in the Department of Lands and Surveys;
- (23) On 31st July 1866 the late George Johnson Bootle died intestate and was survived by his only child, the late Charlotte Seymour (born Bootle) and his grandson and heir, the late William Seymour, legally and beneficially entitled to the said Property and or the John Bootle Tract (less and except those two (2) portions previously conveyed by the late George Johnson Bootle);
- (24) On 9th March 1885 the late William Seymour, by virtue of a title by descent and or by virtue of being the "heir" referred to in the 1818 Crown Grant, became seised of the fee simple estate in possession of the said Property and the John Bootle Tract (less and except those portions previously conveyed by the late George Johnson Bootle to the late John Smith and or to the late Joseph Johnson);
- (25) On 21st July 1892, the late Charlotte Seymour (born Bootle) died testate and was survived by her lawful son and heir, the late William Seymour;
- (26) On the 21st November 1942, the late William Seymour died intestate and was survived by his lawful child Savalitha Pratt (born Seymour) and his grandson and heir, the late Ruel Pratt legally and beneficially entitled to the said Property and the John Bootle Tract (less and except those two portions of previously conveyed by the late George Johnson Bootle).
- (27) On 21st November 1942 the late Ruel Pratt, by virtue of a title by descent and by virtue of being the "heir" referred to in the 1818 Crown Grant and by virtue of being the lawful great-great grandson of the late George Johnson Bootle became seised of the fee simple estate in possession of the said Property and the John Bootle Tract;
- (28) On 10th May 1998, the late Ruel Pratt died intestate and was survived by his lawful son and heir, Franklyn J Pratt, legally and beneficially entitled to the said Property and the John Bootle Tract;
- (29) On 13th April 2011, Letters of Administration in the Estate of Ruel Pratt was granted to Ricardo F Pratt, in his capacity as the Attorney by Deed of Power of Attorney of Franklyn J Pratt, in Supreme Court Probate Action No. 2010/PRO/NPR/00741;
- (30) The plaintiff and all those persons that he claims through including the late George Johnson Bootle and the late Charlotte Seymour (born Bootle) and the late William Seymour and the late Savalita Pratt (born Seymour) and the late Ruel Pratt, have been in quiet undisturbed undisputed possession of the said Property and the John Bootle Tract, as owners with the paper title for more than 150 years.
- (31) By reasons of the matters aforesaid and by virtue of the 1818 Crown Grant to John Bootle his heirs and assigns forever, and or by virtue of other documents of title including various agreements for sale or assignments of agreements for sale the plaintiff is the owner of the John Bootle Tract and the said Property by virtue of being seised of the fee simple and by virtue of being the owner with the paper title.

The Plaintiff's Alleged Documentary Title by Descent/Intestacy

53. There is no dispute that the 960 acres comprising the John Bootle Tract were granted to the late John Bootle, his heirs and assigns, by the 1818 Crown Grant. There is also no dispute that George Johnson Bootle was the oldest son of John Bootle, the Crown Grantee, and his wife Margaret Bootle.

54. It is, however, worthy of note that the plaintiff had in his amended writ of summons as well as his first affidavit of heirship asserted that John Bootle had died testate and had, by his last will and testament, left all of his property to his wife Margaret. That was, of course, when the plaintiff was contending that the John Thomas Bootle whose 1843 last will and testament he had found was the Crown Grantee, and the husband of Margaret Bootle nee Johnson, even though neither the 1818 Crown Grant nor the marriage register upon which the plaintiff relied to prove the marriage between John Bootle and Margaret Johnson, included a middle name "Thomas".

55. As it turns out, the evidence on which the plaintiff had relied to prove that John Bootle had died testate may have related to John Thomas Bootle, the Crown Grantee's son and not the Crown Grantee himself. However, it is clear that the plaintiff was content to rely, although erroneously, on that evidence as, at the time, it was to his advantage to do so.

56. However, there appears to be no dispute that John and Margaret Bootle died intestate and that George Johnson Bootle was their eldest son and heir-at-law. That is the position advanced by the plaintiff in these proceedings and the position relied on by the defendants in the 1921 warranty deed.

57. In any event, it is common ground that as George Johnson Bootle paid the quit rents on the John Bootle Tract in May 1847, ownership thereof would have evolved on him.

58. So, whether as eldest son and heir-at-law to his deceased intestate father, the Crown Grantee, or as commuttee, it is accepted that entitlement to the John Bootle Tract under the rules of descent/intestacy would be traced through George Johnson Bootle,

59. In that regard, the plaintiff alleges in his re-amended writ of summons that the late George Johnson Bootle died intestate on 31 July 1866 and was survived by his only child, the late Charlotte Seymour (born Bootle), who was born in 1830, and his grandson and heir, the late William Seymour.

60. In support of those contentions, the plaintiff, in his May 2014 affidavit of heirship, produced a death certificate for one George J. Bootle who died on 31 July 1866 at the age of 64 ("the 1866 death certificate"). It is accepted that George Johnson Bootle, having been born on 13 July 1802, would have been 64 years old in July 1866.

61. However, it is noteworthy that during the trial the plaintiff had alleged that George Bootle, the son of John and Margaret Bootle, had died in 1872 and in support of that allegation he produced a death certificate for one George Bootle who died on 17 July 1872 ("the 1872 death certificate"). Indeed, the plaintiff had also pleaded at paragraph 24 of his amended writ of summons that "the late George Bootle died on 17 July 1872 intestate without issue..." Hence his reliance at the time on George Johnson Bootle's sister, Charlotte Jane Bootle, as his relevant ancestor.

62. Furthermore, when it was pointed out to him by counsel for the defendants that according to the 1872 death certificate, the age of that "George Bootle" at the date of his death was 55 years and, therefore, he could not have been George Johnson Bootle who, having been born in 1802, would have been 70 in 1872, Mr Pratt, rather than accepting or acknowledging that he had produced a death certificate for the "wrong" George Bootle, suggested, instead, that

the age at death recorded on the death certificate was incorrect, as a result of incorrect reporting.

63. Mr Pratt, at the time, insisted that he had produced the correct death certificate because, as I understood him, he knew that George Johnson Bootle had executed a conveyance in 1866 and he knew from his research that Charlotte Chambers, "George Johnson Bootle's alleged daughter", had executed a conveyance in 1874 and in those conveyances both of them were claiming ownership of the land. Therefore, the plaintiff argues, George Johnson Bootle was alive in 1866 but not in 1874. He, therefore, searched backwards from 1874 until he found a death certificate for George Bootle. Hence in his reliance on the 1872 death certificate which was the first one that he found.

64. So, under cross examination, Mr Pratt disagreed with counsel for the defendants' suggestion that the 1872 death certificate produced by him was not proof of George Johnson Bootle's death. Eventually, after being pressed by counsel for the defendants, Mr Pratt commented: "whether or not this is his death certificate is immaterial because the man is dead."

65. However, it is clear, notwithstanding that stance, Mr Pratt was motivated to conduct further searches and was apparently able to locate the 1866 death certificate upon which he now relies to prove that George Johnson Bootle died in 1866 and not 1872, as he had previously alleged.

66. So, while there is no dispute that George Johnson Bootle is indeed deceased and while it appears that the 1866 death certificate could be that of George Johnson Bootle, it only strengthens counsel for the defendants' argument that the plaintiff in conducting his searches was simply trolling for information to try and piece together births, marriages and deaths so that he could make this claim to ownership of the John Bootle Tract, including the Property.

67. Moreover, it is clear that the plaintiff was prepared to rely on the 1872 death certificate for one George Bootle, notwithstanding the name of the alleged ancestor through whom he was tracing his title by descent had the middle name "Johnson". In other words, the plaintiff was content to ignore the fact that the 1872 death certificate had no middle name or initial and that the age at death was incorrect for someone whom he says was born in 1802.

68. The plaintiff also alleges that the late George Johnson Bootle died intestate. As I understood him, his reason for making that assertion is because he had, during his searches, found no grant of probate or letters of administration in the late George Johnson Bootle's estate. However, the evidence also is that there were other occasions, one just cited, when the plaintiff asserted a particular position based on the "evidence" he had unearthed at the time, only to change that position based on other documents which he subsequently found, depending, no doubt, on how favourably he thought such documents affected his claim.

69. Whether or not the 1866 death certificate relates to George Johnson Bootle, as I said, there is no dispute that he is, in fact, deceased, and there appears to be no dispute that he died intestate and, I so find.

70. It is agreed that the real area of controversy between the parties is the identity of George Johnson Bootle's daughter, through whom each side claims an entitlement to the John Bootle Tract and or the Property.

71. Each side asserts that George Johnson Bootle was survived by his daughter and heir, and that her name was Charlotte.

72. The defendants say that their "Charlotte" was Charlotte Wylly Chambers, born Bootle, as evidenced by a recital that "Charlotte Wylly Chambers (born Bootle) was the daughter and sole

surviving heir-at-law of George Johnson Bootle, the eldest son and heir-at-law of John Bootle, deceased”in the aforeaid 1921 warranty deed.

73. The plaintiff had originally claimed that his “Charlotte” was Charlotte Seymour, born Bootle, daughter of John and Margaret Bootle or as he averred in his first affidavit of heirship, daughter of John Thomas Bootle and Margaret Bootle, and sister of George Bootle.

74. In support of his original claim, the plaintiff had produced from the Department of Archives a copy of the Births and Baptism Records of Christ Church Parish, for the period 1802-1828, in which is recorded the name “Charlotte Jane Bootle” as a child born in 1804 to John and Margaret Bootle. Under cross-examination the plaintiff was adamant that his claim was through Charlotte Bootle, the daughter of John and Margaret Bootle, and it was clear that the plaintiff was claiming through George Johnson Bootle’s sister, Charlotte, because he was of the view firstly, that George Johnson Bootle had died intestate without issue, and secondly, that his sister, Charlotte had a son, William Seymour.

75. However, the plaintiff now says that was in error and in his 15 May 2014 affidavit of heirship he avers that while his “Charlotte” was still Charlotte Seymour, born Bootle, instead of being the sister of George Johnson Bootle, she was actually his daughter, and rather than being born in 1804, she was born in 1830.

76. Notably, the plaintiff makes no mention in his third affidavit of heirship of, nor does he attempt to account for, the fact that in his first affidavit of heirship he had asserted that Charlotte Seymour, born Bootle, was the lawful daughter of the late John Thomas Bootle and the sister of the late George Bootle and that she had been born in 1804.

77. As evidence of his most recent claim that Charlotte Seymour, born Bootle, was born in 1830 and was the daughter of George Johnson Bootle, the plaintiff adduced the following documentary evidence:

- (1) A copy of a “return of slaves the property of George Johnson Bootle of Grand Bahama, planter, dated 1 January 1831” on which is noted the names of three slaves along with the following additional notations:
 - (1) “Bought of John Wildgoose in 1830 and gave to my daughter Charlotte O Bootle in 1830”; and
 - (2) “Born in 1830”;
- (2) A copy of the aforesaid marriage register for the period 8 January 1799 to 2 January 1860, which shows the date of marriage for one Delegal Seymour and one Charlotte Bootle as 13 January 1854; the place of marriage as San Salvador; and
- (3) A copy of a death certificate for one Charlotte Seymour which shows the age of the deceased at the date of her death in 1892 as 62 years old and her ordinary residence as St Matthew’s Parish in New Providence.

78. The plaintiff’s case is that when read together, those documents establish that Charlotte Seymour, born Bootle, was George Johnson Bootle’s daughter, Charlotte O Bootle, and that she was born in 1830. In that regard, Mr Pratt argues firstly, that the return of slaves establishes that George Johnson Bootle had a daughter named Charlotte O Bootle, born in 1830; secondly, the marriage register establishes that Charlotte Seymour’s maiden name was Bootle; and thirdly, the death certificate establishes that Charlotte Seymour was born in 1830.

79. On the other hand, however, counsel for the defendants argues that there is no evidence that the writing on the face of the return of slaves is that of George Johnson Bootle. Further, that even if one were to assume that the return of slaves was a declaration by George Johnson

Bootle that he had a daughter named Charlotte O Bootle, to whom he gave three slaves in 1830, there was no connection between the name "Charlotte O Bootle" mentioned in the slave return and Charlotte Seymour, allegedly born Bootle, as there is no evidence showing that Charlotte Seymour, allegedly born Bootle, ever had a middle name that began with the letter "O"; or that Charlotte O Bootle ever married Delegal Seymour.

80. Counsel for the defendants also expressed doubt that Charlotte O Bootle would have been born in 1830 as, he argues, it is unlikely that the late George Johnson Bootle would have given three slaves to his infant daughter, as she would have been born the same year in which allegedly her father bought the slaves and gave them to her. In any event, counsel for the defendants points out, there is no connection or reference in the slave return to Charlotte Seymour. Therefore, he submits, it is highly improbable that Charlotte Seymour, allegedly born Bootle, was in fact the daughter of George Johnson Bootle. Counsel for the defendants submits further that the plaintiff's evidence as to whose daughter Charlotte Seymour, born Bootle, was, was in such a poor state that the Court ought out-rightly to reject his allegation that Charlotte Seymour, born Bootle, was the only child and heir of the late George Johnson Bootle and that she was born on or about 1830.

81. On the other hand, Mr Adams argues that the defendants have adduced evidence of a certified copy of the aforesaid indenture of warranty deed with the aforesaid recital that Charlotte Wylly Chambers, born Bootle, was the daughter and sole surviving heir-at-law of George Johnson Bootle.

82. Mr Adams also points out that the aforesaid Indenture makes no reference to the late Charlotte Bootle, the daughter of George Johnson Bootle, ever acquiring the surname "Seymour". In his submission, had Charlotte Bootle, who was the daughter of George Johnson Bootle actually acquired the surname "Seymour" prior to her death, as asserted by the plaintiff, her sole surviving heir-at-law would likely have made reference to that particular surname in the said indenture.

83. Therefore, counsel for the defendants submits, as no reference was made to the surname "Seymour", the reasonable inference to be drawn is that the Charlotte Seymour, born Bootle, through whom the estate of Ruel Pratt purports to have acquired an interest in the John Bootle Tract is, on a balance of probabilities, not the same person as "Charlotte Wylly Chambers, born Bootle", the daughter of George Johnson Bootle, the eldest son of John Bootle deceased. Consequently, counsel submits, the son of Charlotte Seymour, born Bootle, William Seymour is also unlikely a descendant of the late John Bootle or George Johnson Bootle.

84. The plaintiff actually agrees with counsel for the defendants that Charlotte Seymour, born Bootle, through whom the plaintiff claims to have acquired an interest in the John Bootle Tract, is not the same person as Charlotte Wylly Chambers.

85. Indeed, as indicated, one of the reasons the plaintiff sought to re-amend his writ of summons was so that he could plead that the late Charlotte Wylly Chambers was not born Bootle and that she was not the daughter and sole surviving heir-at-law of the late George Johnson Bootle as claimed in the aforesaid indenture/warranty deed.

86. Further, when Mr Adams, during his cross-examination of the plaintiff, inquired whether the plaintiff had any evidence to rebut the defendants' claim that Charlotte Wylly Chambers was the daughter and sole surviving heir-at-law of George Johnson Bootle, the plaintiff's response, as I understood him, was that his "evidence" was more what he had not been able to find than what he, in fact, had.

87. In that regard, Mr Pratt said that he had found no record of a birth certificate for Charlotte Wylly Chambers, born Bootle; that he had found no marriage record of George Johnson Bootle

to “any Wylyly or anybody else”; and that he had found no record of whether Charlotte Wylyly Chambers was in fact married.

88. Consequently, Mr Pratt asserted, not only was Charlotte Wylyly Chambers not born Bootle, but she was also not the daughter and sole surviving heir-at-law of George Johnson Bootle, as claimed in the aforesaid warranty deed.

89. However, as he was wont to do throughout these proceedings, Mr Pratt later resiled somewhat from that position in that during his closing arguments, he conceded that Charlotte Wylyly Chambers was born Bootle, a fact of which he says he was not aware when he filed his re-amended writ on 7 August 2014.

