

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**COMMON LAW AND EQUITY DIVISION
2020/CLE/qui/01195**

IN THE MATTER OF ALL THOSE piece parcels or lots of land being lots 1 and 2 and totaling by admeasurement (18061) square feet situate in the Township of Clarence Town in the Island of Long Island one of the Islands of the Commonwealth of The Bahamas.

AND

IN THE MATTER of the Quieting Titles Act, Chapter (393)

AND

IN THE MATTER of the petition of Faith R. Rahming-Ene

Before: **The Hon. Madam Justice Carla D. Card-Stubbs**

Appearances: **Mr. Richard Wells of Counsel for the Petitioner**

Hearing(s) Date: **27th March 2023, 13th April 2023, March 26, 2025 (visit to locus)**

JUDGEMENT

[1.]By Petition filed 3 December 2020 the Petitioner Faith R. Rahming-Ene prayed that her title to the aforesaid parcel of land be investigated, determined and declared under the Quieting Titles Act 1959 “the Act”.

[2.]The Property is described in the Petition as follows: -

ALL THOSE piece parcels or lots of land being lots 1 and 2 and totaling by admeasurement (18061) square feet situate in the Township of Clarence Town in the Island of Long Island one of the Islands of the Commonwealth of The Bahamas which pieces parcels or lots of land have such position shape boundaries marks and dimensions as shown and described on Registered Plan No. 429 L.I.

[3.]The Petition was supported by the Affidavit of Faith R. Rahming-Ene filed 26 October 2020, Survey Plan No. 429 L.I. filed 3 December 2020 and Abstract of Title filed 11 March 2022.

[4.] The Notice of Petition and accompanying documents were advertised and served on relevant parties in accordance with a Court Order made on the 3 November 2021 and verified by the Affidavit of Compliance filed 11 March 2022.

[5.] A copy of the Notice of Petition and Plan was affixed to the property in accordance with a Court Order made on 3 November 2021.

[6.] There were no Adverse Claimants in these proceedings.

[7.] A Crown Grant in respect of the subject property issued in favour of Thomas Roxborough and dated 17th July 1862 was filed on October 26, 2022.

The Petitioner's Case

[8.] The Petitioner, Mrs. Rahming-Ene, avers that she was born in the Settlement of Clarence Town on the island of Long Island.

[9.] The Petitioner stated that the property subject to this action had been occupied by her maternal grandparents, Clarence and Florence Simms, for as long as she can remember. She further averred that she was advised that her maternal grandparents took her from her parents at the age of two and that she lived on the property with her maternal grandparents until she was 17 years of age.

[10.] The Petitioner's evidence is that during her early years on the property her grandparents were farmers who grew traditional Bahamian crops and reared animals on the property and that she assisted them during the school holidays.

[11.] The Petitioner avers that she left for Nassau to pursue teaching and, thereafter, nursing.

[12.] The Petitioner's evidence is that she took care of her grandparents and after their deaths, contracted Rowdy Boys Construction to demolish the house, which had deteriorated, and to maintain the property. Such maintenance continues to the present time.

[13.] The Petitioner's evidence is that "the property is acknowledged by everyone in the settlement to belong to my grandparents and after their death to me as I grew up with my grandparents and maintained a very close relationship with them up to the time of their deaths."

[14.] The Petitioner avers that there is a 20 feet wide road reservation on the property that her grandparents gave to the Catholic Church and that she never knew of anyone

making claim to the property or disturbing her grandparents while they were in occupation and neither has anyone disturbed her occupation of the property.

[15.] An Abstract of Title of the Petitioner was filed on March 11, 2022 and shows:

Petitioner's Abstract of Title

No.	Document
1.	10 th July 1982 - Lot Number One (1) of Crown Grant D-232 situate in the Township of Clarence Town, Long Island, The Bahamas was issued to Thomas Roxborough.
2.	1990's- The Petitioner went into sole possession of the parcel of land the subject matter of this action and has continued to possess the same undisturbed up to present time.
3.	<p>17th March- Reginald Minnis of the Settlement of Clarence Town, Long Island, swore an Affidavit as follows:-</p> <ul style="list-style-type: none"> (1) That I am 71 years old. (2) That I know and is well acquainted with the Faith R. Rahming-Ene (hereinafter called "Rahming-Ene") formerly of the settlement of Clarence Town, Long Island and now residing in the Island of New Providence another one of the Islands of the said Commonwealth for all of my adult life. (3) That I also know of the said Rahming-Ene being in possession of a parcel of land situate on the Queen's Highway and a minor road leading to St. Peter & Paul Catholic Church within the settlement of Clarence Town, Long Island, The Bahamas for well over 20 years . (4) That I have been shown a registered plan No. 429 L.I and after reviewing same I am satisfied that the land described thereon is land currently occupied and in the possession of the said Rahming-Ene. (5) That I make this affidavit to establish that the said Rahming-Ene has been in sole undisturbed and continuous possession of the land cited above well over 30 years. (6) That the statements made herein are from the best of my knowledge, information and belief correct and true.
4.	<p>17th March- Frank Dean of the Settlement of Roses, Long Island, swore an Affidavit as follows:-</p> <ul style="list-style-type: none"> (7) That I am 79 years old. (8) That I know and is well acquainted with the Faith R. Rahming-Ene (hereinafter called "Rahming-Ene") formerly of the settlement of Clarence Town, Long Island and now residing in the Island of New

