

**COMMONWEALTH OF THE BAHAMAS**  
**IN THE SUPREME COURT**  
**COMMON LAW AND EQUITY DIVISION**  
**2025/CLE/GEN/0855**

In the Matter of **ALL THAT** piece parcel or lot of land being Lot Number Twenty-Nine (29) in a subdivision called and known as Major Subdivision in the Eastern District of the Island of New Providence, one of the Islands of the Commonwealth of The Bahamas.

AND In the Matter of **NICOLAS RAYMOND WARD** (deceased) of #12 Mangrove Drive in the Western District of the Island of New Providence

BETWEEN

**CYD CHARISSE WARD**

Claimant

**Before:** The Honourable Justice Camille Darville Gomez

**Appearances:** Miss Lenthala Culmer for the Claimant

**Hearing Date:** 11th March, 2026

*Company law – Pre-incorporation contracts – Property law – Conveyancing – Resulting trust –  
Equitable conversion – Beneficial ownership – Probate and Administration of Estates Act, 2011*

**RULING**

**DARVILLE GOMEZ, J**

This is an application by the personal representative of the estate of Nicolas Raymond Ward (hereinafter referred to as “Mr. Ward”) by Originating Application filed on 9 December, 2025 for declaratory relief that he is the beneficial ownership of Lot Number Twenty-Nine (29), Major Subdivision (“the Property”). It is supported by an Affidavit of Cyd Charisse Ward, the executrix of the Estate of Nicolas Raymond Ward by virtue of a Grant of Probate issued. The central issue is whether Mr. Ward, having provided the purchase monies, taken possession, and exercised the rights of ownership, became in equity the beneficial owner of the Property notwithstanding that

the conveyance named Genesis Foundation, a company which was never incorporated. The Court is asked to determine whether that equitable interest devolved upon his death to his estate.

### **Factual Background**

- [1.] A sales agreement was entered into in or about August/September 2007 for the purchase of the Property at a price of \$120,000.00 by the late Mr. Ward acting on behalf of the proposed company styled Genesis Foundation and Julia Louise Deveaux. A deposit of \$6,000 was duly paid.
- [2.] On 11 September 2007, the Vendor, Julia Deveaux, executed a conveyance in favour of Genesis Foundation. The conveyance was not signed by the purchaser. A vendor's closing statement dated August 2007 reflected a balance of \$113,973.50, and on 26 November 2007 a manager's cheque in the sum of \$115,993.75 was issued to Anthony Thompson & Co., attorneys for the Vendor, representing the balance of the purchase price. Following payment, Mr. Ward took possession of the property.
- [3.] In 2008, Mr. Ward entered into a rental agreement with his brother, Harold Kendal Ward, who has since resided at the property continuously as a tenant. Rental receipts spanning 2009–2024 confirmed ongoing tenancy and payments made to Mr. Ward and subsequently to his Estate.
- [4.] On 20 November 2021, Mr. Ward died at Doctor's Hospital, Nassau. His last Will, dated 25 May 2001, was proved, and probate was granted to his widow, Cyd Charisse Ward, on 21 October 2022.
- [5.] On 23 March 2023, Mr. Anthony Thompson, the attorney responsible for the conveyance and intended incorporation of Genesis Foundation, died. On 18 July 2023, the Vendor, Julia Louise Deveaux, also died. No grant of probate or administration has been issued in her estate.
- [6.] The evidence further demonstrates that Genesis Foundation was never duly incorporated under the laws of the Commonwealth of The Bahamas. Notwithstanding the conveyance being expressed in the name of Genesis Foundation, the purchase monies were paid personally by Mr. Ward, who thereafter exercised possession and control over the property, including granting tenancy to his brother.
- [7.] On 10 September 2025, the Executrix, Mrs. Cyd Charisse Ward, swore the present affidavit seeking a declaration that Lot 29, Major Subdivision, is vested in the Estate of her late husband. She asserted that the conveyance to Genesis Foundation was ineffective, as the

company was never incorporated, and that the property was in fact purchased and held by Mr. Ward in his personal capacity.