90. In that regard, Mr Pratt said that because of a comment by Mr Callender made during his cross-examination that he had “seen somewhere” that Charlotte Wylyly Chambers was born Bootle, during the adjournment, Mr Pratt, apparently, conducted further searches and was able to find evidence that Charlotte Wylyly Chambers was indeed born Bootle.

91. In that regard, Mr Pratt produced a copy of the Anglican Church Baptism Register for the period 1791 to 1840, on which was included a record of the birth of a Charlotte Wylyly on 26 June 1822 and whose parents were recorded as George and Sarah Bootle.

92. Consequently, the plaintiff submitted, the statement by Alice Julia Aikenhead in the 1921 indenture/warranty deed that Charlotte Wylyly Chambers, born Bootle, was the daughter and sole surviving heir of George Johnson Bootle is a false statement and that the true position is that Charlotte Wylyly Chambers, born Bootle, was the daughter of George Bootle, not George Johnson Bootle.

93. Mr Adams argued that while the word “Johnson” does not appear with the name George Bootle on the aforesaid baptism register, on its face, the register is consistent with the representation in the aforesaid warranty deed that Charlotte Wylyly Chambers was the daughter of George Bootle.

94. There is no dispute that the plaintiff has produced no birth certificate or baptism record for Charlotte O Bootle showing the names of her parents or her date or birth; nor has he produced any birth certificate for a Charlotte Bootle showing her father’s name as George Johnson Bootle; he has produced no record of a marriage between George Johnson Bootle and Charlotte O Bootle’s mother, or anyone else for that matter.

95. Interestingly, the plaintiff gave similar reasons for saying that Charlotte Wylyly Chambers was not born Bootle and that she was not the daughter of George Johnson Bootle, namely: that he had found no record of a birth certificate for her; that he had found no marriage record of George Johnson Bootle to “any Wylyly or anybody else”; and that he had found no record of whether Charlotte Wylyly Chambers was in fact married.

96. The plaintiff’s statement that he had found no marriage record of George Johnson Bootle to anyone, of course, raises the issue of whether his “Charlotte” could then be said to be the lawful daughter of the late George Johnson Bootle.

97. Further, it is unclear to me whether the note “born in 1830” on the aforesaid return of slaves related to Charlotte O Bootle to whom George Johnson Bootle purportedly gave three slaves or to the three slaves, or to both.

98. And, as counsel for the defendants points out there was no connection between the name Charlotte O Bootle mentioned in the return of slaves and the Charlotte Seymour, born Bootle in the marriage certificate; nor was there any evidence showing that that Charlotte Seymour ever had a middle name that began with the letter “O”; or that Charlotte O Bootle ever married Delegal Seymour.

99. The plaintiff argues that the "George Bootle" in the aforesaid Anglican Church Register and the "George Johnson Bootle" referred to in the warranty deed are two different persons. I merely note that when he had only found one death certificate for a "George Bootle", without a middle name or initial, the plaintiff was content to rely on that information as proof of the death of George Johnson Bootle and it was only after cross examination and a further search that he produced a death certificate for one George J. Bootle, which he now says relates to George Johnson Bootle. However, as Mr Adams points out, the "J" could mean any name that begins with a "J" and need not be for "Johnson" at all and this court has no way of knowing for sure because there is no other identifying information.

100. Moreover, the plaintiff did not provide the name of Charlotte O Bootle's mother or the name of George Johnson Bootle's wife, so there is no way for this Court to be able to say that the George Bootle in the Anglican Church Register was not George Johnson Bootle.

101. Furthermore, while the plaintiff suggests that the George Bootle to whom the 1872 death certificate relates is, or may be, the father of Charlotte Wyly Chambers, I note firstly, that that death certificate has no spousal information, so I cannot say that that George Bootle was the husband of Sarah Bootle; and secondly, if, as stated on the 1872 death certificate, that George Bootle was 55 years old in 1872, that means he would have been born in 1817. According to the plaintiff's evidence, Charlotte Wyly Chambers, born Bootle, was born in 1822, which means that at her date of birth, the George Bootle in the 1872 death certificate would have been five years old, whereas George Johnson Bootle, who was born in 1802, would have been 20 years old in 1822.

102. Furthermore, as I understand the plaintiff's evidence, as early as 1874, approximately 47 years before the 1921 warranty deed, Charlotte Chambers was the "purported daughter" of the late George Johnson Bootle, while there is nothing other than the return of slaves that suggests that George Johnson Bootle may have had a daughter named Charlotte O Bootle.

103. I, therefore, accept the submission of counsel for the defendants that the plaintiff has adduced no evidence to show that what is set out in the aforesaid recital in the 1921 indenture was inaccurate.

104. So, in my judgment, Mr Pratt's "new" evidence about Charlotte Wyly Chambers parents, even if it means what he argues it does, that is, that the recital in the aforesaid indenture/warranty deed is incorrect and that Charlotte Wyly Chambers was not George Johnson Bootle's daughter, to my mind that still does not assist the plaintiff in meeting his evidential burden of proving that Charlotte Seymour allegedly born Bootle was the only child and sole surviving heir-at-law of George Johnson Bootle as he asserts.

105. Indeed, even one of the plaintiff's witness, Eva Ash Simmons, testified that the late George Johnson Bootle had at least two children, Julia Ann Roberts and Charlotte Wyly Chambers.

106. And while, as Mr Adams pointed out the recital is more than 70 years old, it is not for the defendants in these proceedings to prove the correctness of the recital, but rather it is for the plaintiff to prove his claim, which, in my judgment, he has not.

107. So, looking at the evidence as a whole, I find that the plaintiff has not, in my judgment, proven that George Johnson Bootle had a daughter named Charlotte Seymour, born Bootle on or about 1830, nor has he proven that Charlotte Seymour, born Bootle, was the only child and heir of George Johnson Bootle as alleged in his re-amended writ of summons.

108. Consequently, I also find that the plaintiff has failed to prove, as alleged in his re-amended writ of summons, that on the date of his death, 31 July 1866, the late George Johnson

Bootle was survived by his only child, the late Charlotte Seymour, born Bootle, and his grandson and heir, the late William Seymour, legally and beneficially entitled to the said property and or the John Bootle Tract (less and except those two portions previously conveyed by the late George Johnson Bootle).

109. However, in the event I am incorrect in those findings and Charlotte Seymour, born Bootle was, in fact, the only child and surviving heir of the late George Johnson Bootle, and or for the sake of completeness, I go on to consider the plaintiff's other claims, including:

- (1) That the late William Seymour was born on 6 March 1864 to the late Delegal and Charlotte Seymour, born Bootle;
- (2) That the late Charlotte Seymour, born Bootle, died testate on 21 July 1892 survived by her oldest lawful son and heir the late William Seymour;

110. There is no dispute that William Lewis Seymour was born on 6 March 1864 to Delegal and Charlotte Seymour, whose maiden name was Bootle, as evidenced by the birth certificate adduced by the plaintiff.

111. As evidence of his claim that the late Charlotte Seymour, born Bootle, died testate the plaintiff in his first affidavit of heirship had referred to and adduced in evidence a "duly proven last will and testament" of one Charlotte Seymour, which was admitted to probate on 26 July 1892. In his third affidavit of heirship, as evidence of the late Charlotte Seymour born Bootle's death, the plaintiff exhibited a copy of a death certificate for one Charlotte Seymour whose date of death was 21 July 1892 and whose age at the date of death was 62 years.

112. Although the plaintiff no longer contends that Charlotte Seymour born Bootle was Charlotte Jane Bootle, the daughter of John and Margaret Bootle, who in 1892 would have been 88 years old, having been born in 1804, and whom he had earlier said was Charlotte Seymour, the testatrix of the will he had produced, the plaintiff nevertheless maintained his claim that the late Charlotte Seymour, born Bootle, the mother of William Seymour, died testate in 1892. He produced no evidence other than the aforesaid last will and testament dated 26 July 1892 as proof of the claim that Charlotte Seymour born Bootle died testate.

113. However, it is common ground that neither William Seymour nor any of the other children whom the plaintiff alleges had been born to Charlotte and Delegal Seymour is mentioned in the aforesaid last will and testament of Charlotte Seymour.

114. Further, nowhere in that will is there any indication that the testatrix, Charlotte Seymour, was born Bootle; nor is there any indication that she was the wife of Delegal Seymour, or the mother of William Lewis Seymour. Furthermore, there is no indication on the death certificate produced by the plaintiff as evidence of Charlotte Seymour's death in 1892 that she was born Bootle; or that she was the daughter of George Johnson Bootle; or that she was married to Delegal Seymour; or that she was the mother of William Lewis Seymour.

115. Indeed, the only "evidence" that the plaintiff has that the Charlotte Seymour whose last will and testament he produced was born Bootle is the aforesaid return of slaves which he says is evidence that George Johnson Bootle had a daughter Charlotte, born in 1830 who would have been 62 in 1892, the same age at her date of death as the Charlotte Seymour whose death certificate he produced.

116. So, while there is evidence that one Charlotte Seymour executed her last will and testament by marking her "X", which will was admitted to probate in or about July 1892; and while there is evidence that one Charlotte Seymour died on or about 21 July 1892, at the age of 62, there is no evidence that the Charlotte Seymour mentioned in the will is the same as the Charlotte Seymour mentioned in the death certificate, and even if they were the same person,

there is no evidence that she was the wife of Delegal Seymour or the mother of William Lewis Seymour. Furthermore, no bequests in the aforesaid will were made to William Lewis Seymour.

117. It is, therefore, unclear how the plaintiff can maintain his claim that the late Charlotte Seymour, born Bootle, was survived by her son and heir, the late William Seymour, notwithstanding that by the plaintiff's evidence, Charlotte Seymour, born Bootle, died testate, left a will, which he produced and which does not name William as a beneficiary there under. Indeed, when counsel for the defendants pointed that out to the plaintiff, he retorted: "a person can devise their land to whoever they feel like when they are dying; doesn't mean a thing."

118. In the circumstances, I find that the plaintiff has failed to prove his claim that the late William Seymour was the lawful son and heir of the Charlotte Seymour who died testate on or about 21 July 1892 as established by her duly proven last will and testament which was admitted to probate on or about 26 July 1892.

119. Next, the plaintiff claims that:

- (1) William Seymour married Jemima Adderley and they had one child, a daughter, Savelita aka Savalitha Seymour, who was born on 12 May 1887; and
- (2) William Seymour died, intestate, on 23 November 1941, survived by his only child and heir, Savalita aka Savelitha.

120. As proof of those claims, the plaintiff adduced in evidence the following documents:

- (1) Marriage certificate of William Seymour and Jemima Adderley showing date of marriage as 27 July 1886;
- (2) Birth certificate for a female child of the African race born on 12 May 1887 to William Seymour and Gemima Seymour nee Adderley;
- (3) Death certificate for William Seymour showing date of death as 23 November 1941.

121. The aforesaid marriage certificate for William Seymour and Jemima Adderley shows his age at the date of marriage, 27 July 1886, as 21. It seems to me that, having been born in March 1864, William Seymour, the son of Delegal and Charlotte Seymour, born Bootle, would have been 22 years old and not 21 as stated on the marriage certificate.

122. Nevertheless, I shall assume without deciding that the William Seymour who married Jemima Adderley is the William Lewis Seymour born on 6 March 1864 to Delegal and Charlotte Seymour, born Bootle.

123. Further, while I accept that a female child was born to William and Jemima aka Gemima Seymour, born Adderley, on 12 May 1887, as evidenced by the aforesaid birth certificate, it is common ground that that birth certificate does not include the Christian name or names of the said female child. However, the plaintiff asserts that that birth certificate, coupled with several other documents, shown hereunder, support his claim that it is the birth certificate of Savalita aka Savalitha Pratt born Seymour and that she was the only child of William and Jemima aka Gemima Seymour, born Adderley:

- (1) Marriage certificate for Savalita Pratt and Sylvasta Ferguson, which shows that at the date of their marriage, 11 December 1939, Savalita was 35 years old and widowed; that her father was William Seymour and she was living in Kemp Road, Nassau, New Providence;
- (2) Death certificate of one Sabalita Ferguson showing date of death as 4 December 1972; date of birth, 5 June 1893; age at date of death, 79; place of death, White Road, off Kemp Road, Nassau, New Providence.

- (3) A passport in the name of Savalita Ferguson whose maiden name was Seymour showing her date of birth as 12 May 1887;

124. It seems to me that if the Savalita born in San Salvador in 1887 was the same person who married Sylvasta Ferguson on 11 December 1939, at that date she would have been 52 years old and not 35 years old as stated in the marriage certificate. Further, by my calculation, a person who was born on 12 May 1887 and who died on 4 December 1972 would have been approximately 85, not 79, years old at the date of death; although a person born in 1893, as stated in the death certificate for Sabalita Ferguson would have been. Furthermore, that death certificate contained no spousal or marital status information.

125. It is likely that the discrepancy as regards the age at death was brought to the plaintiff's attention during his attempt to obtain letters of administration in the estate of the late Ruel Pratt, as he also adduced in evidence an undated letter from St Bede's Roman Catholic Church, addressed "to whom it may concern" stating, inter alia, that according to Parish records "Sabetita Pratt Ferguson" died on 4 December 1972 at the age of 85.

126. Regrettably for the plaintiff, I am not prepared on the basis of the aforesaid evidence to find that the birth certificate of the female child born to William and Gemima Seymour, born Adderley, on 12 May 1887, was that of Savalita aka Savalitha Pratt born Seymour. Furthermore, even if I am incorrect in that finding, in my judgment, the plaintiff has failed to prove that Savalita Pratt aka Savalitha Pratt aka Sabalita Ferguson aka Sabetita Pratt Ferguson was the only child of William and Gemima Seymour, born Adderley.

127. In that regard, Mr Pratt said that his claim that that Savalita aka Savalitha Seymour was the only child of William and Gemima Seymour, born Adderley was based on the fact that he had found no evidence of any other children born to them. However, in light of the several occasions on which Mr Pratt found other evidence after he had claimed that no such evidence existed, I am not minded to simply accept his "say so" as evidence that Savalita Pratt Ferguson born Seymour was the only child of William and Gemima Seymour.

128. As regards the claim in his re-amended writ of summons that the late William Seymour died intestate on 21 November 1942, the plaintiff avers at paragraph 16 of his 15 May 2014 affidavit that the late William Seymour died intestate on 23 November 1941, not 21 November 1942 as pleaded. That averment is supported by the copy death certificate of one William Seymour showing the date of death as 23 November 1941, at which date the plaintiff, having been born in March 1864, would have been 77 years old. However, the age at death recorded on that death certificate is 65.

129. On the other hand, the marriage certificate for William Seymour and Jemima Adderley shows William Seymour's age at the date of the marriage, 1886, as 21, which, by my calculation would have been his age at July 1886, having been born in March 1864. That fortifies in my mind that the death certificate produced by the plaintiff is not the death certificate for the William Lewis Seymour who was born in 1864.

130. In my judgment, therefore, the plaintiff has failed to prove his allegation that the William Seymour whom he alleges married Jemima Adderley in 1886 is the same William Seymour whose death certificate shows his date of death as 23 November 1941. In any event, that date of death is inconsistent with the plaintiff's claim in his re-amended writ of summons that the late William Seymour died on 21 November 1942.

131. I also note that on his birth certificate, the son of Delegal and Charlotte Seymour has the middle name of "Lewis". However, the death certificate adduced by the plaintiff as evidence of William Seymour's death does not include a middle name or initial. Further, there is no evidence other than the plaintiff's say-so that the late William Seymour died intestate.

132. In the circumstances, I find that the plaintiff has failed to prove his claim that the late William Lewis Seymour the son of Delegal and Charlotte Seymour, born Bootle, died on 21 November 1942 and that he died intestate.

133. As for his claim that Ruel Pratt was the lawful great-great-grandson of the late George Johnson Bootle, having been born to Whitfield and Savalita Pratt, it is common ground that the birth certificate on which the plaintiff relies to prove that claim does not include a Christian name or names of the male child born to Whitfield and Savalita Pratt on 17 May 1922.

