

**IN THE COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Common law and Equity Division**

**2022/CLE/qui/0426**

**IN THE MATTER OF ALL THAT** piece parcel or lot of land in Portland, Acklins, being Parcel C comprising 600.37 acres being a portion of a Crown Grant to Robert Hunt (K-113) situated in Acklins one of the islands in the Commonwealth of the Bahamas coloured pink on a plan attached. Being bounded to the north by Parcels A and B running east north east approximately 874.02 feet, then north east 199.6 feet, then east south east 328.68 feet, then north east 205.44 feet, then east north east 169.84 feet, then south east 246 feet, then approximately east north east direction 4,117.12 feet, then south 825.13 feet, then south south east 314.62 feet, then south east approximately 903.58 feet, then south south east 556.93 feet then south east 472.21 feet, then east south east 542.76 feet, then south east 157.72 feet, then south west approximately 163.47 feet, then south east 357.37 feet, then south west 3,193.15 feet, then north west approximately 455.35, then north north west 423.88 feet, then north west approximately 942.17 feet, then north east 243.71 feet, then north north west approximately 613.35, then west south west 335.07 feet, then north west 228.53 feet, then north north west approximately 266.75 feet, then north west approximately 1,002.47 feet, then south west 363.67 feet, then west south west 409.39 feet, then south west 384.97 feet, then west south west 274.95 feet, then west 303.29 feet, then north west 193.16 feet, then north north west 209.26 feet, then north north east approximately 648.32 feet, then north west 519.86 feet, then north north west 629.3 feet, then north 156.94 feet, then north east 102.99 feet, then north north east 180.81 feet, then north 392.15 feet. which said piece parcel or lot of land has such position shape marks boundaries and dimensions more particularly described by and delineated on the said diagram or plan and thereon coloured **YELLOW ('the property')**

**AND**

**IN THE MATTER OF** the Quieting Titles Act, 1959

**AND**

**IN THE MATTER OF the Petition of Patricia Hanna-Cleare**

(President and Director of HHP LTD and Trustee of the Hanna Family 'Portland' Estate)

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

**Appearances:** Darrell Taylor of Counsel for the Petitioner

**Hearing date(s):** October 31, 2023. Visit to locus: September 26, 2024  
Further affidavit: April 22, 2025

**JUDGEMENT**

## CARD-STUBBS J

[1.] By Petition filed 17 March 2022 the Petitioner Patricia Hanna-Cleare petitioned the Court that title to the property described below be investigated, determined and declared by an issuance of a Certificate of Title under the Quieting Titles Act 1959 Chapter 393 of the Statue Laws of The Bahamas “the Act”.

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

**ALL THAT** piece parcel or lot of land in Portland, Acklins, being Parcel C comprising 600.37 acres being a portion of a Crown Grant to Robert Hunt (K-113) situated in Acklins one of the islands in the Commonwealth of the Bahamas coloured pink on a plan attached. Being bounded to the north by Parcels A and B running east north east approximately 874.02 feet, then north east 199.6 feet, then east south east 328.68 feet, then north east 205.44 feet, then east north east 169.84 feet, then south east 246 feet, then approximately east north east direction 4,117.12 feet, then south 825.13 feet, then south south east 314.62 feet, then south east approximately 903.58 feet, then south south east 556.93 feet then south east 472.21 feet, then east south east 542.76 feet, then south east 157.72 feet, then south west approximately 163.47 feet, then south east 357.37 feet, then south west 3,193.15 feet, then north west approximately 455.35, then north north west 423.88 feet, then north west approximately 942.17 feet, then north east 243.71 feet, then north north west approximately 613.35, then west south west 335.07 feet, then north west 228.53 feet, then north north west approximately 266.75 feet, then north west approximately 1,002.47 feet, then south west 363.67 feet, then west south west 409.39 feet, then south west 384.97 feet, then west south west 274.95 feet, then west 303.29 feet, then north west 193.16 feet, then north north west 209.26 feet, then north north east approximately 648.32 feet, then north west 519.86 feet, then north north west 629.3 feet, then north 156.94 feet, then north east 102.99 feet, then north north east 180.81 feet, then north 392.15 feet. which said piece parcel or lot of land has such position shape marks boundaries and dimensions more particularly described by and delineated on the said diagram or plan and thereon coloured **YELLOW** (**‘the property’**)

[3.] The Petition, filed 17 March 2022, was supported by the Affidavit of the Petitioner, Patricia Hanna-Cleare, George Washington Hanna, Stanford Derrington Hanna, and Copeland Franklyn Rolle. A Plan and Abstract of title were also filed.

