

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION
2024/CLE/GEN/00564

BETWEEN

THE HUG MINISTRY

Claimant

AND

CTF BM OPERATIONS LTD
(d/b/a BAHAMAR HOTELS)

Defendant

Before: The Honourable Justice Camille Darville Gomez

Appearances: Mr. Sidney Collie for the Claimant
Mrs. Michaela Sumner Budhi for the Defendant

Hearing Date: 2 February 2026

*Evidence – Admissibility – Conveyance – VAT Act, s.38G – Stamp Act, s.21 - Title – Proof –
Regularization – VAT Act, s.38H*

RULING

- [1.] This is an action (the “instant action”) brought by the Claimant for damages for trespass on property situate in the western district of the Island of New Providence being a part of a tract of land known as Liberty Hall or Labouchere (the “subject property”). The Defendant denies the claim and in its defence has asserted that it has obtained an agreement/license to use the subject property from the said owner, Cascadilla Holdings Limited which has been in possession of the same for in excess of 15 years.
- [2.] The Claimant alleged it purchased the subject property on or about 26 July, 2023, that it has been in “continuous occupation and possession” of the same since that date, and that the Defendant is trespassing on the subject property. The Claimant sought to substantiate

its alleged ownership of the subject property by virtue of an unstamped and unrecorded Conveyance dated 26 July 2023.

- [3.] The Defendant filed a Counterclaim seeking, among other relief, a declaration that the Claimant is not the lawful owner of the subject property, recognition of its status as a lawful licensee, and an injunction.
- [4.] The trial of the instant action had been scheduled from the 24 to the 25 February, 2026, however, the Defendant filed a Notice of Evidential Objection (“Notice”) on 3 December, 2025 seeking inter alia, the following relief:
1. That by virtue of section 21 of the Stamp Act, 2024 and Section 38G of the Value Added Tax Act, 2024 the said Conveyance is unstamped and unrecorded. Therefore, the Claimant is unable to prove its title to the alleged property and/or maintain its cause of action for trespass.
 2. That the description of the said Conveyance is wholly inaccurate to the actual piece of land, parcel, or property in dispute. The property which the Claimant claims to own, and the property being used by the Defendant are not the same property as confirmed by The Survey Report of the property as mentioned in paragraph 14 of the first affidavit of Kimberly Miller filed on the 25 April A.D., 2025.
- [5.] The second arm of the Defendant’s application in the said Notice cannot be properly considered without a trial of the action because it requires the determination of whether the property referred to in the Claimant’s unstamped and unrecorded conveyance is in fact the same property as the subject property. Therefore, my ruling is confined to the issue of whether the Claimant can rely on the unstamped and unrecorded Conveyance.
- [6.] Since it is undisputed that the Claimant’s ownership of the subject property is based on the unstamped and unrecorded Conveyance, there is no need to consider any other evidence in the determination of this issue.
- [7.] The trial will not proceed as previously scheduled pending the outcome of this application.

Defendant’s submissions

- [8.] The Defendant’s submissions on this issue are as follows:

25. [.] The conveyance meets the definition of ‘an instrument of supply for real property’ and must conform to, inter alia, *Section 38A(4) of the Value Added Tax Reprint 2024* (the “**VAT Act**”), Rules 4(6) and 9(1)(n) of the *Value Added Tax (Supply of Real Property) (General) Rules, 2023* (the “**VAT Rules**”), and/or Section 21 of the *Stamp Act*.

26. Rule 9(1)(n) of the VAT Rules stipulates a deed of conveyance to an entity registered under the Non-profit Organisations Act is considered a zero-rated supply when the same has been approved by the Minister and subject to certain conditions (which are not germane to the issue at hand). Section 38A(4) of the VAT Act mandates that every instrument for a supply of real property shall be presented to VAT Department for assessment.
27. The Claimant has not provided any evidence to show the Court that: (i) it is an entity registered under the Non-profit Organisations Act; (ii) the conveyance has been approved by the Minister to enable it to be considered a zero-rated supply of real property; or (iii) that it has been presented to the VAT Department for assessment/stamping.
28. The Claimant's conveyance does not confirm to any of the provisions identified in paragraph 26 above and, pursuant to Section 38G of the *VAT Act* and/or Section 21 of the *Stamp Act, 2024*, it cannot be pleaded or given in evidence unless it is stamped, except as provided by Section 38H. The Claimant has not availed itself of the procedural 'cure' offered by Section 38H and therefore, is unable to provide evidence of ownership of the Material Property. The unstamped conveyance cannot be admitted into evidence; see *Suzette Dyer v. Lashanda Thurston* MTG/App/No. 00035 of 2022.

Law, Analysis and Discussion

- [9.] The sole issue which arises for determination at this stage is whether the Claimant may rely upon the Conveyance dated 26 July 2023, which is admittedly unstamped and unrecorded, in order to establish its title to the subject property. In my judgment, resolution of that issue turns squarely on the statutory framework contained in the *Value Added Tax Act, Reprint 2024* (the "VAT Act") and the *Stamp Act, 2024*.
- [10.] Section 38A(4)(b) of the VAT Act provides in mandatory language that "*every instrument [effecting] a supply of real property shall.... be presented to the VAT Department for... assessment*". The legislative intent is plain; instruments transferring real property must first be submitted for VAT assessment before they may properly be treated as compliant instruments for legal purposes.
- [11.] The consequences of non-compliance are made explicit in section 38G of the VAT Act, which provides that "*no instrument required by this Act to be stamped shall be pleaded or given in evidence in any court unless the said instrument shall be duly stamped*", subject only to section 38H. Section 21 of the *Stamp Act, 2024* is cast in materially similar terms, prohibiting the admission into evidence of an instrument chargeable with stamp duty unless stamped.