134. However, in an affidavit of name filed in non-contentious probate action No. 00741 of 2010, Mr Allan Bannister, who at the date the affidavit was sworn was 95 years old, deposed that he made the affidavit "to establish the name of Ruel Pratt" and to establish that birth certificate No. 93898 is that of Ruel Pratt, the lawful son of the late James Whitfield Pratt and the late Savalitha Aramintha Pratt (born Seymour), whom he said he knew and that they were the parents of the late Ruel Pratt who was born in the Settlement of Tea Bay, Cat Island on 17 May 1922; and that he knew Ruel Pratt from the time of his birth up to the date of his death;

135. And while no marriage certificate evidencing a marriage between Whitfield Pratt and Savalita Pratt was produced in this action, in non-contentious probate action No. 00741 of 2010, Mr Bannister swore an "affidavit of marriage" in regard to the alleged marriage of James Whitfield Pratt aka Whitfield Pratt and the late Savalitha Aramintha Pratt.

136. According to Mr Bannister, he had been informed that a search was made in the Marriage Register at the Registry of Records and no record of a marriage between the late James Whitfield Pratt aka Whitfield Pratt and the late Savalitha Aramintha Pratt had been found and he made the affidavit to establish that James Whitfield Pratt aka Whitfield Pratt and the late Savalitha Aramintha Pratt were husband and wife.

137. In that regard, Mr Bannister deposed that it was a commonly known fact in the settlement of Tea Bay, Cat Island, that the late James Whitfield Pratt aka Whitfield Pratt and the late Savalitha Aramintha Pratt were husband and wife; that as far back as he could remember to the year 1922, they lived together in the same house until the death of James Whitfield Pratt aka Whitfield Pratt in 1930.

138. I am mindful that the aforesaid averments by Mr Bannister were all made in a non-contentious probate action and have not been tested by cross-examination.

139. I note that the copy marriage certificate for the marriage of one "Rueal" Pratt to Joanna Bannister on 26 February 1944, in Tea Bay Cat Island, shows "Rueal" Pratt's age as 21 and his father's name as Withfield Pratt. It is accepted that if the birth certificate on which the plaintiff relies to prove Ruel Pratt's birth on 17 May 1922 is indeed the birth certificate for the late Ruel Pratt, he would have been 21 years old on 26 February 1944, the date of the aforesaid marriage.

140. As evidence of the late Ruel Pratt's death, the plaintiff produced a copy of a death certificate showing his date of death as 10 May 1998 at the age of 75, the age a person born on 17 May 1922 would have been at 10 May 1998. However, the date of birth on that death certificate is shown as 18 June 1922 and not 17 May 1922. His marital status was shown as "divorced". I note also that while the death certificate shows that his ordinary residence was in Grand Bahama and his place of death was the Rand Memorial Hospital, in the probate documents he was said to have been "late of the Settlement of Tea Bay, Cat Island."

141. Further, according to the plaintiff, Whitfield aka Withfield Pratt, although married to Savalita aka Savalitha Pratt nee Seymour with whom he had several children, also had several "outside" children. Consequently, as pointed out by counsel for the defendants during his cross

examination of the plaintiff, and accepted by Mr Pratt, the marriage certificate for Ruel Pratt showing Withfield Pratt as his father was not evidence that Withfield aka Whitfield Pratt was married to Ruel Pratt's mother and that it could mean that Ruel Pratt was one of the children born outside of the marriage.

142. In another affidavit filed in the aforesaid non-contentious probate action, Mr Bannister averred that he knew that Ruel Pratt was the father of Franklyn Pratt; that his, Mr Bannister's, sister, Joanna Pratt (born Bannister) was Franklyn's mother: that Franklyn was born in the Settlement of Tea Bay, Cat Island on 28 December 1940; and he made that affidavit to establish:

- (1) The name of Franklyn Pratt and to establish that birth certificate No. 92266 is that of Franklyn Pratt, the lawful son of the late Ruel Pratt and the late Joanna Pratt (born Bannister); and
- (2) That Franklyn Pratt is the oldest son of the late Ruel Pratt and that his birth was legitimized by the marriage of Ruel Pratt to Joanna Pratt (born Bannister) on 26 February 1944.

143. Again, I am mindful of the fact that none of the averments by Mr Bannister in the non-contentious probate action was tested by cross-examination and while the aforesaid affidavits and averments no doubt served the purpose for which they were filed, in light of the claims being made in this case, I am not minded to make the findings which the plaintiff by his aforesaid pleading of his alleged documentary title by descent is asking the Court to make.

144. So, having reviewed the plaintiff's claim and his evidence in support, while it appears that some of the aforesaid evidence is capable of meaning what the plaintiff suggests it does, and, therefore, the plaintiff may have got parts of his alleged ancestral tree correct, I am constrained to agree with counsel for the defendants that overall the plaintiff's pleaded chain of title is so fragmented and or disjointed and contains so many irreconcilable discrepancies that it would be unsafe to find that the plaintiff has proven his claim that he has an entitlement to the John Bootle Tract, including the Property by virtue of his alleged title by descent.

145. I, therefore, find that on a balance of probabilities, the plaintiff has failed to prove his claim that he is the documentary title holder of the John Bootle Tract, including the Property by virtue of his title by descent/intestacy.

The plaintiff's documentary title by agreements of sale and assignments of such agreements

146. During his cross-examination of the plaintiff, Mr Adams suggested to Mr Pratt that his heirship claim or his claim based on rules of descent was filled with holes and defects, to which Mr Pratt responded: "In my pleading, my writ of summons, I claim through the Crown Grant to John Bootle, his heirs and assigns. So whether or not there are holes, defects in my affidavit of heirship is [sic] irrelevant. I claim also through the assigns of John Bootle."

147. As for who those assigns are, Mr Pratt said:

"The late John V Smith is the assign. The late Samuel Smith in his capacity as administrator of the Estate of the late John V Smith is the assign. Because the late George Johnson Bootle, whom you say is the owner of the land, conveyed a piece or parcel of the John Bootle land to the late Samuel V Smith. Your predecessor in title took a renunciation of dower from the widow of the late John V Smith in 1942. Where your predecessors in title admit Mr John V Smith was the owner in fee simple at the date of the death. That's who I claim through.

As an assign I state in my pleadings by virtue of the Crown Grant dated 15 December 1818 granted to John Bootle his heirs and assigns. That I am the owner in fee simple of the tract of land originally granted to John Bootle."

148. Mr Adams then pointed out to Mr Pratt that nowhere in his writ of summons did the plaintiff claim that Ruel Pratt's Estate had acquired title to the John Bootle Tract by virtue of an "assignment of anything".

149. To remedy that apparent defect in his pleading, at the close of the defendants' case on 14 March 2014, the plaintiff sought and was granted leave to amend his writ of summons.

150. On 21 March 2014, the plaintiff filed his amended writ of summons in which he claimed that in addition to being the "heirs" referred to in the 1818 Crown Grant, he is also the owner of the John Bootle Tract and the Property "by virtue of other documents of title including various agreements for sale and or assignments of agreements for sale", particulars of which are as follows:

- (1) An agreement for sale dated 18 July 2011 between the late Samuel Smith (in his capacity as administrator of the estate of John D. Smith) and the plaintiff in his personal capacity whereby the estate of the late John D Smith agreed to sell its interest in a 32.0 acre portion of the 300 acre Brinkman Tract and the John Bootle Tract, subject of the 1941 renunciation of dower and also all of the right title and interest of the vendor in the John Bootle Tract.
- (2) An assignment of Agreement for sale dated 17 October 2013 between the plaintiff in his personal capacity and the plaintiff in his capacity as administrator of the estate of the late Ruel Pratt of the aforesaid 32.0 acres and of the right title and interest of the assignor in the John Bootle Tract to the estate of the late Ruel Pratt.
- (3) An agreement for sale dated 5 March 2014 between Sherrick Smith (in his capacity as heir at law of the late John D Smith and the late Benjamin Smith; and the late Benjamin A Smith and Ricardo F Pratt (in his capacity as administrator of the estate of the late Ruel Pratt) whereby Sherrick Smith sold his interest in a 1.0 acre of land subject of the 1941 renunciation of dower and being a portion of the 32.0 acres land, forming a portion of the 300 acre Brinkman Tract and the John Bootle Tract, and also all of the right title and interest of the vendor in the John Bootle Tract.
- (4) An agreement for sale dated 25 July 2013 and made between John W Russell (in his capacity as Administrator of the estate of Willis Bernard Nesbitt) and Ricardo F Pratt (in his capacity as administrator of the estate of the late Ruel Pratt) whereby John W. Russell sold all of the right title and interest of the vendor in the John Bootle Tract.
- (5) An assignment of agreement for sale dated 5 March 2014 and made between Ricardo F Pratt in his personal capacity and Ricardo F Pratt (in his capacity as administrator of the estate of the late Ruel Pratt) whereby Ricardo F Pratt assigned all of the right title and interest of the assignor in the John Bootle Tract to the estate of Ruel Pratt.
- (6) An agreement for sale dated 21 December 2010 and made between Anthony Cooper in his capacity as Executor of the Estate of Julia Ash) and Ricardo F Pratt, the estate of Julia Ash sold its interest in a 10.0 acre portion of the 300.0 acre Brinkman Tract and the John Bootle Tract and also all of the right title and interest of the vendor in the John Bootle Tract.
- (7) An assignment of agreement for sale dated 5 March 2014 between Ricardo F Pratt and Ricardo F Pratt (in his capacity as administrator of the estate of Ruel Pratt) Ricardo F Pratt assigned his interest in the 10.0 acre portion of the John Bootle Tract; and also all of the right title and interest of the assignor in the John Bootle Tract to the estate of Ruel Pratt.

151. The plaintiff also used the opportunity to amend his writ of summons to allege that the Order of Jeanne Thompson J dated 18 May 2006 and the certificate of title dated 26 May 2006

in the 2005 Quieting Action were both forged documents which should be declared null and void and or set aside. He provided the following particulars of fraud/forgery:

- (1) At all material times after 28 April 2006 GBHC was a defunct dissolved legal entity that had no counsel and attorneys at law and lacked the juristic capacity to consent to, or authorize and had no knowledge of, the creation of the documents signed on the backing sheet "Counsel for the Petitioner";
- (2) The certificate of title dated 26 May 2006 and the Order of the Court dated 18th May 2006 were not drawn up by "Counsel for the Petitioner" as no Counsel and Attorney-at-Law had any authority to act for or on behalf of GBHC after it dissolved on 28th April 2006;
- (3) The order of the Court dated 18 May 2006 was not drawn up by a party to the 2005 Quieting Action in accordance with order 42 of the Rules of the Supreme Court 1978 Statute Laws of The Bahamas.

152. In support of those allegations, the plaintiff on 6 March 2014, the fourth day of the trial, filed his 12th affidavit in which he averred, inter alia, as follows:

- 1) The Indenture of Conveyance dated 4th January 1882 made between Charlotte Wyly Chambers and the Incorporated Trustees of the Church of England in the Bahamas recorded in Volume 0.8 at pages 225 to 226 ("the 1882 Conveyance") describes the land therein conveyed as:

"All that piece of land situate at Grand Bahamabounded on the East by Hope State... on the West by Rogers Nesbitt.... On the North by a Public Roadon the South by the Sea....". Emphasis supplied

Attached and exhibited hereto is a true copy of the 1882 conveyance marked "RFP-1".

- 2) According to the 1882 conveyance, the conveyance was signed sealed and delivered in the presence of Alice J Aikinhead who witnessed the late Charlotte Wyly Chambers sign the said 1882 conveyance, and who signed the conveyance as a witness thereto.
- 3) The Last Will and Testament of the late Ann Letisha Nesbitt dated 27th August 1928 and recorded in the Registry of records in book B.12 at pages 177 to 178 states that:

"...situated in The Bight, West End ... bounded on the North by the Sea, on the South by the Sea, on the East by land the property of Thomas King and West by land the property of the Church of EnglandI give devise and bequeath all the residue of my estate both real and personal, to my son Lawrence Nesbitt..."

Attached and exhibited hereto is a true copy of the Last Will marked "RFP-2".

- 4) The Last Will and Testament of the late Ann Letisha Nesbitt dated 27th August 1928 was duly proven by her lawful son and Executor, the late Lawrence Nesbitt who swore an Oath of Administrator in Supreme Court Probate Action No 8 of 1932 and described in the Schedule of Real Property, the land owned by the deceased as:

"...situated in The Bight West End ...bounded North by the Sea, South by the Sea, East by land of Thos King and West by land the property of Church of England..."

Attached and exhibited hereto is a true copy of the Oath of Administrator marked "RFP-3".

- 5) On the 25th February 1932 the late Lawrence Nesbitt was granted Probate in the Estate of the late Ann Letitia Nesbitt. Attached an exhibited hereto is a true copy of the grant of Probate marked "RFP-4".

- 6) By an Agreement for Sale dated 25th July 2013 made between John W Russell (in his capacity as Administrator of the Estate of Willis Nesbitt) and Ricardo F Pratt, the Vendor as the Heir-at-Law and the lawful great-grandson of the late Rogers Nesbitt and the late Ann Letisha Nesbitt agreed to sell his interest in the property, a portion of which was described in the 1882 Conveyance. Attached an exhibited hereto is a true copy of the Agreement for Sale marked "RFP-5".
 - 7) By an Assignment of Agreement for Sale dated 5th March 2014 and made between Ricardo F Pratt and Ricardo F Pratt (in his capacity as the Administrator of the Estate of Ruel Pratt), Ricardo F Pratt assigned his interest in the tracts of land described in the said Agreement for Sale, to the Estate of Ruel Pratt. Attached an exhibited hereto is a true copy of the Agreement for Sale marked "RFP-6".
 - 8) By an Agreement for Sale dated 21st December 2010 made between Anthony Cooper (in his capacity as Administrator of the Estate of Julia Ash) and Ricardo F Pratt the Estate of Julia Ash sold its interest in the tract of land therein described. Attached an exhibited hereto is a true copy of the Agreement for Sale marked "RFP-7".
 - 9) By an Assignment of Agreement for sale dated 5th March 2014 and made between Ricardo F Pratt and Ricardo F Pratt (in his capacity as the Administrator of the Estate of Ruel Pratt), Ricardo F Pratt assigned his interest in the tract of land to the Estate of Ruel Pratt. Attached and exhibited hereto is a true copy of the Assignment of Agreement for Sale marked "RFP-8".
 - 10) The late Samuel Smith by virtue of being the lawful son of the late James Smith and the late Emma Smith of the Settlement of West End, Grand Bahama, was granted Letters of Administration with the Will annexed de bonis non in the Estate of James Smith on 9th September 2010 in Supreme Court Probate Action No 00257 of 2010. Attached an exhibited hereto is a true copy of grant of Letters of Administration marked "RFP-9".
 - 11) The late Samuel Smith by virtue of being the lawful grandson of the late John D Smith and the late Lydia Williams (formerly Smith, nee Johnson) of the Settlement of West End, Grand Bahama, was granted Letters of Administration in the Estate of John Smith on 13th July 2011 in Supreme Court Probate Action No 00062 of 2011. Attached an exhibited hereto is a true copy of grant of Letters of Administration marked "RFP-10".
 - 12) That from reading the Renunciation of Dower of Lydia Williams to Marlinton, Limited dated 9th June 1941 and recorded in the Registry of Records in Volume D.15 at pages 366 to 377 ("the 1941 Renunciation of Dower") I verily believe that the late Lydia Williams was the widow of the late John D Smith.
 - 13) That from reading the Indenture of Conveyance from the late George Johnson Bootle to the late Joseph Johnson dated 2nd May 1866 and recorded in the Registry of Records in Volume V.7 at pages 266 to 267 ("the 1866 Johnson Conveyance") which was witnessed by the late Charlotte Wylly Chambers, and from reading the description of the land conveyed by the late George Johnson Bootle in the 1866 Conveyance, I verily believe that at the date of his death, the late John D Smith was the owner in fee simple of the land subject of the 1941 Renunciation of Dower, situate to the east of the property conveyed and being a portion of the John Bootle Tract.
 - 14) That the contents of this affidavit are true and correct to the best of my knowledge, information and belief.
153. The plaintiff had previously averred, inter alia, in his 9th affidavit filed on 26 February 2014, as follows:

- 1) By the Assignment dated 29th May 2008 from Franklyn J Pratt to Ricardo F Pratt, and made pursuant to the Choses in Action Act and for good and valuable consideration, all of the right title and interest of the assignor, as the heir referred to in the Crown Grant to John Bootle his heirs and assigns dated 15th December 1818, was assigned to Ricardo F Pratt. Attached and exhibited hereto is a true copy of the Assignment marked "RFP-1".
- 2) By an Indenture of Conveyance dated 2nd May 1866 and made between the late George Bootle and the late Joseph Johnson recorded in the Registry of Records in Volume V-7 at pages 266 to 267 ("the 1866 Johnson Conveyance"), the late George Bootle conveyed in fee simple, his share and interest in a 25.0 acre portion of the John Bootle Tract to the late Joseph Johnson. Attached and exhibited hereto is a true copy of the 1866 Johnson Conveyance marked "RFP-2".
- 3) The 1866 Johnson conveyance contains the recital by the late George Bootle, which is more than 130 years old, that:

"...the said twenty five acres of land bounded as follows: on the East by John D Smith being a moiety of the said nine hundred and sixty acres... the same being laid out by the original Survey and upon which the Quit rents have been duly commuted."
- 4) By a Renunciation of Dower dated 9th June 1941 and made between Lydia Williams and Marlinton, Limited and recorded in the Registry of Records in Volume D.15 at pages 366 to 377 ("the 1941 Renunciation of Dower") the widow of the late John D Smith renounced her dower in a 32.0 acre portion of the John Bootle Tract, referred to by the late George Bootle in the 1866 Johnson Conveyance and described as John D Smith. Attached and exhibited hereto is a true copy of the 1941 Renunciation of Dower marked "RFP-3".
- 5) The 1941 Renunciation of Dower contains the recital, which is more than 60 years old, that Lydia Williams was the Widow of the late John Smith and it also contains the recital that:

"Whereas the said late John Smith at the time of his death was seized and possessed as tenant in fee simple in possession of the hereditaments and premises hereinafter describedthe said Lydia Williams doth hereby grant remise release and quit claim unto the Company and their assignswhich she then said Lydia Williams hath or may claim of in or to All that piece or parcel of land situate to the East of the Settlement of West Endcomprising a portion of the tract of land originally granted to John Bootle".
- 6) By a purported Indenture of Conveyance dated 7th May 1941 and made between Wilfred Smith and James Smith to Marlinton, Limited and recorded in the Registry of Records in Volume A.15 at pages 318 to 319 ("the 1941 Wilfred and James Smith Conveyance") the late Wilfred Smith and the late James Smith, purported to convey the fee simple state in the 32.0 acres, which fee simple estate was at all material times vested in the Estate of John D Smith. Attached and exhibited hereto is a true copy of the 1941 Wilfred & James Smith Conveyance marked "RFP-4".
- 7) The late Wilfred and James Smith, being the sons of the late John D Smith and the late Lydia Williams (formerly Smith), had no grant of Letters of Administration in the Estate of John D Smith and at the date of the 1941 Wilfred and James Smith Conveyance, the late Wilfred and James Smith was not vested with the fee simple estate in the 32.0 acres to convey to Marlinton, Limited.
- 8) The late John D Smith died intestate on 6th January 1890, and according to Section 50(1) of the probate and Administration of estate Act, 2011; and or Section 10(1) (2) of the Administration of Estates Act (now repealed), his real estate, including the 32.0 acre portion for the 179.81 acres being a portion of the John Bootle Tract, vested in a Justice of the Supreme Court until the grant of letters of administration.

- 9) On 18th July 2011 the late Samuel Smith, being the grandson of the late John D Smith and the late Lydia Williams (formerly Smith), was granted Letters of Administration in the Estate of John D Smith and in his capacity as Administrator, became vested with the fee simple estate in the 32.0 acres, subject of the 1941 Renunciation of Dower; and the purported 1941 Wilfred and James Smith Conveyance. Attached and exhibited hereto is a true copy of the Letters of Administration marked "RFP-5".
- 10) By an Agreement for Sale dated 18th May 2011 [18 July 2011] and made between the Estate of John D Smith and Ricardo F Pratt ("the 2011 Agreement for Sale") recorded in the Registry of Records in Volume 11874 at pages 265 to 271, the Estate of John D Smith sold its interest in the 32.0 acre portion of the John Bootle Tract referred to in the recitals contained in the 1866 Johnson Conveyance and the 1941 Renunciation of Dower, and which said recitals are more than 65 years old at the date of the contract. Attached and exhibited hereto is a true copy of the Agreement for Sale marked "RFP-6".
- 11) By an Assignment of Agreement for Sale dated 17th October 2013 all of the rights and interest in and to the 32.0 acres of land subject of the 2011 Agreement for Sale was assigned to the Estate of Ruel Pratt. Attached and exhibited hereto is a true copy of the Assignment marked "RFP-7".
- 12) That I have reviewed a portion of a plan with several names handwritten on it by Bradley W Callender and which was submitted to the Court in Supreme Court Equity Action No 511 of 2005 ("the 2005 Quieting Action") and it identifies a portion of the 179.71 acres of land (being a portion of the 300.0 acres referred to as the Brinkman Tract) subject to the 2005 quieting Action as Wilfred & James Smith and Brinkman Estate. Attached and exhibited hereto is a copy of the portion of the plan marked "RFP-8".
- 13) That I have read the Abstract of Title filed by Grand Bahama Hotel Company ("GBHC") in the 2005 Quieting Action on 17th May 2005 and GBHC failed to disclose the 1941 Renunciation of Dower for the 32.0 acres, being a portion of the 179.81 acres subject matter of the Petition of GBHC. Attached and exhibited hereto is a true copy of the Abstract of Title marked "RFP-9".
- 14) Bradley W Callender stated in The Abstract of Title of GBHC, that GBHC only had a good and marketable title to the 25.0 acre strip subject of the Indenture of Conveyance from Joseph Hollingsworth to GBHC dated 25th June 1976; and he also stated that:

"The title held by Grand Bahama Hotel Co. to the rest of the property the subject of this Abstract is possessory only and accordingly is **not good and marketable.**"
(*Emphasis supplied*)
- 15) The Abstract of Title of GBHC also stated that GBHC had no color of title and was to in possession of the 1/3 Easternmost portion of the 300.0 acre tract called and known as "the Brinkman Estate"; (containing 100.0 acres of the 179.71 acres) nor the portion identified as "John Barr" (containing 6.10 acres of the 28.59 acres).
- 16) Grand Bahama Hotel Company and its agent Bradley W Callender, admitted to the Court in the Abstract of Title filed in the 2005 Quieting Action, that the title of GBHC to the remaining portion of the land subject of the Abstract of Title (being the 179.81 acres and the 28.56 acres) was possessory and not good and marketable; and GBHC failed to file two (2) affidavits as to its possession under the Limitation Act, as required by Section 4(g) of the Quieting Titles Act, 1959 Ch 393 of the Statute Laws of the Bahamas.
- 17) Notwithstanding the previous admission that GBHC had no color of title and was not in possession of 100.0 acres and 6.10 acres in fee simple; Grand Bahama Hotel

Company and its agent, Bradley W Callender claimed in the purported Indenture of Conveyance from GBHC to GINN dated 27th April 2006 the GBHC was seized in fee simple in possession free from encumbrances of the hereditaments and premises; which included the 100.0 acres of the 179.81 acres and 6.10 acres of the 28.59 acre portions of the 300.0 acre Brinkman Tract.

- 18) That from reading Section 366 and Section 368 of the Penal code Ch 84 of the Statute Laws of the Bahamas; and the Abstract of Title of GBHC and the petitioner's outline of submissions filed in the 2005 Quieting Action, and by virtue of being seized of the Equity of Redemption and the fee simple estate in possession of the John Bootle Tract, in reliance on the 1818 Crown Grant; and the Last Will and Testament of the late John Bootle; and the 2011 Agreement for Sale, I verily believe that the purported Indenture of Conveyance from GBHC to GINN dated 27th April 2006, which was drawn up by Bradley W Callender, is a forged document of title for the 100.0 acre and 6.10 acre portions of the 300.0 acre Brinkman Tract which was granted by King George III to John Bootle his heirs and assigns forever by a Crown Grant.
- 19) I have read the Judgment of the Hon Madame Justice Jeanne I Thompson (as she then was) dated 18th May 2006 and according to the Learned Judge, the petitioner revealed the Agreement for Sale dated 25th March 2005. Attached and exhibited hereto is a true copy of the Judgment marked "RFP-10".
- 20) That from reading the said Judgment, and the affidavit of Bradley W Callender filed in the Bahamas Court of Appeal, and the affidavit of Paul Roy Hanson filed in this action as the authorized agent of Ginn-LA West End, Limited; I verily believe that Bradley W Callender, as Counsel for the Petitioner, lied to the Hon Madame Justice Jeanne I Thompson (as she then was), and as an authorized agent of GINN also lied to the Bahamas Court of Appeal in SCCivApp No 49 of 2006, that there was an Agreement for sale dated 25th March 2005 made between GBHC and GINN.
- 21) GINN and Bradley W Callender and their agent, Graham, Thompson & Co, lied to the Court in paragraph 5 of the 1st and 2nd defendants statement of facts filed in Supreme Court Equity Action No 2008/CLE/gen/FP/00400 on 1st September 2010 and falsely stated that:

"5. Grand Bahama Hotel Co, had earlier agreed to sell the subject property to the 1st defendant under an Agreement for Sale dated March 25, 2005".

Attached and exhibited hereto is a true copy of the 1st and 2nd defendant's statement of facts marked "RFP-11".
- 22) GINN and Bradley W Callender and their agent, Graham, Thompson & Co, also lied to the Court in paragraph 19 of the Defence of the 1st and 2nd defendants filed in Supreme Court Equity Action No 2008/CLE/gen/FP/00400 on 21st April 2008, and falsely stated that:

"19. ...Grand Bahama Hotel Co, had earlier agreed to sell the subject property to the 1st defendant under an Agreement for Sale dated March 25, 2005...."

Attached and exhibited hereto is a true copy of the Defence of the 1st and 2nd defendants marked "RFP-12".
- 23) GINN and their agent, Graham, Thompson & Co, also lied to the Court in paragraph 27 of the defence filed in Supreme Court Equity Action No 2008/CLE/gen/FP/00178 on 27th October 2008, and falsely stated that:

"27The defendant avers that it is entitled to the legal and equitable estate of the subject property in Equity Action No 511 of 2005 by virtue of the said Agreement for Sale dated March 25, 2006 ...made between Grand Bahama Hotel Co and the defendant."

Attached and exhibited hereto is a true copy of the Defence marked "RFP-13."

- 24) On 28th April 2006 Grand Bahama Hotel Company dissolved and ceased to exist all around the world, and after its dissolution, had no Counsel & Attorneys-at-Law and had no agents. Attached and exhibited hereto is a true copy of the Certificate of Dissolution marked "RFP-14".
- 25) On or about 18th May 2006 Grand Bahama Hotel Company had no agents and had no counsel & attorneys-at-Law to draw up the document titled "Order", which was drawn up by someone who was not a party to the 2005 Quieting Action and in violation of Order 42 rule 5(4) (5) of the Rules of Supreme Court 1978.
- 26) After GBHC ceased being a legal entity on 28th April 2006, someone falsely pretending to be the agent of a non-existent GBHC, and without the consent or authorization of the defunct GBHC, typed on the backing sheet of the document(s) titled "Certificate of Title" and "Order", "...Counsel for the Petitioner" and the document(s) titled "Certificate of Title" and "Order" was filed in the Supreme Court Registry on 29th May 2006. Attached and exhibited hereto is a true copy of the documents titled "Certificate of Title" and "Order" marked "RFP-15".
- 27) That from reading the Certificate of Dissolution of GBHC and Section 70 of the Penal Code Ch 84 of the Statute Laws of the Bahamas, I verily believe that the document(s) titled "Certificate of Title" and "Order" are forged documents.
- 28) That the contents of this affidavit are true and correct to the best of my knowledge, information and belief.

154. Further, while Mr Pratt, under cross-examination, agreed with counsel for the defendants that the two parcels of land purportedly acquired by him, in his personal capacity, from Mr John Russell, that is, tract C comprising 63.45 acres and parcel D comprising 82.49 acres do not fall within the boundaries of the Property, the subject of the 2006 certificate of title, he said that they are portions of the John Bootle Tract referred to as Nesbitt Town.

155. And while he admitted that the aforesaid assignment of agreement whereby he purports to assign to the estate of Ruel Pratt the interest which he purportedly acquired in Tracts C and D aforesaid, as well as the 960 acres, had only been executed by him three days after the trial started, which meant that he, in his personal capacity, was asserting at that time that he had the entitlement and interest to the property, Mr Pratt, nevertheless, disagreed with counsel for the defendants' suggestion that the estate of Ruel Pratt did not have the interest that he purported to assign to it under that agreement prior to 5 March 2014, the date of the assignment.

156. In his witness statement filed 6 March 2014, Mr Anthony Cooper, averred, inter alia, that his great-grandmother, the late Beatrice Elizabeth Williams was the owner of the John Bootle Tract at the date of her death and by her duly proven Last Will and Testament dated 16th April 1945, she gave the John Bootle Tract to her children; that a deed of assent was prepared by Edward Williams, the executor of the estate of Beatrice Williams in favor of the late Julia Ann Ash, in whose estate he, Mr Cooper, was appointed administrator with the will annexed.

157. Under cross examination Mr Cooper said that Julia Ann Ash was his grandmother; that he is the "my dear grandson Anthony" referred to in her last will and testament to whom a specific bequest had been made and that by the terms of the will he had no entitlement to the residue of his grandmother's estate. Mr Cooper admitted having entered into an assignment in or about 6 July 2010 with Theresa Cooper in which she, as a grandchild of Julia Ash, purported to transfer whatever claims and interests she had in the late Julia Ash's estate to him. He also admitted that he had commenced proceedings in Supreme Court Action No. 2007/CLE/GEN/FP0145 against Grand Bahama Hotel Company and GINN-LA West End Limited in which he claimed that he was the grandson and a devisee under the will of Julia Ann Ash and that he was entitled to an undivided share in the residuary estate of Julia Ann Ash. He agreed with counsel for the defendant that that claim was incorrect.

158. When asked whether he still owned the rights that had been assigned to him by Theresa Cooper, Mr Cooper said that he “may have transferred them to someone else”. He then admitted that he had “transferred them to Mr Ricardo Pratt about the last day or so”, that is, on 5 March 2014, two days into the trial. Mr Cooper also admitted that he was not the personal representative of the estate of the late John Barr or the estate of the late Audley Russell.

159. The plaintiff’s next witness, Mrs Eva Ash Simmons, said that she is the daughter and second oldest child of Julia Ann Ash and that she was born in 1932 in West End, Grand Bahama. Her father’s name was John Richard Ash. She had two brothers, Frank Ash and Kenneth Ash, both of whom were deceased. She said that Beatrice Williams was her grandmother, and that she had died testate; that Edward Williams, who is now deceased, was the first executor of her estate and he did deeds of assent to the beneficiaries of Beatrice Williams’ will, one of which was done in favour of her mother, Julia Ann Ash, about 40 to 45 years ago. She said that all of her life she was told by her grandmother that the property belonged to her family and now it belonged to her; that Julia Ann Roberts was Beatrice Williams’ mother and that Charlotte Chambers was her great-grandaunt.

160. Mrs Simmons said that her brother was appointed the second executor of the estate of Beatrice Williams. She is aware of an agreement between her late brother Frank Ash and Grand Bahama Hotel Company. She said she had objected to that agreement; that as the great-great-granddaughter of John Bootle through George Bootle, she owns the John Bootle Tract. She said that she had not heard that Charlotte Chambers was married; that she had heard that she was the sister of her great-grandmother. She said she had never seen Alice Julia Aikenhead in West End, although she had heard that she and Charlotte Chambers were there.