	<p>Providence another one of the Islands of the said Commonwealth for all of my adult life.</p> <p>(9) That I also know of the said Rahming-Ene being in possession of a parcel of land situate on the Queen's Highway and a minor road leading to St. Peter & Paul Catholic Church within the settlement of Clarence Town, Long Island, The Bahamas for well over 30 years for over 30 years.</p> <p>(10) That I have been shown a registered plan No. 429 L.I and after reviewing same I am satisfied that the land described thereon is land currently occupied and in the possession of the said Rahming-Ene.</p> <p>(11) That I make this affidavit to establish that the said Rahming-Ene has been in sole undisturbed and continuous possession of the land cited above well over 30 years.</p> <p>(12) That the statements made herein are from the best of my knowledge, information and belief correct and true.</p> <p>17th March- Oral Bowe of the Settlement of Clarence Town, Long Island, swore an Affidavit as follows:-</p> <p>(13) That I am 78 years old.</p> <p>(14) That I know and is well acquainted with the Faith R. Rahming-Ene (hereinafter called "Rahming-Ene") formerly of the settlement of Clarence Town, Long Island and now residing in the Island of New Providence another one of the Islands of the said Commonwealth for all of my adult life.</p> <p>(15) That I also know of the said Rahming-Ene being in possession of a parcel of land situate on the Queen's Highway and a minor road leading to St. Peter & Paul Catholic Church within the settlement of Clarence Town, Long Island, The Bahamas for well over 30 years for over 30 years.</p> <p>(16) That I have been shown a registered plan No. 429 L.I and after reviewing same I am satisfied that the land described thereon is land currently occupied and in the possession of the said Rahming-Ene.</p> <p>(17) That I make this affidavit to establish that the said Rahming-Ene has been in sole undisturbed and continuous possession of the land cited above well over 30 years.</p> <p>(18) That the statements made herein are from the best of my knowledge, information and belief correct and true.</p>
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Supporting Evidence

[16.] The Petition was also supported by the affidavits of Mr. Reginald Minnis, Mr. Frank Dean and Mr. Oral Bowe. Their affidavits were striking similar. Mr. Oral Bowe died prior to the court hearing. The other affiants were examined by the court.

[17.] The evidence of Mr. Reginald Minnis and Mr. Frank Dean are that they are well acquainted with the Petitioner and each has known her all of his adult life. They aver that they knew the Petitioner to be in possession of land situate on Queens Highway and a minor road leading to St. Peter & Paul Catholic Church for over 20 years. They each gave evidence that they were shown a registered plan No. 429 L.I and are “satisfied that the land on the plan describes the land which the Petitioner has occupied and is currently in possession of.”

Petitioner’s Submissions

[18.] Counsel for the Petitioner submitted that the purpose behind the Quieting Titles Act is to allow perfection of an imperfect title. Counsel also submitted that the Petitioner must be able to prove to the Court that her title to the land is valid and that she holds some form of entitlement to the land.

[19.] The Petitioner further submitted the proceeding under the Act is in rem rather than in personam so that anyone who claims an interest in the land is to file an Adverse Claim in the Court. Counsel for the Petitioner submitted that in the absence of an adverse claimant, the Applicant ought to receive a Certificate of Title from the Court.

[20.] Relying on the case of **The Petition of Roscoe Donaldson Albury** (Equity Action No.8 of 1975) it is the Petitioner’s submission that undefeated claims should be dealt with in the manner as observed by Sir Leonard Knowles CJ in that *prima facie evidence becomes absolute when once you have extinguished the right of every other person who challenges it.*

DECISION

[21.] The Court derives its power to grant a Certificate of Title to a Petitioner who can sufficiently prove its title to land pursuant to the Act. **Section 16 of the Act** states:-

“Without limiting the generality of the provisions of section 3 of this Act, the court shall have power to declare by a certificate of title in the form prescribed by section 18 of this Act that the petitioner is the legal and beneficial owner in fee simple of the land mentioned in the petition in any of the following circumstances —

(a) where the petitioner has proved a good title in fee simple to a share in land and has proved such possession as, under the Limitation Act, would extinguish the claim of any other person in or to such land;

- (b) where the petitioner has proved such possession of land as, under the Limitation Act, would extinguish the claim of any other person in or to such land;
- (c) where the petitioner has proved that he is the equitable owner in fee simple of land and is entitled at the date of the petition to have the legal estate conveyed to him.”