- [12.] Taken together, these provisions establish a clear statutory condition precedent to admissibility. An instrument transferring real property that has not been presented for assessment and stamped is inadmissible in judicial proceedings. Where Parliament has used the language “*shall not be pleaded or given in evidence*”, the Court must give effect to that command.
- [13.] The courts of this jurisdiction have consistently applied that principle. In **Delaporte Point Ltd v King Enterprises Ltd** 2016/CLE/gen/01346, Charles J (as she then was) observed:
- “the law relating to unstamped conveyances is clear: no such instrument shall be pleaded in evidence unless the instrument shall be duly stamped and the taxes relative to that instrument have been paid.”*
- [14.] Although that case concerned earlier amendments to the VAT legislation, the operative language remains substantively unchanged. The reasoning, in my view, is therefore directly applicable to the present statutory regime.
- [15.] Similarly, in **Suzette Dyer v Lashanda Thurston** (MTG/App/No. 00035 of 2022), Card-Stubbs J affirmed that an instrument which is chargeable but unstamped is inadmissible and cannot be relied upon in proceedings unless and until it has been duly regularized. That authority confirms that the prohibition is mandatory and that compliance is a condition precedent to admissibility.
- [16.] That said, the statutory scheme does provide a mechanism for cure. Section 38H(2) of the *VAT Act* permits an unstamped instrument to be admitted upon payment “*of the VAT and real property tax into the court by the party producing such instrument*”. The legislative purpose is therefore not to render the instrument void, but to suspend its admissibility until the statutory requirements are satisfied.
- [17.] In the present case, the Conveyance dated 26 July 2023 has not yet been stamped. However, the Affidavit of the President and Director of the Claimant, Mr Gregory Miller filed 31 July 2025 provides that the Conveyance was submitted to the Department of Inland Revenue for stamping approximately four to six weeks after its execution. He further deposes that at least two follow-up inquiries were made, and that the Claimant was advised to check back, as the document remains pending processing. On that evidence, it appears that the Conveyance has in fact been presented for assessment and that the delay is administrative rather than attributable to inaction on the part of the Claimant.
- [18.] While that evidence demonstrates an attempt at compliance with section 38A(4), it does not alter the present legal position. The statutory prohibition under section 38G remains

engaged until the instrument is duly stamped. Admissibility turns on that status of the instrument at the time it is sought to be relied upon, not upon the efforts undertaken to secure compliance. Until the Conveyance is stamped, it cannot be pleaded or given in evidence.

[19.] Nevertheless, the evidence of submission and pending assessment is not irrelevant. In my view, it would be disproportionate to strike out the Claimant's action at this stage where the delay appears to arise from administrative processing within the Department of Inland Revenue rather than from wilful or deliberate non-compliance. The more appropriate course is to afford the Claimant a reasonable opportunity to regularize the instrument in accordance with section 38H.

[20.] The Claimant's action in trespass depends upon proof of its entitlement to possession of the subject property, which entitlement is said to arise from the Conveyance. In the absence of admissible evidence of title, I accept the Defendant's submission that the Claimant is presently unable to establish an essential element of its claim. It follows, in my judgment, that the Conveyance cannot at this time be relied upon to prove title.

Conclusion

[21.] In its Notice of Evidential Objection, the Defendant contended, inter alia, that:

1. By virtue of section 21 of the Stamp Act, 2024 and section 38G of the Value Added Tax Act, 2024, the Conveyance is unstamped and unrecorded. Accordingly, the Claimant is unable to prove its title to the alleged property and/or maintain its cause of action for trespass.

[22.] For the foregoing reasons, it is my judgment that:

- (i) The Conveyance dated 26 July 2023 is presently inadmissible in evidence by virtue of section 38G of the Value Added Tax Act, Reprint 2024, and section 21 of the Stamp Act, 2024;
- (ii) The Claimant is precluded from relying upon the said Conveyance to establish its title to the subject property unless and until it is duly stamped and thereby regularized in accordance with Section 38H of the VAT Act.

[23.] In order not to "*run the Claimant from the judgment seat*" for a defect that is capable of cure, yet to maintain procedural discipline, I make the following orders in relation to the instant action:

- (i) Unless the Claimant, within thirty (30) days, viz. 26 March, 2026 from the receipt of this written ruling, obtains stamping of the Conveyance, the

Claimant's action shall stand automatically struck out without further order, on the basis that it is unable to prove title.

- (ii) The Defendant, having succeeded on its Notice of Evidential Objection, is awarded its costs of that application, such costs to be assessed on the papers by the Court, unless otherwise agreed.

[24.] Given that the Defendant has filed a Counterclaim, the Court makes further case management orders as follows:

- (iii) The Hug Ministry as the Defendant in that action shall file its Defence to the Counterclaim by no later than 27 March, 2026.
- (iv) The Hug Ministry as the Defendant in that action shall file its Handwriting Expert Report by no later than 12 March, 2026 which may also be used in the instant action if it is not struck out by virtue of paragraph 1 of this Order.
- (v) CTF-BM Operations Limited (d/b/a Baha Mar Hotels) as the Claimant in the Counterclaim shall file its Handwriting Expert Report by no later than 24 April, 2026 which may also be used in the instant action if it is not struck out by virtue of paragraph 1 of this Order.
- (iv) CTF-BM Operations Limited (d/b/a Baha Mar Hotels) as the Claimant in the Counterclaim shall file its Reply (if necessary) by no later than 1 May, 2026.
- (v) The parties shall attend a hearing on **26 March 2026 at 10:00 a.m.** for mention.

Dated the 24th day of February, 2026



Camille Darville Gomez

Justice