161. Under cross-examination Mrs Simmons said that Julia Roberts was her great-grandmother; and according to her knowledge, Julia Roberts’ father was John Bootle. When counsel for the defendants asked her whether it was John or George, she said “there was so many Bootles, it’s hard for me to decipher. I heard John.”

162. Mrs Simmons said that so far as she had heard she was connected to George Bootle through John Bootle. She said she did not know the full history of “what Bootle had what son”. As for Charlotte Chambers, she said she did not know if Charlotte Chambers had a middle name or another surname Wyly; that the only thing she was told was that she was the sister of her great-grandmother by the name Julie Ann Roberts.

163. As I understood Mr Sherrick Smith’s evidence, he was the son of Benjamin Ashwell Smith who died on 17 April 1993; his grandfather was also named Benjamin Smith and his great grandfather’s name was John Smith; that he has been living on the aforesaid 32 acres of land for about 34 years; that the house is situated on Bayshore Road; that both his father and grandfather lived there; that he is the oldest great grandson of the late John D Smith and Lydia Williams and he is in charge of the 32 acres.

164. Under cross-examination Mr Smith said that Wilfred and James Smith were his grandfather’s brothers. Initially, Mr Smith had said that he knew nothing about them selling the aforesaid 32 acre tract. However, he later admitted that his granduncles had sold the 32 acre tract to Marlinton Limited in May 1941.

165. Mr Smith identified an agreement for sale dated 5 March 2014 in favour of Ricardo Pratt. He said he understood that by that document he was selling a one acre portion of the 32 acres to Mr Pratt, although he agreed the entire tract had been sold by his uncles to Marlinton Limited prior to his birth. He said that although the agreement called for the payment of \$10, he had not yet been paid the money; that the balance was payable on completion of this trial; and

although he had signed the agreement, the price indicated therein was untrue as he and Mr Pratt had not yet agreed the purchase.

166. According to Mr Smith, Mr Pratt was the one who prepared the diagram on which the one acre on the back road known as Queen's Highway that he was selling to Mr Pratt was identified. He said that Mr Pratt also prepared the agreement on his behalf and that he had decided to give Mr Pratt the one acre as payment for "doing the papers" for him.

167. Although he admitted that he signed the agreement for the transfer to Mr Pratt of the aforesaid one acre parcel of the 32 acre tract, Mr Smith agreed with Mr Adams that he did not own any part of that tract.

The defendant's evidence

168. In his witness statement filed 31 January 2014, Mr Bradley W. Callender stated, *inter alia*, that he was retained to investigate, and he undertook an examination of, the title to some 2,000 acres of property at the extreme western end of Grand Bahama; that after completing his investigation which took approximately two years, he prepared several abstracts of title relating to the various tracts of land which comprise the total area being investigated.

169. According to Mr Callender, in rendering his abstracts of title, he was of the opinion that GBHC enjoyed a good fee simple and marketable title to the entire 2,000 acre tract. However, due to a possible ambiguity in the description of a portion of the property comprising the extreme western end of the John Bootle Tract, he advised that a certificate should be sought on behalf of GBHC pursuant to the provisions of the Quieting Titles Act in respect of a parcel of land situate towards the middle of the said 2,000 acre tract.

170. Mr Callender said that the services of Sir Orville Turnquest Q.C. were retained to commence the Quieting Titles Action No. 511 of 2005 ("the 2005 Quieting Action") and he was retained to act as Sir Orville's junior as he was familiar with the title to the property. He said he prepared an abstract of title dated 17 May 2005 and an amended abstract of title dated 14 March 2006 for use in the 2005 Quieting Action with respect to the Property.

171. Further, Mr Callender said, Supreme Court Action No. 59 of 2005 was brought by the first defendant against GBHC seeking a declaration that the property conveyed by virtue of the Conveyance dated 18 June 1968 between Charles Addison Sammons in his personal capacity and as personal representative of the estate of the late Rosine Sammons and GBHC included all of the property described in the Schedule to that Conveyance and which the Court so declared by order dated 18 August 2005. According to Mr Callender, that declaration was sought to support the title claimed by GBHC and which it intended to convey to the first defendant.

172. Mr Callender's evidence is that the declaratory judgment of the order issued by Lyons J. declared that the same conveyance dated 18 June 1968 "effectively vested within GBHC the entire fee simple estate in all of the tracts of land described in the first schedule thereto"; and the Property was described at item 5 of the schedule to that conveyance.

173. Further, he said, in the 2005 Quieting Action, a good documentary title to the Property sufficient to satisfy the court was produced in favour of GBHC and resulted in the issuance of the 2006 certificate of title to the first defendant which stepped into the shoes of GBHC pursuant to the agreement abstracted in those proceedings.

174. In response to the "new matters" raised by the plaintiff in his 9th and 12th affidavits, Mr Bradley W. Callender in his affidavit filed 11 March 2014 averred, *inter alia*, as follows:

1. I have reviewed the 9th affidavit of the plaintiff filed on February 26, 2014 and I have reviewed the 12th affidavit of the plaintiff filed on March 6, 2014, and note that there

are a number of new matters which have been raised by the plaintiff in each of the aforesaid affidavits which I did not address in my witness statement filed on the 31st January 2014.

9th affidavit of plaintiff

2. On behalf of the defendants I now address the new matters raised in the 9th affidavit of the plaintiff as follows:

- (1) At paragraphs 4 and 5 thereof, from the description given in the conveyance of 2nd May 1866 it is not possible to identify the property comprising the 25 acre parcel described as a portion of the John Bootle Tract. The property is not described by reference to a plan and the plaintiff has not provided an explanation as to the exact location of this 25 acre parcel.
- (2) At paragraphs 6 through 10 thereof, the plaintiff has questioned the validity of the Indenture of Conveyance dated the 7th May 1941 made between Wilfred Smith and James Smith as vendors and Marlintown Limited as purchasers of a parcel of land comprising 32.0 acres situate within the vicinity of the settlement of West End on the Island of Grand Bahaman and forming part of the tract of land originally granted by the crown to John Bootle, the subject of these proceedings. I respond to those assertions of the plaintiff as follows:
 - (a) By the indenture of conveyance dated the 7th May 1941, Wilfred Smith and James Smith granted and conveyed unto Marlintown Limited, all those pieces or parcels of land situate to the East of the Settlement of West End in the Island of Grand Bahama comprising portions of the tract of land originally granted to John Bootle ("the said hereditaments"). The said Indenture of Conveyance ("the Wilfred and James Smith Conveyance") is now of record in the Registry of Records in Book A.15 pages 318 to 319. The said hereditaments are more particularly described and are shown coloured green and pink on the plan attached to the Wilfred and James Smith Conveyance, a true copy of which is attached and exhibited hereto as "BWC-3"
 - (b) By a renunciation of dower dated 7th May 1941, Emma, the wife of James Smith, remised released and renounced her dower in and to the said hereditaments to Marlintown Limited. This document is recorded in the Registry of Records in Book W.14 pages 373 to 375. Attached and exhibited hereto is a true copy of the Renunciation of Dower of Emma the wife of James Smith marked "BWC-4"
 - (c) By a notarial declaration dated the 8th May 1941 made by Thomas Johnson and now of record in the Registry of Records in Book D.15 pages 26 to 27 the said Thomas Johnson declared, inter alia, that the said Wilfred and James Smith, with whom he was well acquainted, had been in "...quiet undisturbed and undisputed possession..." of the said hereditaments "...for the past 40 years...". Attached and exhibited hereto is a true copy of the said notarial declaration of Thomas Johnson marked "BWC-5"
 - (d) By a notarial declaration dated the 9th May 1941 made by Alfred Hanna and now of record in the Registry of Records in Book D.15 pages 28 to 29 the said Alfred Hanna declared, inter alia, that the said Wilfred and James Smith, with whom he was well acquainted, had been in "...quiet undisturbed and undisputed possession..." of the said hereditaments

"...for the past 40 years...". Attached and exhibited hereto is a true copy of the said notarial declaration of Thomas Johnson marked "BWC-6"

- (e) By a release of dower dated the 9th June 1941 Lydia Williams, the widow of John D. Smith granted remised released and quit claim of her dower in and to the said hereditaments to Marlinton Limited. This document is recorded in the Registry of Records in Book W.14 pages 366 to 369 and not in Book D.15 at pages 366 to 377 as stated by the plaintiff. Attached and exhibited hereto is a true copy of the release of dower of Lydia Williams the widow of John D Smith marked "BWC-7"
 - (f) By a renunciation of dower dated 14th May 1941 Annie Louisa the wife of Wilfred Smith remised released and renounced her dower in and to the said hereditaments to Marlinton Limited. This document is recorded in the Registry of Records in Book W.14 pages 376 to 377. Attached and exhibited hereto is a true copy of the release of dower of Annie Louisa the wife of Wilfred Smith marked "BWC-8"
- (3) I presently have custody of the originals of the documents of title listed above. I am holding the same on behalf of DuPuch & Turnquest & Co. who were the attorneys for the first defendant at the time of my preparation of the abstracts of title exhibited by me to my aforesaid witness statement filed in these proceedings.
 - (4) As to paragraph 9 thereof, contrary to the assertions made therein, the said conveyance of the said hereditaments dated 7th May 1941 by Wilfred Smith and James Smith to Marlinton Limited was by virtue of their possessory title in and to the said hereditaments having been in "quiet undisturbed and undisputed possession..." of the same for a period of 40 years, and not by virtue of any claim made through the estate of any of their ancestors.
 - (5) As to paragraph 15 thereof, the renunciation or release of dower referred to was not produced as I had no notice of it and it was not amongst the documents provided to me in 2003 when I commenced my title investigations. Further I did have possession of the two dowers by the wives of James and Wilfred Smith which I would mention, were also not abstracted.
 - (6) As to paragraph 16 thereof, with regard to the title held by Grand Bahama Hotel Co (GBHC) I stated in the abstract of title filed in the Quieting Title Action No. 511 of 2005, that GBHC enjoyed a good possessory title to all of the 300 acre Brinkman Tract inclusive of the John Barr 6.10 acres and the eastern most portion of the Brinkman Estate but that the possessory title to the John Barr 6.10 acres and the eastern most portion of the Brinkman Estate was not under "colour of title" in that we were unable to find any recorded documentation for those pieces. However by virtue of the 1968 conveyance by Sammons to GBHC which conveyed the fee simple to all of the tracts described in the schedule, including that at item 5 therein, GBHC enjoys a good fee simple title to all of the properties set out in the said 1968 Conveyance an as supported by the ruling of Justice Lyons in Action No. 59 of 2005.
 - (7) As to paragraph 17 thereof the abstract makes no mention of the "100" acres lacking "color of title".
 - (8) As to paragraph 18 thereof with the production to the Court of the several conveyances dated 1941 comprising the major portion of the Brinkman property it was the opinion of Counsel that those documents were sufficient evidence of possession and they were accepted by the court as such.

- (9) As to paragraph 19 thereof the ultimate root of title to all the properties was the 1968 conveyance to GBHC, Justice Lyons in his ruling in Action No. 59 of 2005 declared that the '68 Conveyance was effective in vesting GBHC with all of the properties set out in the schedule to the Conveyance. Attached and exhibited hereto is a true copy of the said Order of Lyons, J in Supreme Court Action 2005/CLE/GEN/FP/0059 and marked "BWC-9"
- (10) As to paragraph 20 thereof, I refer to the abstract of title filed in support of the 2005 petition for Quieting Title in which it clearly states that the date of the agreement is the 23rd March 2005 between GBHC and the first defendant. In preparing the judge's ruling the secretary obviously made a typographical error by typing "25" instead of "23" and it is unfortunate that the error was carried through to several subsequent documents and pleadings. There is no agreement between the parties dated 25th March 2005. It was an honest mistake which resulted from a typographical error in the preparation of the judge's ruling.
- (11) As to paragraphs 26 and 27 thereof, any attorney would know that the backing sheets to the Order and the Certificate must reflect that they are signed by counsel for the petitioner and there is no question that the original petitioner was GBHC.

12th affidavit of plaintiffs

- 3. On behalf of the defendants I now address the new matters raised in the 12th affidavit of the plaintiff as follows:
 - (1) As to paragraph 4 thereof, the conveyance by Charlotte Chambers to the Trustees of the Church of England describes the property as bounded on the East by Hope State on the West by Rogers Nesbitt on the North by a Public Road and on the South by the Sea. There is no plan attached to this conveyance and the property is not described by reference to a plan.
 - (2) To assist the court with the location of the various parcels of land abstracted in the abstract of title filed in the Quieting Title Action No. 511 of 2005, I produced to the court a copy of a survey plan prepared and revised by Nassau Engineering Co Ltd in 1948 and 1955 respectively ("Nassau Engineering Plan"). Attached and exhibited hereto is a true copy of the Nassau Engineering Plan marked "BWC-10"
 - (3) From the Nassau Engineering Plan we see that the property owned by the Church of England is bounded on the West by Lawrence Nesbitt and on the East by Christina Russell. Also note that the reference on the said plan of the said property of the Church of England has endorsed thereon 4th January 1882-08,225 which is the same reference given the document in the plaintiff's affidavit. The location of this property is situate well to the east of the property the subject of the 2005 Quieting Title Action and according, the property conveyed to the Church was a part of the property the subject of the certificate of title dated 20th June 1960 for 810 acres in favour of Grand Bahama Properties Limited.
 - (4) As to paragraph 6 thereof, the devise in the Will of Ann Letisha Nesbitt was made in favour of Christina Uterpe Russell and the subject of the devise is property described as bounded on the North by the Sea, on the East by Thomas King and on the West by the Church of England. The Nassau Engineering Plan shows that the property described in the devise to Christina Uterpe Russell is to the East of and immediately adjacent to the property conveyed to the Church of England by the 1882 conveyance. The Nassau

Engineering Plan shows the property belonging to Christina Russell as bounded on the east by Thomas King and on the West by the Church of England. Here again, this property is situate in the Eastern portion of the John Bootle tract, and as with the Church of England property, was part of the property the subject of the 1960 certificate of title. This property comprises no portion of the property the subject of the 2005 certificate of title to Ginn.

- (5) As to paragraph 9 thereof, it is noted that there is attached to the agreement for sale marked "RFP-5", a survey plan showing the 63.45 and 82.49 acres which the plaintiff suggests represents the property the subject of the 1882 conveyance. The plan attached to this exhibit "RFP-5" was prepared by Riviere & Associates ("the Riviere Survey"). At the top right portion of the Riviere Survey, the property to the East of the rectangular portion marked "Tract B" is stated as "said to be the property of Thomas King" which description corresponds with the properties as they appear on the Nassau Engineering Plan of 1948/55. Further, the notation at the top left portion of the Riviere Survey has a notation "Vincent Tracts B.C.&D." to the northwest of the parcel shown as tract "A". Accordingly, the position of the property comprising the 63.45 acres and the 82.49 acres fall between the Shadrach Silvanus Vincent Tract and Thomas King tract as shown on the Nassau Engineering plan, and further, the property shown in the Riviere Survey would comprise the tracts marked Lawrence Nesbitt, Church of England and Christina Russell. All of these tracts fall within the Certificate of Title for the 810 acre parcel the subject of the 1960 Quieting Title petition and are not a part of the Brinkman property which was the subject of the 2005 Quieting Title petition.
 - (6) As to paragraphs 13 and 14 thereof, I repeat paragraph 4(2)(a) through (g) inclusive and paragraph 4(4) herein.
 - (7) As to paragraph 15 thereof, I suggest that the release of dower by Lydia Williams was obtained through an abundance of caution by Marlinton Ltd as they had already secured the conveyance by Wilfred and James Smith and wanted to be absolutely sure that there was no remaining interest with respect to that particular parcel.
 - (8) As to paragraph 16 thereof, I maintain that James and Wilfred Smith were in possession of the property from at least 1901 and that they effectively conveyed the property by virtue of the 1941 conveyance as supported by the notarial declarations.
4. As to the plaintiff's allegations relation to the judgment of Brice J in Supreme Court Action No. 1971/CLE/QUI/00068, I wish to add that GBHC did return to the court as suggested by the learned judge and provided further evidence as to its title to parcel "A" sufficient to satisfy the learned judge that a certificate of title should issue to GBHC in respect of Parcel "A" which was one of the properties the subject of the said Supreme Court Action No. 1971/CLE/QUI/00068. The said certificate of title of parcel "A" is dated the 23rd July 1976 and is on record in the registry of Records in volume 2629 a pages 12 to 15. Attached and exhibited hereto is a true copy of the said certificate of title issued to GBHC in respect of parcel "A" marked "BWC-11".
 5. Further it was not necessary to abstract the said certificate of title in respect of parcel "A" as the said parcel "A" fell within the Frederick Thomas Grant which lies to the west of the John Bootle Grant.