[4.] The Petitioner also filed an affidavit on April 22, 2025 in further support of the Petition and to address an error made in her earlier Affidavit.

[5.] The Notice of Petition and accompanying documents were advertised and served on relevant parties in accordance with a Court Order made on the 29 June 2022 and verified by the Affidavit of Compliance filed 20 October 2022 and Supplemental Affidavit of Compliance filed 18 July 2023.

[6.] A copy of the Notice of Petition and unregistered Plan was affixed and maintained on a conspicuous position on the land for the requisite period in accordance with a Court Order made on 29 June 2022.

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

[8.] The Petition filed is brought in the name of the Petitioner, described as President and Director of HHP LTD and trustee of the Hanna Family 'Portland' Estate'. The Affidavit in support of the Petition similarly describes the Petitioner. The Petitioner subsequently and filed an Affidavit on June 6, 2023. By that affidavit, the Petitioner seeks "to explain to the court that the true and correct, Petitioner in this application is myself, Patricia Hanna-Cleare." She goes on to explain that HHP Ltd. is a company that she hopes "to eventually use to manage the property".

[9.] There was no evidence before the court of a claim on behalf of the named company. IN the circumstances, the proceedings continued in the basis of a claim by the petitioner in her personal capacity.

### **The Petitioner's Case**

[10.] The Petitioner gave evidence of possession as follows.

[11.] The Petitioner avers, by affidavit in support of the Petition, that she is presently in possession of the land and has been in open and undisturbed possession of that land for more than 30 years.

[12.] The Petitioner claims possessory title through what she identifies as her lineage described as:

- William Hanna-great great grandfather;
- Evelina and Francis Hanna-Children of William Hanna and great grandparents of the Petitioner;
- Isaacs Hanna-son of Evelina and Francis and grandfather of the Petitioner; and
- Thelma Hanna-daughter of Isaacs Hanna and mother of the Petitioner.

[13.] The Petitioner avers that from 1869 her family has been farming and living on the property. Her case is that the use and occupation of the whole property by numerous descendants, amount to joint possession of the entire property not only for those occupying it at the time, but for all descendants.

[14.] The Petitioner's evidence is that her great grandfather William "Handy" Hanna was a slave in the 1800's who lived on the property and that after the abolition of slavery, he continued to reside on the property. She avers that on 26th July 1868 William Hanna purchased twenty (20) acres of Crown Land from the government in Portland, Acklins which is land within the subject property.

[15.] The Petitioner's evidence is that William Hanna farmed fruits and vegetables on the property and that he also raised livestock on the property, becoming one of the principal providers of fresh meats for the island. She avers that 600.37 acres of land has been enclosed with a stone wall for more than 400 years – dating from 1868 when William Hanna obtained the Crown Grant – and that there are six pastures, each measuring about eighty (80) acres in size with its own watering holes. Her evidence is that the watering holes were dug by William Hanna.

[16.] The Petitioner avers that That William Hanna had one child, a daughter, named Evelina Hanna, the great grandmother of the Petitioner. Evelina Hanna married Francis

Hanna. By Will dated 26 May 1906, William Hanna devised the 20 acres of land to Evelina Hanna to hold on trust for his heirs and assigns.

[17.] The evidence is that Francis Hanna and Evelina Hanna lived on the land with their 5 children, which included Isaac Hanna. Isaac Hanna and his siblings remained on the property for more than 70 years and their children also remained on the property for over 70 years.

[18.] Isaac Hanna is the father of Thelma Hanna, mother of the Petitioner. The Petitioner avers that “my family has never left the land and remains there to date.” The Petitioner avers that she along with other members of the Hanna family continue to be in possession of the property and continue to farm on the land.

[19.] The Petitioner’s evidence is that she built a home on the property and is developing the property into a tourist attraction with nature tours and dirt bike riding tours.

