

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

2024/CLE/QUI/00199

Common Law and Equity Division

IN THE MATTER of ALL THOSE three parcels of land totalling 26.433 Acres to the H.W.M situate on the Southwest side of Eleuthera main road and approximately 0.75 miles northeastwardly of Gregory Town on the Island of Eleuthera one of the Islands of the Commonwealth of The Bahamas as are shown on the diagram or Plan attached hereto and labelled “Tract A”, “Tract B” and “Tract C” and are more particularly delineated on those parts which are colored Green, Yellow and Pink respectively.

AND

IN THE MATTER OF The Quieting Titles Act, 1959

AND

IN THE MATTER OF the Petition of PATRICIA HAZELL STROTHER

Before: Hon. Chief Justice Sir Ian R. Winder

Appearances: Richette Percentie for the Petitioner
Timothy Eneas KC, with Ava Laroda for the Adverse Claimant, Denis Newman
Kenria Smith with Zoe Bowleg and Perry McHardy for the Adverse Claimant, The Water and Sewerage Corporation
Darren Bain for the Adverse Claimant, Ronald Pinder Jr.

Hearing Date(s) 25 February, 2025, 1 April, 2025 and 25 April, 2025

JUDGMENT

SIR IAN WINDER, CJ

This quieting action relates to property (the Property) comprising 26.433 acres and situated at Gregory Town, Eleuthera Bahamas. The Petitioner prays that her title to the Property be investigated under the Quieting Titles Act, 1959 (the QTA) and a Certificate of Title with respect to the Property be granted to her.

- [1.] By her Petition filed on 14 March 2024, the Petitioner contends that she is the owner of the Property by virtue of her documentary and possessory title. She asserts that she has been in exclusive, open, continuous and undisturbed possession of the Property and that she is entitled to a possessory and proprietary interest in the Property.
- [2.] During the course of the proceedings each of the adverse claimants, the Water and Sewerage Corporation, Denis Newman and Ronald T. Pinder Jr. all withdrew their claims to the Property.
- [3.] The usual document in support of the Petition were filed by the Petitioner, namely;
 - (1) The Plan;
 - (2) Affidavits in support;
 - (3) An Abstract of Title.
- [4.] In the Abstract, the Petitioner has sought to trace her interest in the Property to who she describes as the original paper title holder, Emily Jane Sands (later Roberts).
- [5.] The Petition is supported by affidavits and/or witness statements of:
 - (1) Patricia Hazell Strother – Affidavit filed 4 March 2024; Witness Statement filed 28 January 2025;
 - (2) Reno Taylor – Affidavit filed 8 April 2024;
 - (3) Jack Cambridge – Affidavit filed 18th March 2024;
 - (4) Linda Smith – Witness Statement filed 28 January 2025;
 - (5) Angela Ferguson – Witness Statement filed 28 January 2025;
 - (6) Neith-Aisha Strother – Witness Statement filed 28 January 2025;
 - (7) Lanell Smith – Witness Statement filed 28 January 2025;
 - (8) Cranston Patram – Survey Report and Certificate filed 8 April 2024.

At trial the Court heard from Patricia Hazell Strother, Reno Taylor, Linda Smith, Angela Ferguson, Neith-Aisha Strother and Cranston Patram.

[6.] Section 3 of the QTA provides:

“3. Any person who claims to have any estate or interest in land may apply to the court to have his title to such land investigated and the nature and extent thereof determined and declared in a certificate of title to be granted by the court in accordance with the provisions of this Act.”

We must therefore investigate the competing claims. This *investigation* is being conducted by the Court pursuant to the QTA. By section 8 of the QTA it is provided that:

“8. (1) The court in investigating the title may receive and act upon any evidence that is received by the court on a question of title, or any other evidence, whether the evidence is or is not admissible in law, if the evidence satisfies the court of the truth of the facts intended to be established thereby.

(2) It shall not be necessary to require a title to be deduced for a longer period than is mentioned in subsection (4) of section 3 of the Conveyancing and Law of Property Act or to produce any evidence which by the Conveyancing and Law of Property Act is dispensed with as between vendor and purchaser, or to produce or account for the originals of any recorded deeds, documents or instruments, unless the court otherwise directs.

(3) The evidence may be by affidavit or orally or in any other manner or form satisfactory to the court.”

[7.] On the issue of possession, the learned authors of **Commonwealth Caribbean Property Law** state at page 246 as follows:

“Possession by adverse possessor

The factual possession required must have characteristics similar to those required for a claim to an easement by prescription, viz, the possession must be open (*nec clam*), peaceful (*nec vi*) and adverse (*nec precario*). Furthermore, factual possession must be accompanied by an *animus possidendi*, that is, an intention to enjoy possession to the exclusion of the paper owner.

The requirement of openness means that the possession of the claimant must be ‘notorious and unconcealed’, for otherwise the paper owner would not be made aware of the need to challenge the adverse possessor before expiry of the limitation period. On the other hand, it is not necessary that the paper owner

should have been aware that he had a good title, nor that the adverse possessor should have had knowledge of the true ownership of the property. It is sufficient that he performed acts which were 'inconsistent with [the paper owner's] enjoyment of the soil for the purposes which he intended to use it'."

[8.] On the evidence, I am satisfied that the documentary title of the Petitioner, as abstracted, albeit not a perfect documentary title, does demonstrate a documentary interest of the Petitioner to the Property.

[9.] On the issue of possession, helpfully, the Petitioner has extracted the evidence in support of her possession, which I reproduce here:

Witness	Document & Date	Relevant Paragraph(s) Page(s)	Quoted Evidence
Patricia Hazell Strother	Affidavit (4 Mar 2024) Supplemental Affidavit (8 Apr 2024)	Para 24; Para 5 (Supp.); Para 26	"Linda Taylor... currently farms... They watch over the property for me and advise me..." "I have remained in possession... uninterrupted, continuous and open possession..." "The Water & Sewerage Corporation built a water tank... I have been in communication with the Corporation regarding compensating me..."
Reno Taylor	Affidavit (8 Apr 2024)	Para 6; Para 8	"The Petitioner is aware that I farm on her property... She and I have an agreement..." "As far as I am aware the Petitioner is the owner... there have been no other persons claiming..."
Linda Smith	Witness Statement (8 Apr 2024)	Para 11; Para 12	"Nisha had placed signs on the property... I can recall the signage has been on the property since 2014." "...the subject property has remained in full free and undisturbed possession... for over thirty (30) years."

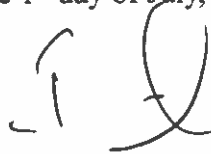
**Angela
Ferguson**

Witness Statement (25 Jan 2025) Para 4; Para 8–9; Para 15

“...the property belonged to the Strother family...”
“...utilized primarily for small-scale farming...”
“...signage installed around 2017...” “...we walked throughout the property.”

- [10.] Having seen and heard the witnesses I am satisfied that the Petitioner has demonstrated the necessary animus possidendi and factual possession for the grant of the Certificate of Title to her of the Property.

Dated the 1st day of July, 2025



Sir Ian R. Winder Kt.
Chief Justice