175. Counsel for the defendants makes the following observations and or submissions in regard to the plaintiff's claim to ownership of the John Bootle Tract by virtue of the aforesaid agreements and or assignments of agreements:

- (1) This is an aspect of the plaintiff's case which demonstrates that the plaintiff will stop at almost nothing in his attempts to create a case where there is none. However, in his attempt to make a case on documentary title, the plaintiff has failed to adduce any credible evidence to prove that any of the individuals from whom the estate of Ruel Pratt has purportedly acquired a right, title and interest in the John Bootle Tract was, in fact, entitled to such right, title and interest at the time of the agreement for purchase was purportedly made. The fact is, the plaintiff purported to purchase an interest in the John Bootle Tract from persons who had nothing to sell him and that is aside from being obviously inconsistent with his own case on intestacy.
- (2) In that regard, if the plaintiff genuinely and honestly believed that Ruel Pratt's estate owns the 960 acres by virtue of the rules of intestacy, there would be no need to gather up various deeds, assignments and agreements of purchase from various people. Furthermore, in each of those documents, the plaintiff acknowledges that those third parties had an interest which makes the entirety of his claim adverse.
- (3) The first agreement relates to the 32 acres portion of the Brinkman tract, which is one of the tracts within the John Bootle Tract, and which the late Samuel Smith purportedly agreed to sell to Mr Pratt on 18 July 2011, which is prior to the commencement of these proceedings.
- (4) However, in commencing these proceedings in November 2011, Mr Pratt did not plead his alleged title based on the existence of the agreement with the late Mr Samuel Smith.
- (5) In any event, that land was earlier sold to Marlinton Limited by deed of conveyance dated 7 May 1941 by James and Wilfred Smith, who claimed to own that land by possessory title, supported by several notarial declarations showing that they had been in possession for a period of 40 years prior to the conveyance to Marlinton Limited.
- (6) At the time letters of administration were granted to the late Samuel Smith in respect of the estate of John Smith the 32 acres had long ceased to be a part of John D. Smith's estate. So on 18 July 2011 the late Mr Samuel Smith had no title to agree to convey to Mr Pratt. Likewise on 17 October 2013, Mr Pratt in his personal capacity had no interest in that land to assign to the estate of Ruel Pratt.
- (7) Consequently, the purported assignment by Mr Pratt to the estate of Ruel Pratt vests no legal right title and or interest in the 32 acre tract to the plaintiff.
- (8) As for the agreement by Sherrick Smith to Mr Pratt of one acre of the 32 acre tract, if Mr Samuel Smith did not have an interest to sell to Mr Pratt in 2011, because the brothers had already sold it to Marlinton in 1941, it follows that Sherrick Smith did not have the one acre of the 32 acres to sell to Mr Pratt. Indeed, Mr Sherrick Smith in his capacity as heir at law of the late John D Smith and the late Benjamin Smith who purportedly agreed to sell one acre to Mr Pratt in 2011, admitted in cross examination that the 32 acres had already been sold by his granduncles Wilfred and James Smith to Marlinton Limited prior to Sherrick's birth.
- (9) As for the John Russell agreement, the right title and interest in the John Bootle Tract that Mr John W. Russell (in his capacity as heir at law and lawful grandson of the late Rogers Nesbitt and administrator of the estate of the late Willis Bernard Nesbitt) purportedly agreed to sell to Ricardo Pratt on 25 July 2013 has not been established by any credible evidence. In particular, there is no evidence produced to prove that John Russell is in fact the grandson of Rogers Nesbitt.
- (10) In any event, the property that was owned by Rogers Nesbitt does not fall within the property that was actually the subject of the 2005 Quieting Action. It was the subject of an earlier quieting action heard by Justice Bryce in 1971 which resulted in a

certificate of title to Grand Bahama Properties Limited in respect of 810 acres of land originally granted to the late John Bootle.

- (11) Mr Callender during his cross examination made it clear that the property owned by Rogers Nesbitt does not fall within the Property as evidenced by the following excerpt from the TOP for 13 March 2014, page 41, lines 3 to 24.

Mr Pratt: This particular portion of land, which was owned by the Incorporated Trustee of the Church of England since 1882 and the next portion of land which was sold by Charlotte Chambers to Alexander Nesbitt and which was adjudicated on by the court in 1976, these two particular pieces of land being a part of the 960 acres, you would agree, could not have been devised by Horatio Nelson Wilchcombe to his children, would you agree or disagree?

Mr Callender: The quieting title that you referred me to in the judgment of Justice Bryce, I believe the tract B, there are two tracts of land, the subject of that quieting, tract A and Tract B. Tract B was certified to Hollingsworth and that tract B falls within the perimeters of the Old Brinkman property and the Hollingsworth portion is to the west of Thomas Johnson. Tract A is even more west. It's a part of the Erick Thomas. So I don't understand what you are getting at. We're talking about the property, the subject of the 1971 quieting, which has nothing to do with the Church of England property and the Nesbitt property.

Mr Pratt I'm glad you bring that point up. The Nassau Engineering plan wrongly identifies the location of the 20 acres sold by Charlotte Whyly Chambers to Alexander Nesbitt.

- (12) Mr Callender's evidence is that the Roger Nesbitt's property really has nothing to do with the property that was the subject of the 2005 Quieting Action and there is no challenge to the certificate of title in the 1971 action.
- (13) In relation to the agreement between Anthony Cooper (in his capacity as administrator of the estate of Julia Ann Ash) no evidence was adduced to show that 'Theresa Cooper' who purportedly assigned to Anthony Cooper her alleged interest in the residue of the estate of Julia Ann Ash was in fact the grandchild of Julia Ann Ash.
- (14) Further Mr Cooper's evidence contradicts the testimony of Eva Mercedes Ash-Simmons who testified that in fact she now owns the John Bootle Tract. (see TOP 6 March 2014 page 51 lines 5 to 15)
- (15) In light of the contradicting testimony of Ms Ash-Simmons and in the absence of credible proof that Teresa Cooper was in fact the grandchild of Julia Ann-Ash, the Court cannot be satisfied on a balance of probabilities that the purported assignment to Mr Anthony Cooper by Teresa Cooper legally vested him with an interest in the John Bootle tract.
- (16) Similarly with the subsequent assignment purportedly executed by Mr Anthony Cooper in favour of Mr Pratt in his capacity as administrator of the estate of Ruel Pratt, legally transferred an interest in the subject land to the plaintiff
- (17) The claims of the estate of the late Ruel Pratt by virtue of the various agreements and or assignments must fail.

176. On this aspect of the plaintiff's case, namely that he is the owner with the paper title of the John Bootle Tract, including the Property, by virtue of the aforesaid agreements for sale and or assignments of such agreements, I am in complete agreement with the submissions of counsel for the defendants.

177. In that regard, I find that the plaintiff has failed to adduce any credible evidence to prove that any of the individuals from whom the estate of Ruel Pratt has purportedly acquired a right title and interest in the John Bootle Tract was, in fact, entitled to such right, title and interest in relation to the John Bootle Tract or the Property, at the time of the agreement for purchase and or assignment of such agreement was purportedly made.

178. Moreover, I note that all of the aforesaid assignments/agreements in favour of the plaintiff post-date the commencement of this action, and most were executed after the commencement of the trial. I agree with counsel for the defendants that this is entirely consistent with the actions of someone attempting to create a case where there is none.

179. Consequently, I accept counsel for the defendants' submission that it is clear that the estate of Ruel Pratt did not have any interest in the John Bootle Tract or the Property by virtue of the various agreements for sale and assignments of agreements for sale at the commencement of this action as pleaded by the plaintiff in his re-amended writ of summons, or, in my judgment, subsequently.

180. I, therefore, find that the estate of Ruel Pratt is not the paper-title owner of the John Bootle Tract, and or the Property by virtue of the various agreements for sale and or assignments of agreements for sale set out in his re-amended writ of summons because the purported vendors and or assignors had no title or interest therein or thereto to sell or agree to sell or to assign to the plaintiff.

181. Additionally, very early in his cross-examination of the plaintiff, Mr Adams drew Mr Pratt's attention to the writ of summons filed in Supreme Court Action No. 2008/CLE/GEN/FP00178, a Quieting Titles Action commenced by Messrs Wayne Allen and Ricardo F Pratt, as plaintiffs, against Ginn-La West End Limited, the first defendant in this action, in which Messrs Allen and Pratt claimed that they were the owners of the Property therein described as ALL THAT tract of land containing 179.0 acres or thereabouts being a portion of the John Bootle Tract.

182. Mr Adams inquired why the plaintiff had not disclosed to this Court the existence of that action along with the indenture of conveyance dated 23 April 2008, referred to therein, from Samuel Smith to the plaintiff and Mr Allen whereby the aforesaid 179.0 acres were purportedly conveyed to them. Mr Pratt said that while there was an indenture of conveyance dated 23 April 2008, which had been signed by him and the late Mr Smith, it did not include Mr Allen's name or signature; that he had not disclosed the existence of that document because it had been left in Mr Smith's possession and he does not now know its whereabouts.

183. In the writ of summons filed in that action on 6 August 2008, Messrs Allen and Pratt set out their alleged title to the said property as follows:

3. On the 11th day of May, AD, 1847 the Crown commuted to George Johnson Bootle his heirs and assigns subject to the exceptions and reservations therein contained ALL THAT piece parcel or tract of land containing Nine Hundred and Sixty (60) Acres originally granted to John Bootle and situate in the vicinity of the Settlement of West End on the said island of Grand Bahama with said Commutation recorded in the Crown Lands Office in the City of Nassau in the Island of New Providence one of the Islands of the said Commonwealth in commutation Book C.2 at page 111.

4. The late Emma Smith, predecessor in title of WWA and RFP, by virtue of having been in undisturbed, undisputed, and continuous, uninterrupted and exclusive long possession and occupation for more than Twenty-one (21) years, of the Property more particularly described in the Schedule hereto and with said Property being a portion of the tract of land originally granted to the said John Bootle, with said long possession commencing on or about the 7th December AD, 1941.

5. The said late Emma Smith died on the 7th day of March AD, 1964 possessed of and beneficially entitled to the Property and by virtue of her quiet, undisturbed, undisputed long possession, use and occupation of the Property as owner, extinguished any right, title, interest of any person or persons to the said Property.

6. Since the death of the said late Emma Smith, leaving surviving her, her lawful widower James Smith who was in quiet undisturbed undisputed and continuous possession of the said Property and on the 7th day of March AD, 1967 the said James Smith died intestate possessed of and beneficially entitled to the Property.

7. Since the death of the said James Smith, leaving surviving him, his lawful son Samuel Smith who was in continuous unbroken undisturbed undisputed quiet possession of the said Property and by virtue of said long possession, beneficially entitled to the Property in fee simple.

8. WWA's and RFP's predecessor in title, the said Samuel Smith by virtue of having been in quiet undisturbed undisputed and continuous uninterrupted and exclusive long possession and occupation of the Property for more than Twenty (20) years, and by virtue of said long possession commencing on or about the 8th March AD, 1967 title to the said Property was vested in the said Samuel Smith under the Real Property Limitation Act, 1974.

9. By reason of the matters aforesaid and by virtue of a Purchase and Sale Agreement dated 15th March 2008 and an Indenture of Conveyance dated the 23rd April 2008 WWA and RFP are the owners in fee simple, of the Property.

10. WWA and RFP brings this action to assert their ownership of the Property, to obtain an injunction against GINN, its servants, assigns or successors in title or interest to prevent trespass on the Property and purported dealings therewith, and for damages in respect of certain claims being made by GINN.

184. Further, Mr Adams also drew the plaintiff's attention to the oath for an administrator filed in November 2010 in the non-contentious probate action with respect to the estate of the late Ruel Pratt which was prepared and signed by Mr Pratt. He pointed out to the plaintiff that nowhere in that document or the affidavit of delay sworn by him on 17 September 2010 and filed in the action on 25 November 2011, was any mention made of property in West End, the John Bootle Tract and or the Property, whereas he had listed other properties which he said were owned by his late grandfather Ruel Pratt at the time of his death.

185. In response to Mr Adams' question as to the reason for not mentioning the West End property, in his application for the grant in the late Ruel Pratt's estate, Mr Pratt said that was because it was a Crown Grant; that the properties listed in the affidavit of delay were not Crown Grants; that he was of the belief "by virtue of the automatic transference of the fee simple estate to the heirs of John Bootle that there was no need for a grant of letters of administration with regard to that particular Crown Grant".

186. However, when counsel for the defendants pointed out that Mr Pratt had later, on 3 October 2011, filed a supplemental oath in which he included the John Bootle Tract in the schedule of real property owned by the estate of Ruel Pratt and that in his affidavit filed on the same date he had accounted for the omission at paragraphs 5 and 6 thereof as follows:

"5. That the above stated two tracts of land were not included in the Schedule of the Real Property owned by the late Ruel Pratt, at the time of the filing of the application for a grant of Letters of Administration in the Supreme Court Registry on 25 November 2010, on the grounds that I was unaware that I could have submitted an additional form listing the aforesaid tracts of land in the said Schedule of the Real Property.

"6. That after having consulted an attorney-at-Law and after having received legal advice on the matter, I was made aware that it was necessary to submit a supplemental oath of

administrator listing the aforesaid two tracts of land situate on the island of Grand Bahama and owned in fee simple by the said late Ruel Pratt, in the said Schedule of the Real Property.”

187. Mr Pratt said that, that explanation was in addition to his belief that it was not necessary.

188. Further, in response to counsel for the defendants’ question as to whether by those averments he was saying that he did not include any reference to the John Bootle Tract in the schedule to the real property owned by Ruel Pratt in the first oath of administrator because he ran out of space on the paper, the plaintiff said: “that is correct”. He said that he was unaware that he could file a supplemental oath of administrator at the time and he was also of the belief that because it was a Crown Grant he did not need to apply for letters of administration.

189. Frankly, I do not believe Mr Pratt and I agree with counsel for the defendants that if Mr Pratt genuinely and honestly believed that Ruel Pratt’s estate owns the aforesaid 960 acres of the Bootle Tract by virtue of the rules of intestacy, there would be no need for him to gather up various deeds, assignments and agreements of sales and purchases from various people. Furthermore, since in each of those documents, the plaintiff acknowledges that those third parties had an interest in the John Bootle Tract, then clearly, his alleged claim would be adverse.

190. Indeed, two of the plaintiff’s witnesses, Mr Cooper and Mrs Simmons, both say that they or their family are the owners of the John Bootle Tract or portions thereof.

191. In the result, I find that the plaintiff has failed to prove, on a balance of probabilities, his claim that he is the owner of the John Bootle Tract, including and the Property by virtue of the various agreements for sale and or assignments of agreements for sale set out in his amended writ of summons and adduced in evidence and I agree with counsel for the defendants that the plaintiff’s claim by virtue of various agreements and or assignments of such agreements must fail.