### **Petitioner’s Abstract of Title**

[20.] The Petitioner filed an Abstract of Title dated March 13, 2022 and filed on March 26, 2025, and sought to rely on same. It reads:-

#### **ABSTRACT OF TITLE**

**In or about 1804** Robert Hunt was granted a parcel of Crown Land via a Crown Grant of 980 acres, and took possession of the property from the Crown which included all those pieces parcels or lots of land being the subject matter of this action herein (“the property”).

**30<sup>th</sup> July 1869**

William H. Hanna on this day was given a Crown Grant of 20 acres of the property for the

consideration of six pounds. Recorded at the Record of Registry at Book Y-7, page 79.

**26<sup>th</sup> May 1908**

William Handy Hanna, executed his last Will and Testament leaving his Crown Grant along with the other portions of the property to his only child, Evelina Hanna. The Will is attached to the Affidavit of Curtis Napoleon Tynes, recorded at the Registry of Records at Vol 9524 at pages 34-36

**Sometime in 1920's**

Evelina Hanna died intestate, leaving five children Katura Hanna, Murrie Hanna, Martha Hanna, Isaac Hanna, Ruth Hanna., all of whom were born and raised on the Portland Estate.

**26<sup>th</sup> January 1979**

Isaac Hanna executed his Last Will and testament on the 26<sup>th</sup> day of January 1979 leaving his property to his ten children, Francis, Lawrence Hanna, Royden Isaac Hanna, Gerard Winston Hanna, Leon Alphonso Hanna, Emily Keturah Ferguson, Mabry Evangeline Hanna, Muriel Alma Darling, Thelma Valeria Hanna, Joan Lucena Duncombe, Alice Elizabeth Sands.

**2021 JANUARY**

Thelma Hanna by agreement passed her interests in the property to the Petitioner, Patricia Hanna-Cleare

**Supporting Evidence**

[21.] The Petition is supported by the affidavits of George Washington Hanna, Stanford Derrington Hanna, Copeland Franklyn Rolle and Calvin Robinson.

[22.] Copeland Franklyn Rolle avers that he is 80 years old and has known the Petitioner for all of her life. He currently lives in Acklins and has been a close family friend of the Petitioner, her mother and grandparents. He stated that he has known the subject property to be that of Hannas for more than 60 years and that the property has been in the Hanna's generation from 1890. He asserts that he visits the property often and that the Petitioner has been in possession of the subject property for more than 35 years.

[23.] George Washington Hanna avers that he cousin of the Petitioner and a family friend. He is 84 years old and have known the Petitioner all his life. He has lived in Acklins all his life and is only away when he briefly visits New Providence. He avers that he is personally aware that the Petitioner's family have been in possession of the property for more than 70 years. He avers that as a child he was told that the property has been the Hanna'. His evidence is that he has known the Petitioner from she was an infant and that he lives on generational property three miles away from the Petitioner and visited them frequently. His evidence is that he lived with the family for a period of time.

[24.] Stanford Derrington Hanna avers that he is 80 years old and has known the Petitioner for all of her life. His evidence is that he is a resident of Pompey Bay, Acklins and is only away when he briefly visits New Providence. His evidence is that he is a cousin and family friend of the Petitioner. He recalls visiting the family on the property. His evidence is that he knew the Petitioner for more than 50 years and that Petitioner has been in occupation of the land for over 35 years.

[25.] Subsequent to the court's visit to the locus, Mr. Calvin Robinson swore to an affidavit filed on October 24, 2024. He avers that he is an ordinary resident of Acklins for the past two years and is well aquatinted with the layout of the property. His evidence is that on Friday 27 September 2024 he was directed by Mrs. Patricia Hanna-Cleare to fly a drone to do an aerial survey of a property in Portland Acklins inclusive of the trail, and surrounding rock wall.

[26.] Mr. Robinson averred that on Monday 30 September 2024 at about 10:15am, he flew a Mavic 2 drone around the Portland property while recording the aerial survey and concluded the event at about 11:45am.

[27.] He averred that he downloaded three (3) videos to a compact disc and labelled it Portland, Acklins dated 8<sup>th</sup> October 2024. That compact disc is exhibited to the affidavit.

### **Oral Testimony and Visit to Locus**

[28.] The Petitioner was examined by the Court on the evidence laid out in the various Affidavits. An unregistered Survey Plan dated August 2011 was also lodged in support of the Petition.