[22.] That section refers to the Limitation Act. A Petitioner must prove possession for not less than the statutory period mandated by the Limitation Act if that possession is to be relied on to (1) extinguish the rights of any prior owner and (2) acquire title by court order based on acts of possession.

[23.] Section 16 (3) of The Limitation Act (1995) states:-

“No action shall be brought by any person to recover any land after the expiry of twelve years from the date on which the right of action accrued to such person or, if it first accrued to some other person through whom such person claims, to that person:

Provided that, if the right of action first accrued to the Crown and the person bringing the action claims through the Crown, the action may be brought at any time before the expiry of the period during which the action could have been brought by the Crown or of twelve years from the date on which the right of action accrued to some person other than the Crown, whichever period first expires.

[24.] If the Court is satisfied that the Petitioner has proved its case under section 16 of the Act, the Court may grant the Petitioners a Certificate of Title pursuant to **Section 17 of the Act** which states:-

“After the court has completed the hearing of an application made under section 3 of this Act it may —

- (a) dismiss the application;
- (b) dismiss the application and grant a certificate of title in the form prescribed by section 18 of this Act to any person who shall have filed an adverse claim in accordance with the provisions of section 7 of this Act;
- (c) grant a certificate of title in the form prescribed by section 18 of this Act to the petitioner;
- (d) grant separate certificates of title in the form prescribed by section 18 of this Act to the petitioner and to any person who shall have filed an adverse claim in accordance with the provisions of section 7 of this Act in respect of the whole or separate parts of the land described in the petition. (2) The court may give one certificate of title comprising all the land described in the petition, or may give separate certificates of title as to separate parts of the land.”

[25.] The jurisdiction of the court is as set out in the case of **Bannerman Town and John Millars Eleuthera Association (Appellant) v Eleuthera Properties Ltd (Respondent) (Bahamas)** [2018] UKPC. A case relied on by the Petitioner. In that case, Lord Briggs considered the purpose and policy of the Act stating at paragraphs 33 and 38:-

“33. The jurisdiction under the Quieting Titles Act in the Bahamas is, (as elsewhere, for example in parts of Canada), a statutory graft upon a body of law about the ownership of unregistered land, the main purpose of which is to remedy perceived defects in that law (compared for example with systems of land registration) which harm the public interest by adversely affecting the marketability, and therefore beneficial use and development, of land. The Act necessarily takes for granted and adopts parts of the procedure for the deduction and proof of title under that system of law, which is itself partly common law and partly statutory. For present purposes the relevant statutory elements are to be found in the Conveyancing and Law of Property Act 1909 (Bahamas) as amended, and the Limitation Act 1995 (Bahamas) replacing earlier statutes of limitation and reducing the relevant limitation period for present purposes from 20 to 12 years.”

38. ...the process of quieting titles is designed to lead to a certificate which, save in cases of fraud, is good against the whole world, in favour of the person or persons (petitioner or adverse claimants) who succeed in proving their title: see sections 19 and 27 of the Quieting Titles Act. Thus, although title to unregistered land is normally thought of in purely relative terms, the issue in any proceedings being who has the better title, a certificate of title confers something more like absolute title, of the quality conferred by registered title under a system of land registration. For this reason, the court needs to be cautious before certifying title under the Act, as the Board warned in the *Armbrister* case.”

[26.] The Court conducted a visit to the site. The Petitioner was present at the Court’s visit to the locus but appeared physically unable to respond to the court’s questions.

[27.] At the visit, there was evidence of what appeared to be the remains of a structure. The land had been cleared for the most part. A road reservation, as noted in the survey plan as well as the evidence of the Petitioner, as observed. The Court, in its investigation, again heard from affiant Reginald Minnis. This Court is satisfied with the evidence of the affiant, with his familiarity with the land and with the description of the land as it accords with the affidavit of the Petitioner.

[28.] Having regard to the evidence and the court’s further investigation by visit to the locus, I am satisfied that the Petitioner in this instance intended to possess, and did acts amounting to the possession of the property, to the exclusion of all others. I am satisfied that the Petitioner did so openly and remained undisturbed in her possession for a period exceeding 30 years. This is sufficient to extinguish and bar the rights of any person holding a prior title. I am also satisfied that the Petitioner was deemed by community residents to be in possession and control of the property.

CONCLUSION

[29.] The Court by its review of the evidence is satisfied that the Petitioner has proved open, undisturbed and exclusive possession of the subject property for the requisite statutory period and has satisfied section 16 (b) of the Quieting of Titles Act.

[30.] The Court will therefore grant a Certificate of Title to the Petitioner for the subject property.

ORDER

[31.] The order and direction of this Court is THAT:

A Certificate of Title in the prescribed form in respect of the land described in the Petition and shown on the Plan filed therewith do issue to the Petitioner.

Dated the 11th day of April, 2025

A handwritten signature in black ink, appearing to read 'Carla Card-Stubbs', with a stylized flourish at the end.

Carla Card-Stubbs
Justice