The 2006 Certificate of Title

192. In relation to his claim that the Order and the 2006 Certificate of Title issued by Jeanne Thompson J in the 2005 Quieting Action were both forged documents and should be set aside, or declared null and void on the ground that they were obtained by fraud, the plaintiff pleaded in his re-amended writ of summons, averred in his various affidavits and or witness statements, and observed and submitted during his closing arguments as follows:

- (1) The sole petitioner in the 2005 Quieting Action, Grand Bahama Hotel Company (GBHC), ceased to exist on 28 April 2006. Therefore, on 24 May 2006, the date of the 2006 Certificate of Title, there was no legal entity who could instruct counsel to prepare the same; or who could consent to and or authorize a certificate of title to be issued in its name. GBHC lacked the juristic capacity to give consent to anyone to prepare the document on its behalf.
- (2) The back sheet to the 2006 Certificate of Title, although it has Sir Orville Turnquest’s name and firm typed on it, it is not signed. So, notwithstanding the 2006 Certificate of Title is signed by Justice Jeanne Thompson, it is still a forgery because it does not contain the signature of Sir Orville Turnquest and it was prepared after GBHC went out of existence.
- (3) On 5 August 2010, Sir Orville Turnquest and Bradley W Callender appeared before the Court of Appeal in the Wilbert Bootle v GBHC and informed that Court that the company had voluntarily dissolved on 28 April 2006 and that Mr Callender had no

instructions to represent or appear for GBHC which no longer existed as a legal entity.

- (4) Ginn-La West End Limited (GINN) is the entity that forged the document because they are the ones relying on it; they are uttering the document in this action and elsewhere.
- (5) GBHC or its agent, in violation of section 27 of the Quieting Titles Act, deliberately fraudulently and with intent to deceive the court in the 2005 Quieting Action made a statement in its affidavit of compliance, which it knew to be false, that a letter dated 2 February 2006 was hand-delivered to Audley Russell notwithstanding the fact that Audley Russell was deceased, having died on 19 January 2003; and knowing that the said letter was in fact received by Joanna Russell Newton.
- (6) GBHC deliberately and fraudulently suppressed, withheld and failed to disclose in its amended abstract of title filed in the 2005 Quieting Action the judgment of Lyons J dated 18 August 2005 in Equity Action No. 59 of 2005 in which he made a determination that they were not the owners of the 179.71 acres and 28.59 acres, when he found that the GBHC only purchased 810.8 acres of the 960 acres, the John Bootle tract. (page 76 – 26 Oct 2014).
- (7) During the trial of the 2005 Quieting Action, GBHC or its agent deliberately, fraudulently and with intent to deceive the court suppressed and failed to disclose the location of a swamp or a body of water situate between the southern boundary of the 179.71 and 28.59 acres on plan 394 GB which was the plan of the land subject of the 2005 Quieting Action. So that plan is inaccurate and a deliberate false statement was made by deliberately identifying a swamp or a body of water as land, thereby inducing Thompson, J. to issue a certificate of title for water.
- (8) GBHC or its agents, Sir Orville Turnquest and Bradley Callender, fraudulently, knowingly and with intent to deceive the Court made a statement in the amended abstract of title filed on 31 January 2014 in the 2005 Quieting Action that Charlotte Wylly Chambers was the daughter and sole surviving heir-at-law of George Johnson Bootle.
- (9) It would be impossible for Mr Bradley Callender, who is not related to George Johnson Bootle, and who was born 80 to 100 years after George Johnson Bootle died, to know his relations.
- (10) It would also be impossible for Sir Orville Turnquest to know the relationship between Charlotte Wylly Chambers and George Johnson Bootle.

193. On the other hand, counsel for the defendants makes the following observations and or submissions:

- (1) The plaintiff's claim ought to be dismissed because the late Ruel Pratt has no interest in the land, comprised in the certificate of title. In the absence of an interest, the plaintiff has no right to stand up before these courts and complain about a certificate of title.
- (2) So, to the extent that the plaintiff is unable to establish the existence of any interest whatsoever in the land, the subject of Action 511 of 2005, the plaintiff did not get over the threshold issue and does not have standing to maintain a challenge in this action against the certificate of title in that action.
- (3) Furthermore, the plaintiff has not shown that any of the estate's predecessors in title or so called predecessors in title have an interest in the land. For the same reasons essentially that the agreements and assignments are ineffective because the predecessors that he refers to through his case have no interest in the land. Consequently, his challenge to the certificate of title must fail on that basis.

- (4) Therefore, the plaintiff is unable to establish in the evidence that he had an interest in the land in question, which, had he brought the same to the notice of the Court, would have resulted in the Court directing a notice to issue to him.
- (5) That in and of itself is sufficient to dispose of the challenge to the certificate of title, and thus the allegations of fraudulent conduct on the part of Sir Orville Turnquest QC and Bradley W Callender who appeared as counsel for the first defendant in Action 511 of 2005, do not arise for consideration or examination.
- (6) The plaintiff nor his successors in title have an interest, therefore it is pointless to undertake such an examination and review.
- (7) However, in the event the court does not agree with that view, on a full and proper review of the evidence, there is no support for the allegation that either Sir Orville Turnquest or Mr Bradley Callender fraudulently knowingly and with intent to deceive this Honourable Court made any material false statement or representation to Justice Thompson in 511 of 2005, nor did they suppress, withhold, conceal or assist anyone in doing such acts such that this Court could properly conclude on a balance of probabilities that the certificate of title eventually issued was one that was procured by fraud, a fraud perpetrated by Sir Orville Turnquest and or Mr Bradley Callender.
- (8) Thereasons proffered by the plaintiff for why the aforesaid order and certificate of title should be set aside were all examined and considered by the Court of Appeal in the case of Wilbert Bootle et al v Grand Bahama Hotel Company SCCiv No. 112 of 2008 and the defendants rely on that case as persuasive authority to show that the complaints that Mr Pratt makes as to the procedural impropriety in the issuance of the Certificate of Title to the first defendant instead of Grand Bahama Hotel Property are complaints of no substance or merit whatsoever. They are vacuous and arid.

194. Again, I am in complete sympathy with counsel for the defendants' arguments in relation to this aspect of the plaintiff's claim.

The Law

195. Section 19 of the Quieting Titles Act provides that subject to the provisions of section 27 of that Act, from its date, a certificate of title issued pursuant to the Act shall be: (a) conclusive as to the accuracy of the contents thereof (including any schedule thereto and any plan annexed thereto) and binding on the Crown and all persons whomsoever and (b) conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given, taken or done before the granting of the certificate of title, have been properly, duly and sufficiently, made, given, taken and done.

196. Section 27 of the Quieting Titles Act provides as follows:

"27. If in the course of any proceedings under this Act any person acting either as principal or agent fraudulently, knowingly and with intent to deceive makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact, or matter of information, any certificate of title obtained by means of such fraud or falsehood shall be null and void except as against a bona fide purchaser for valuable consideration without notice."

197. In the case of Johnson and others v Exuma Estates and another [1965-70] 1LRB 214, James Smith J opined as follows:

"The general principle is that the Court requires a strong case to be established before it will allow a judgment to be set aside on this ground. [fraud]. In the present action I am concerned only with the case of a person, who not being a party in the proceedings in which title was investigated, seeks to have the certificate of title declared null and void on

the ground of fraud. Such a plaintiff must I think first prove that he or she had an interest in the land in question which if it had been brought to the notice of the court in the investigation of title proceedings, that court would not only have directed a notice to issue to that person as the interest in the land thus disclosed was such and would be likely to defeat the title upon which that court adjudicated and ordered a certificate of title to issue. Put another way, a plaintiff is to show that he has a prima facie title to the land which would have been likely to defeat the title presented to the court in the quieting of title proceedings. Secondly, a plaintiff would have to establish that his or her failure to file an adverse claim or to bring the claim to the attention of the court for a notice to issue under section 7(1) of the Act was not due to his own fault but to the fraudulent act or omission of the petitioner or his agents within section 27 of the Act. But should a plaintiff fail to satisfy the Court on these points there is still the grave general question arising from the allegations of fraud made against the defendant and it is right and due to such defendant that those allegations should be examined to ascertain whether they have been substantiated or not."

198. Consequently, in order for the plaintiff to succeed in his application to set aside the 2006 Certificate of Title, he must:

- (1) Show that he has a prima facie title to the Property and or the John Bootle Tract which would have been likely to defeat the title presented to the Court in the 2005 Quieting Action; and
- (2) Establish that his failure to file an adverse claim or to bring the claim to the attention of the Court in the 2005 Quieting Action for a notice to issue under section 7(1) of the QTA was not due to his own fault but was due to the fraudulent act or omission of the petitioner or his agents within section 27 of the QTA.

199. Those views have been cited with approval and or adopted by judges in several local cases, including: V.O. Blake J. (as he then was) in *Genesis Investment Limited v. Mary Louis Hanley*, [1979-80] 1 LRB 37 at 41; by Gonsalves-Sabola J. in *C.B. Bahamas Limited v. Arawak Homes Limited*, Common Law Action No. 355 of 1985; by Henry P Smith and Melville JJA in *O'Brian Loans Ltd v Edgecombe* [1989] BHS J No. 21 at 17; and more recently by Sir Michael Barnett, C.J. (as he then was) in the cases of *Strachan v. Strachan* and another [2014] 3 BHS J. No. 18 which decision was upheld by the decision of the Court of Appeal in the case of *Milton Strachan and Daniel Strachan and Harcourt Strachan SCCivApp & CAIS No. 208 of 2014*.

Does the plaintiff have locus standi to challenge the 2006 Certificate of Title

200. Having found that the plaintiff has failed to prove that he has a documentary title to the John Bootle Tract, including the Property, by virtue of a title by descent/intestacy, or by virtue of the aforesaid agreements for sale and or assignments of agreements for sale, then, in my judgment, the plaintiff has failed to show that he has a prima facie title to the Property which would have been likely to defeat the title presented to the court in the 2005 Quieting Action.

201. Consequently, I find that the plaintiff does not have the locus standi necessary to challenge the validity of the 2006 Certificate of Title and or the order of Thompson J in the 2005 Quieting Action.

202. Are the aforesaid Order of Thompson J and the 2006 Certificate of Title fraudulent documents?

203. The learned judge in the case of *Johnson and others v Exuma Estates and another*, Smith J, also opined that even if a plaintiff failed to satisfy the court that he had a prima facie title to the Property, there was still the grave allegations of fraud made against the defendant and it is right and due to such defendant that those allegations should be examined to ascertain whether they have been substantiated or not.

204. In my judgment, the same holds true in this case. So, because of the nature of the allegations made against the defendants and the Courts, and in the event I am incorrect in my finding that the plaintiff

does not have the locus standi to challenge the validity of the 2006 certificate of title, I go on to consider whether the said certificate and the order of Thompson, J are forged or were obtained by fraud.

205. It is common ground that in the 2005 Quieting Action, the then Petitioner, Grand Bahama Hotel Company, petitioned the Court for a certificate of title in respect of the Property. It is also common ground that following the trial in that action, Her Ladyship, Madam Justice Jeanne Thompson (ret), having investigated the petitioner's title to the Property, in a written decision handed down on 18 May 2006 confirmed her satisfaction that the then petitioner, Grand Bahama Hotel Company, had produced a good title to the Property, which title had not been ousted by any adverse possession on the part of the Adverse Claimant therein named, Wilbert Bootle. Thereafter, the learned judge concluded that "in the light of the Agreement for Sale dated March 25, 2005, as revealed by the Petitioner", ordered that a Certificate of Title be issued to Ginn-La West End, Limited, the first defendant herein, "with the usual exceptions under the Act."

206. The Certificate of Title in favour of Ginn-La West End, Limited was issued and duly signed by Thompson J and is dated 24 May 2006 ("the 2006 Certificate of Title"). The backing sheet to the 2006 Certificate of Title indicates that it was prepared by the Chambers of Sir Orville Turnquest, counsel for the petitioner.

207. It is common ground that (i) Ginn-La West End, Limited was not a party to the 2005 Action; and (ii) there was no agreement for sale between Grand Bahama Hotel Company and Ginn-La West End, Limited, dated 25 March 2005.

208. The plaintiff asserts that the petitioner and or its representative in the 2005 Quieting Action intentionally misled the learned judge about the existence of an agreement dated 25 March 2005. He, therefore, argues that the 2006 certificate of title was obtained by fraud and he submits that the same is null and void and should be set aside.

209. On the other hand, the defendants say that the reference by the learned judge as well as the justices of appeal to an agreement dated 25 March 2005 was an error. In that regard, evidence of the defendants' witness, Mr Paul Hanson, Vice-President and Secretary of the first defendant, is that there is a "First Amendment to Agreement of Purchase and Sale" dated 23 March 2005, between Grand Bahama Hotel Company and Ginn-La West End, Limited, as assignee of Ginn Development Company, LLC." The Agreement of Purchase and Sale between Grand Bahama Hotel Company and Ginn Development Company, LLC to which the amendment relates is dated 17 November 2004. By that agreement Grand Bahama Hotel Company agreed to sell and Ginn Development Company, LLC agreed to purchase 1700 acres of land in West End, Grand Bahama, inclusive of the John Bootle Tract and the Property. Further, by an Assignment of Agreement of Purchase and Sale, dated 12 January 2005, Ginn Development Company, LLC assigned its interest in the (purchase contract) Agreement of Purchase and Sale dated 17 November 2004 to the first defendant.

210. Copies of the aforesaid documents were also adduced in evidence by Mr Hanson.

211. Further, both the Abstract of Title dated 17 May 2005 and the amended Abstract of Title dated 14 March 2006 refer to the aforesaid agreements. Specifically, paragraph 17(c) of the Abstract of Title and paragraph 41(c) of the Amended Abstract of Title, as follows:

"By an Agreement dated the 23rd March 2005 a First Amendment to the Agreement of Purchase and Sale was made between Grand Bahama Hotel Co. and Ginn-LA West End Limited."

212. While Mr Pratt accepted that by including the details of the Agreement in the Abstract of Title and the Amended Abstract of Title, the court was made aware of the same, he disagreed that the mention by Thompson J to a 25 March 2005 agreement was intended to be a reference to the 23 March 2005 agreement or that it was an error and he insisted that there was some fraudulent intention on the part of the Ginn-La West End Limited to deceive the court.

213. Nevertheless, I accept that the agreement having been included in the abstract which was before the Court, that the same was disclosed to the Court and that the reference to 25 March 2005 and not 23 March 2005 was an error on the part of the judge in the judgment which, unfortunately, was repeated by the Court of Appeal, as clearly there was no evidence of an agreement dated 25 March 2005 adduced in evidence during the trial.

214. As for the other allegations of fraud, namely:

- (1) Thompson J was not informed by Sir Orville Turnquest and or Mr Callender that GBHC had ceased to exist and had been dissolved on 28 April 2006.
- (2) The first defendant to whom the certificate was issued was not substituted in place of Grand Bahama Hotel Company and was, therefore, not the petitioner at the time the Certificate of Title in Equity Action No. 511 of 2005 was granted.
- (3) The first defendant had no interest in the said Property at the time of the granting of the Certificate of Title.
- (4) That, in the circumstances, the Court lacked jurisdiction to issue the said Certificate of Title to Ginn-La West End Limited.

215. I accept the submissions of counsel for the defendants that the same or similar issues were raised, examined, and considered by the Court of Appeal in an appeal of the learned judge's decision by Wilbert Bootle, one of the Adverse Claimants in the 2005 Quieting Action, which appeal was dismissed by the Court of Appeal as being without merit.

216. In a judgment of the Court of Appeal delivered by Longley, JA (as he then was), with whom the other justices agreed, the learned Justice of Appeal (as he then was) concluded that the appellant's complaints were without merit. At paragraph 7 et seq of the decision, Longley J.A. said:

"7 Presumably, sometime after this (it is not certain when), the appellant learnt that the original petitioner in the quieting action, Grand Bahama Hotel Company which was registered as a foreign company in the Bahamas in 1963, but at all material times was a company incorporated in the State of Delaware in the United States of America, was voluntarily dissolved, on 28th April 2006.

8 Chronologically, that meant that at the time the order granting the certificate of title to Ginn was made on 18th May 2006, the Grand Bahama Hotel Company was not a legal entity. It is this fact which apparently has driven this application.