[29.] The Court conducted a visit to the site. During the visit there was evidence that the Petitioner had constructed a home on the property. There was evidence of remains of buildings, stone walls and watering holes. The court noted development consistent with use as a tourist and local attraction. Some of the land was cleared down with the majority of it overtaken with low vegetation. There was evidence of burial grounds, monuments and 6 livestock pastures no longer in use. The property was largely enclosed by a stone wall.

### **DECISION**

[30.] The Petitioner claims to be the owner in fee simple of the subject land by virtue of a possessory title, having open, undisturbed, and continuous possession for over 30 years. Counsel for the Petitioner submitted that time should run from the Crown Grant to William Hanna in 1868. In any event, Counsel relies on the Will of William Hanna dated 1908 and on the evidence of his widespread farming and that subsequently his descendants occupied and possessed the land. Those descendants include the Petitioner.



[31.] The evidence is that the Petitioner herself possessed the property for over 35 years.

[32.] I accept the evidence of the Crown grant to William Hanna which appears to have been executed on 1969 and not 1968 as averred, despite the acknowledgement of receipt of money which money was said to be paid in 1868. If the court were to accept evidence of possession of the property contained in the Crown Grant and then the wider area amounting to the 600. 37 acres contended for, then possession would be 153 years as submitted by Counsel and not the 400 years as averred to in the affidavit of the Petitioner.

[33.] The Petitioner sought to rely on the case of **Powell v McFarlene** [1977] 33 P & CR 452 and **Armbrister et al v Lightbourne et al** [2012] UKPC 40 to demonstrate factual possession and animus possidendi.

[34.] The Court's jurisdiction to determine this application and to issue title in a satisfactory case is by way of the Quieting of Titles Act, 1959 ("the Act"). The Act provides for the investigation of title by the Court (section 3), that thereafter the court may dismiss the application or may issue a certificate (or certificates) of title (section 17).

[35.] Section 17 of the Act provides:-

"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.”

[36.] A Petitioner seeking a Certificate of Title by way of adverse possession must prove exclusive occupation to the property in excess of the 12 years. Section 16 (3) of The Limitation Act (1995) provides:-

“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.”

[37.] The Affidavit evidence of the Petitioner and the witnesses along with the abstract of title demonstrates that the Petitioner has met the limitation period for possession by virtue of her descendants jointly whose generations would have remained on the land until present rendering a continuous possession of land through the years. The Court having visited the locus is satisfied that actual possession of the Petitioner and her descendants were proven.

[38.] The court has power to declare by Certificate of Title that the Petitioner is the legal and beneficial owner in fee simple in certain cases. Section 16 of the Act provides:

“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.”

[39.] A Petitioner seeking to prove the sufficiency of their claim to ownership must satisfy the Court of open, undisturbed and continuous possession of the property exceeding the period of twelve (12) years. She must give evidence of physical custody and control as well as an intention to exercise such custody and control.

[40.] In this case, the Court found that the Petitioner demonstrated a degree of physical control and intention to own the property through various acts having been and continue to be carried out on the property. The Petitioner has erected a house on the property, has maintained the property and has opened a tourist attraction in the form of nature walks and dirt bike riding. The evidence is that the family of the Petitioner, and now the Petitioner, have openly occupied the property without disturbance from another.

## **CONCLUSION**

[41.] In this case, I am satisfied upon the examination of the Petitioner and the affiants in support of the petition, inspection of the locus, drone footage showing an aerial view of the property and review of the documentary evidence provided, that the Petitioner has proven the sufficiency of her claim.

[42.] The Court by its review of the evidence is satisfied that the Petitioner has proved open, undisturbed and exclusive possession on the parcel of land for over 30 years. The Court is equally satisfied that the relevant evidence of George Washington Hanna,

Stanford Derrington Hanna, Copeland Franklyn Rolle and Calvin Robinson corroborated the Petitioner's averments and were consistent with observations made during the visit to the locus and the evidence as provided for in the Affidavits.

[43.] Therefore, the Court is satisfied that the Petitioner enjoyed for beyond the requisite period, undisturbed exclusive possession of the property.

### **ORDER**

[44.] 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 23rd 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