### **Law, Analysis and Discussion**

[8.] The Court finds that Genesis Foundation, never having been incorporated, was incapable of taking the legal estate in the Property. A non-existent company cannot acquire title, and the conveyance naming it as purchaser was therefore ineffective to vest the legal estate.

[9.] I refer to section 22 of the Companies Act which reads as follows:

22. (1) Except as provided in this section, a person who enters into a written contract in the name of or on behalf of a company before it is incorporated is personally bound by the contract and is entitled to the benefits of the contract.

(2) Within a reasonable time after the company is incorporated, it may, by any action or conduct signifying its intention to be bound thereby, adopt a written contract entered into in its name or on its behalf before it was incorporated.

(3) When a company adopts a contract under subsection (2) — (a) the company is bound by the contract and is entitled to the benefits thereof as if the company had been in existence at the date of the contract and been a party to it; and (b) a person who purported to act in the name of the company or on its behalf ceases, except as provided in subsection (4), to be bound by or entitled to the benefits of the contract.

(4) Except as provided in subsection (5), whether or not a written contract made before the incorporation of the company is adopted by the company, a party to the contract may apply to the court for an order under which obligations under the contract may be fixed or being joint or joint and several for apportioning liability between the company and a person who purported to act in the name of the company or on its behalf; and the court may, make any order it thinks fit.

[10.] The statutory framework under s.22 of the Companies Act 1992 makes clear that a person who enters into a contract in the name of or on behalf of a company prior to incorporation is personally bound by that contract. The release contemplated by subsection (3) arises only upon adoption by a duly incorporated company. In the present case, no company was ever formed. Accordingly, Mr. Ward remains personally liable under subsection (1), and the court's discretion under subsection (4) to apportion liability between a company and its promoter cannot be exercised.

[11.] The evidence established that Mr. Ward provided the purchase monies, took possession, and exercised the rights of ownership through the execution of a rental agreement with his brother, Howard Kendal Ward sometime in 2008/2009.

[12.] The equitable authorities demonstrate a consistent theme: equity looks beyond bare legal title to the substance of the parties' dealings. In **Lysaght v Edwards (1876) 2 Ch D 499**, the Court of Appeal established the doctrine of equitable conversion, holding that upon a binding contract the purchaser acquires beneficial ownership, the vendor holding the legal estate on trust. This principle was affirmed in **Jerome v Kelly [2004] UKHL 25**, where the House of Lords recognised that equitable ownership passes at contract, even for tax purposes. More recently, the courts have refined the allocation of beneficial interests in co-ownership cases: in **Stack v Dowden [2007] UKHL 17**, the presumption of joint beneficial ownership was rebutted by evidence of differing common intention, while in **Elithorn v Poulter [2008] EWCA Civ 1364**, the resulting trust doctrine was applied where one party provided the purchase money. These authorities illustrate that equity will not permit form to defeat substance.

[13.] Section 59 of the Probate and Administration of Estates Act, 2011 provides as follows:

(1) Real estate to which a deceased person was entitled for an interest not ceasing on his death, shall, on his death and notwithstanding any testamentary disposition thereof, devolve on the personal representative of the deceased.

(2) The personal representative shall be the representative of the deceased in regard to his real estate to which he was entitled for an interest not ceasing on his death as well as in regard to his personal estate and shall hold the estate as trustee for the persons by law entitled thereto.

[14.] In the present case, although no company was ever incorporated to adopt the contract under section 22 of the Companies Act 1992, Mr. Ward nonetheless performed the obligations by paying the purchase price. Equity therefore regards him as the beneficial owner, with the vendor holding the legal estate on trust for him. Upon his death, that beneficial interest vested in his estate and, by operation of section 59, devolved upon his personal representatives, who hold the estate as trustees for those entitled. The court accordingly declares that the estate of Mr. Ward is entitled to the property as beneficial owner, such interest vesting in his personal representatives pursuant to statute.

**Dated this 20<sup>th</sup> day of March, 2026**



**Camille Darville Gomez**  
**Justice**