9 The appellant therefore now seeks to overturn the orders striking out his appeal and the order granting a certificate of title to Ginn. The pivotal grounds on which he seeks to do so are set out in the following paragraphs of his Notice of Motion: (i) That the Grand Bahama Hotel Company is a non-existent company and a non-juristic person incapable of making any application by virtue of its voluntary Dissolution of Charter in Delaware, USA its state and country of origin on 28th April, 2006 and thereby dissolved all around the world and it is impossible for a dissolved, unregistered non-existent company, a non-juristic person, a non-legal entity to appear and be heard before the Court of Appeal of the Bahamas and impossible for a non-existent company to make application to strike out the appeal of Wilbert Bootle et al for non-compliance with the Order of the Registrar of the Court of Appeal; (2) Ginn-LA West End Limited (hereinafter "Ginn") was not the Petitioner in Equity Action No. 511 of 2005 and was not an Adverse Claimant in the said Action and was not a party to the said Action before the Court; Ginn did not claim any estate or interest in the 179 acres subject of the said Action and did not apply to have its title to an estate or interest in the land subject of the said action, investigated, determined and declared in a Certificate of Title granted and issued by the Supreme Court in said Action; Ginn did not prove to the Court that it had good title in fee simple for the land and did not comply with any of the provisions of The Quieting Titles Act, 1959; Ginn did not petition the Court for a Certificate of Title as is required by the Quieting

Titles Act (3) That Counsel and Attorney-at-Law for the Petitioner in Equity Action No. 511 of 2005 suppressed, concealed and did not disclose the material fact to the Court that Grand Bahama Hotel Company, the Petitioner in Equity Action No. 51 1 of 2005 did not exist on 18th May, 2006 when the Final Order was issued by virtue of the said Petitioner being voluntarily dissolved in its country of origin on 28th April, 2006 thereby rendering the Order issued therein a Void Order and a Nullity.

10 The hub of the appellant's argument, therefore, is his contention that Grand Bahama Hotel Company could not have been a petitioner capable of maintaining an action in the Supreme Court at the time of the grant of the Certificate of Title and nor could it have been a party to this appeal since it was a nonexistent entity from the date it was dissolved and struck off the Delaware register, even though that fact was not notified to the Registrar General of The Bahamas. In this respect the appellant has made a serious allegation of fraud against counsel for Ginn who were also counsel for the Respondent alleging that they knew or must have known of the fact but did not disclose it to the court.

11 Given the passage of time since the order striking out the appeal was made and the time that has elapsed since the grant of the Certificate of Title, it is appropriate to condescend upon the merits of the appeal. (See *Gaydamak v Ubs*, Privy Council appeal No. 67 of 2004). It should be pointed out however that the appellant has not put before the court any acceptable reasons for the non-compliance with the order of the Registrar.

12 It seems to us however that even if we were minded to grant leave this appeal cannot be maintained as it is without merit.

13 First, the learned judge who had the opportunity of seeing and hearing the witnesses made substantial findings of fact on issues crucial to the appellant's case. It is now clearly established that appellate courts do not lightly interfere with findings of fact made by a trial court. (see *Hanna v Imperial Life Assurance Company of Canada*, Privy Council Appeal No.61 of 2005). And where an appellate court is minded to do so it only does so when it is satisfied that the findings were not only perverse but were such that no court mindful of its duty to act judicially would have made the findings under attack.

14 Nothing has been put before us or alleged which would warrant us interfering with the findings of fact made by the learned judge in relation to the case for the appellant. His case is therefore bound to fail on the merits, notwithstanding that he attacks the grant of the certificate of title to the Ginn and that he has raised issues of procedural impropriety regarding the grant of that certificate.

15 Second and perhaps more importantly, the learned judge accepted the documentary title of the respondent and was satisfied that the respondent had sold the properties the subject of the quieting petition to Ginn. On the face of it we can find no reason to interfere with the learned judge's assessment of the validity of the documentary title of Ginn. It must be pointed out that the agreement for sale of the property to Ginn was made the subject of an order on a Vendor Purchaser summons, which order was not appealed. That meant as a matter of law that from the time the agreement was entered into Ginn acquired an equitable interest in the properties and became in the eyes of equity the beneficial owner of the property the subject of the Quieting, which interest predates the dissolution of the company. (See *Walsh v Londsdale* [1882] 21 Ch. 9) Under the Quieting of Titles Act notice is required to be given to a party with an interest in the property and so counsel for the petitioner was required to make that fact known to the court, which was done, as the learned judge pointed out in paragraph 18 of the judgment. So even though at the time of the grant of the certificate of title Grand Bahama Hotel Company was a non- existent company (which did not come about until after the hearing of the petition was completed on 24th April 2006), the court investigating the title to the properties under the Act would still have been obligated to consider the interest of Ginn. So if the question arose as to who had the better title - Ginn or the appellant - Ginn would still have succeeded. For the Privy Council held in *Ocean Estates v Pinder* [1969] 2 A.C 19, that there is no such thing as an absolute title in The Bahamas. Ginn's equitable interest was indefeasible in the

circumstances as there was no one who could make a better claim to the property having regard to the finding of fact made by the learned judge on the appellant's adverse claim.

16 The appellant's complaint about the absence of an order substituting Ginn as the petitioner is clearly without merit. The substitution of parties to quieting petitions is a common and routine application these days. Even if there had been procedural impropriety or the absence of a formal order substituting Ginn for the petitioner, the appellant would in the circumstances not have been able to legitimately complain about the grant of a certificate to Ginn having regard to the provision of sections 25 and 26 of the Quieting Titles Act, chapter 393, which provide as follows: '25. No proceedings under this Act shall abate or be suspended by any death or transmission or change of interest of any party thereto, but in any such event the court on being apprised of the event by summons may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending or carrying on the proceedings, or otherwise, in relation thereto as may seem just. 26. No petition, order, affidavit, certificate, recording or other proceedings under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceedings.' (Emphasis added) These provisions in our view are a complete answer to the gravamen of the appellant's complaint for although the appellant contended that a summons was required before an order for substitution could be made in the case of Ginn, and that no summons was issued, the point is wholly devoid of merit as Ginn was before the court at the time the application for substitution was made."

217. I also accept counsel for the defendants' submission that the aforesaid case is persuasive authority to show that the complaints that the plaintiff now makes as to the procedural impropriety in the issuance of the 2006 Certificate of Title to the first defendant instead of Grand Bahama Hotel Company are of no substance or merit whatsoever, and I so find.

218. Another of Mr Pratt's complaints that I find to be without substance or merit is that the judgment of Thompson J was not delivered in open Court on 18 May 2006. He admits that he was not in Court on that date, but, as I understood his complaint, because the date, 18 May 2006, is not typed on the front of the judgment as one of the hearing dates, that meant that the parties did not appear in court for the delivery of the judgment and that the judgment was not delivered on that date. A baseless complaint; and as I said, without merit.

219. In the circumstances I accept counsel for the defendants' submissions that the plaintiff's complaints and or allegations of fraud are vacuous and arid and I dismiss his application to set aside the 2006 Certificate of Title on those grounds.

220. The plaintiff alleges that GBHC failed to serve the adjoining owners/occupiers or occupants of the Property, including the Estate of Ruel Pratt, with a filed copy of the Notice of Petition in the 2005 Action. Other owners/occupiers or occupants included: the Estate of Julia Ann Ash, the Estate of John Smith, the Estate of Audley Russell, the Estate of Ida Colebrooke, the Estate of John Barr, George Armbrister, Roosevelt Rolle, Sherrick Smith and Richard Williams.

221. However, the evidence is that no application for a grant of letters of administration was made in the estate of Ruel Pratt until several years after the commencement of the 2005 Quieting Action. Furthermore, while the plaintiff complains that at the date when service on Audley Russell had purportedly been effected, Audley Russell was deceased, it was he who pointed out that service had been effected on Mrs Joan Russell-Newton, a sister of the then deceased, Audley Russell.

222. I understood Mr Hollingsworth's evidence to be that he not only received notice of the Quieting Titles Action, but he also attended the hearing in New Providence; that he was told by counsel for GBHC that the matter was being brought to his attention in order to make certain

that as a boundary owner he was aware that his land was not being infringed upon. Mr Hollingsworth said he did not speak to an attorney after he received that letter, but aid he attended the trial because he was instructed by Mr Gape that he needed to be there. He said he tried to participate in the trial, but after he was not called upon, during a break he spoke to Sir Orville who told him that the matter did not concern the Hollingsworth property and that he did not need to be there. And while Mr Hollingsworth said that he was ignorant about legal procedures, he said he understood that Mr Turnquest was representing the Grand Bahama Hotel Company.

223. In any event, there is no evidence that Mr Hollingsworth, or for that matter, any of the other alleged adjoining owners/occupiers or occupants of the Property, has challenged the validity of those proceedings or the 2006 certificate of title granted therein.

224. Additionally, I have found no evidence to support the plaintiff's allegation that either Sir Orville Turnquest or Mr Bradley Callender fraudulently, knowingly, and with intent to deceive the Court made any material false statement or representation to Justice Thompson in the 2005 Quieting Action, or that they or either of them suppressed, withheld, concealed or assisted anyone in doing such acts such that this Court could conclude on a balance of probabilities that the 2006 Certificate of Title was one that was procured by a fraud perpetrated by Sir Orville Turnquest and or Mr Bradley Callender.

225. Moreover, I accept the submission of counsel for the defendants that had the 27 April 2006 conveyance been disclosed to the learned judge prior to her delivery of her judgment on 18 May 2006 she would still have issued the certificate of title in favour of the first defendant.

226. Furthermore, I find the plaintiff's complaint that GBHC deliberately and fraudulently suppressed, withheld and failed to disclose in its amended abstract of title filed in the 2005 Quieting Action the judgment of Lyons J dated 18 August 2005 in Equity Action No. 59 of 2005 in which he made a determination that they were not the owners of the 179.71 acres and 28.59 acres, when he found that the GBHC only purchased 810.8 acres of the 960 acres, the John Bootle Tract to be meritless, and further, that having regard to the other evidence before the judge, the disclosure of that judgment would not have changed the results of the judge's decision to issue the certificate of title.

227. In summary, then, I make the following findings of fact:

- (1) That George Johnson Bootle died intestate.
- (2) The plaintiff has adduced no evidence to show that what is set out in the recital in the 1921 indenture was inaccurate.
- (3) The plaintiff has not proven that George Johnson Bootle had a daughter named Charlotte Seymour, born Bootle on or about 1830, nor has he proven that Charlotte Seymour, born Bootle, was the only child and heir of George Johnson Bootle.
- (4) The plaintiff has failed to prove that on the date of his death the late George Johnson Bootle was survived by his only child, the late Charlotte Seymour, born Bootle, and his grandson and heir, the late William Seymour, legally and beneficially entitled to the said property and or the John Bootle Tract (less and except those two portions previously conveyed by the late George Johnson Bootle).
- (5) The plaintiff has failed to prove his claim that the late William Seymour was the lawful son and heir of the Charlotte Seymour who died testate on

or about 21 July 1892 as established by her duly proven last will and testament which was admitted to probate on or about 26 July 1892.

- (6) While I am prepared to assume without deciding that the William Seymour who married Jemima Adderley is the William Lewis Seymour who was born on 6 March 1864 to Delegal and Charlotte Seymour, born Bootle, the plaintiff has not, on the evidence adduced, proved that the birth certificate of the female child born to William and Gemima Seymour, born Adderley, on 12 May 1887, was that of Savalita aka Savalitha Pratt born Seymour.
- (7) Even if I am incorrect in that finding, the plaintiff has failed to prove that Savalita aka Savalitha Seymour was the only child of William and Gemima Seymour, born Adderley.
- (8) The plaintiff has failed to prove his allegation that the William Seymour whom he alleges married Jemima Adderley in 1886 is the same William Seymour whose death certificate shows his date of death as 23 November 1941.
- (9) In any event, that date of death is inconsistent with the plaintiff's claim in his re-amended writ of summons that the late William Seymour died on 21 November 1942.
- (10) The plaintiff has failed to prove his claim that the late William Lewis Seymour the son of Delegal and Charlotte Seymour, born Bootle, died on 21 November 1942 and that he died intestate.
- (11) Overall, the plaintiff's pleaded chain of title is so fragmented and or disjointed and contains so many irreconcilable discrepancies that it would be unsafe to find that the plaintiff has proven his claim that he has an entitlement to the John Bootle Tract, including the Property by virtue of his alleged title by descent.
- (12) The plaintiff has failed, on a balance of probabilities, to prove his claim that he is the documentary title holder of the John Bootle Tract, including the Property by virtue of his title by descent/intestacy.
- (13) The estate of Ruel Pratt did not have any interest in the John Bootle Tract or the Property by virtue of the various agreements for sale and assignments of agreements for sale at the commencement of this action as pleaded by the plaintiff in his re-amended writ of summons, or subsequently.
- (14) The estate of Ruel Pratt is not the paper-title owner of the John Bootle Tract, and or the Property by virtue of the various agreements for sale and or assignments of agreements for sale set out in his re-amended writ of summons because the purported vendors and or assignors had no title or interest therein or thereto to sell or agree to sell or to assign to the plaintiff.
- (15) The plaintiff has failed to prove, on a balance of probabilities, that he is the owner of the John Bootle Tract, including and the Property by virtue of the various agreements for sale and or assignments of agreements for sale set out in his amended writ of summons and adduced in evidence.

- (16) The First Amendment to Agreement of Purchase and Sale dated 23 March 2005, between Grand Bahama Hotel Company and Ginn-La West End, Limited, as assignee of Ginn Development Company, LLC having been included in the abstract of title which was before the Court, the same was thereby disclosed to the court. Further, that the reference to 25 March 2005 and not 23 March 2005 was an error on the part of the judge in the judgment which, unfortunately, was repeated by the Court of Appeal, as clearly there was no evidence of an agreement dated 25 March 2005 adduced in evidence during the trial.
- (17) The same or similar issues as are raised by the plaintiff against the validity of the 2006 Certificate of Title and the proceedings before Jeanne Thompson J were raised, examined, and considered by the Court of Appeal in the case of Wilbert Bootle et al v Grand Bahama Hotel Company SCCiv No. 112 of 2008, an appeal of the learned judge's decision by Wilbert Bootle, one of the Adverse Claimants in the 2005 Quieting Action, which appeal was dismissed by the Court of Appeal as being without merit.
- (18) That case is persuasive authority to show that the complaints that the plaintiff now makes as to the procedural impropriety in the issuance of the 2006 Certificate of Title to the first defendant instead of Grand Bahama Hotel Company are of no substance or merit.
- (19) The plaintiff's complaint that the judgment of Thompson J was not delivered in open Court on 18 May 2006 is baseless and without merit.
- (20) The plaintiff's complaints and or allegations of fraud are vacuous and arid.
- (21) That the 2006 Certificate of Title was not obtained by fraud and is not a forged document and should not be set aside on the application of the plaintiff.
- (22) That the 18 May 2006 Order of Thompson J in the 2005 Quieting Action was not obtained by fraud and is not a forged document..
- (23) That had the 27 April 2006 conveyance been disclosed to the learned judge prior to her delivery of her judgment on 18 May 2006 she would still have issued the certificate of title in favour of the first defendant.
- (24) The plaintiff's complaint that GBHC deliberately and fraudulently suppressed, withheld and failed to disclose in its amended abstract of title filed in the 2005 Quieting Action the judgment of Lyons J dated 18 August 2005 in Equity Action No. 59 of 2005 in which he made a determination that they were not the owners of the 179.71 acres and 28.59 acres, when he found that the GBHC only purchased 810.8 acres of the 960 acres, the John Bootle tract to be meritless.
- (25) In any event, having regard to the other evidence before the judge, the disclosure of that judgment would not have changed the results of the judge's decision to issue the certificate of title.

228. In the result, then, I refuse to grant the reliefs sought by the plaintiff in his re-amended statement of claim which is dismissed in its entirety with costs to be paid by the plaintiff to the defendants to be taxed if not agreed.

229. I end this judgment as I began, by apologizing to the parties for the delay in its delivery and to thank them for their patience awaiting the same.

DELIVERED this 26th day of January A.D. 2017

Estelle G. Gray Evans
Justice