

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2021/CLE/QUI/01417

IN THE MATTER OF the Quieting Titles Act Chapter 393 Statute Law of the Commonwealth of The Bahamas

AND

IN THE MATTER OF ALL THAT piece parcel or lot of land measuring 3,007 acres situate in the Settlement of Glintons on Long Island one of the Islands of the Commonwealth of The Bahamas which piece parcel or lot of land is bounded on the **NORTH** by a Twenty (20) feet wide Road Reservation and running thereon Four Hundred Five and Eighty-six hundredths (405.86) feet on the **WEST** by Queens Highway and running thereon Three Hundred Eighty-six and Fifty-five hundredths (386.55) feet on the **SOUTH** by a Twenty (20) feet wide Road Reservation and running thereon Seventy-five and Eighty hundredths (75.80) feet on the **SOUTHEAST** by a Twenty (20) feet wide Road Reservation and running thereon Four Hundred Four and Seventeen hundredths (404.17) feet and on the **EAST** by a Twenty (20) feet wide Road Reservation and running thereon One Hundred Ninety-seven and Forty-seven hundredths (197.47) feet.

IN THE MATTER of the Petition of **SYLVIA EUDORA KNOWLES** and **ALFRED JOHN KNOWLES**

Petitioners

AND

JOHN ULRICH ADDERLEY

Adverse Claimant

Before: The Honourable Justice Darron D. Ellis

Appearances: Mrs. Lenis Flowers-Bethell and Ms. LaRissa Rolle for the Petitioners
Mrs. Deborah Rose for the Adverse Claimant

Hearing Date(s): 8 April 2025, 8 December 2025

Quieting Titles Act, Ch. 393 — Possessory title — Adverse possession — Factual possession — Animus possidendi — Limitation Act, Ch. 83, s.16(3) — Whether long commercial use and development sufficient to establish title — Whether initial permissive occupation precludes adverse possession — Effect of non-participation by Adverse Claimant

The Petitioners applied under the Quieting Titles Act for the investigation of title and the grant of a certificate of title in respect of land on Long Island. The Petitioners relied on possessory title, asserting long, continuous, open, and undisturbed occupation dating back to approximately 1974. The land had been substantially developed over time into a commercial property comprising a gas station, liquor store, and office rentals.

The Adverse Claimant filed a notice of adverse claim but failed to file an abstract of title, did not comply with the Court's directions, and did not appear at trial.

It was contended on behalf of the Adverse Claimant that the Petitioners' occupation was initially permissive, deriving from the late Fred Adderley.

Held: granting a certificate of title to the Petitioners:

1. In proceedings under the Quieting Titles Act, the Court performs an investigative function. It determines title by assessing the relative strength of competing claims, **Ocean Estates Ltd v Pinder** [1969] 2 AC 19 relied upon.
2. Where documentary title is not established, a petitioner may succeed by proving adverse possession, which requires (i) factual possession and (ii) an intention to possess (*animus possidendi*), **Powell v McFarlane** (1977) 38 P & CR 452 relied upon.
3. Factual possession requires an appropriate degree of exclusive physical control, assessed in light of the nature and use of the land. Long-term commercial development, including the construction of permanent structures, installation of utilities, and operation of businesses, constitutes strong evidence of such control.
4. The Petitioners' use of the land for sustained commercial purposes was open, peaceful, exclusive, and unequivocally referable to ownership, and was inconsistent with any competing control.
5. Assuming that the Petitioners' occupation was initially permissive, any such permission must be taken to have come to an end by 2003. Thereafter, their continued occupation—marked by substantial and permanent development—was inconsistent with any licence and therefore adverse.

6. The period from 2003 to the filing of the Petition in 2021 exceeded the twelve-year limitation period prescribed by section 16(3) of the Limitation Act, with the result that any competing title was extinguished.
7. The Adverse Claimant's failure to comply with procedural directions, to appear, or to adduce evidence rendered the adverse claim both procedurally abandoned and substantively unproven.
8. The Petitioners are entitled to a Certificate of Title in respect of the Property

JUDGMENT

Ellis J,

Introduction and Background

- [1.] This is a petition under the **Quieting Titles Act, Chapter 393 (QTA)**, by which the Petitioners seek investigation of their title to the Property and the grant of a certificate of title. The Petition was filed on 26 November 2021.
- [2.] After the filing of the Petition, John Ulrich Adderley entered an adverse claim on 23 June 2022.
- [3.] The Petitioners are Sylvia Eudora Knowles and her husband, Alfred John Knowles. Sylvia claims to be the granddaughter of the late Mary Joiner, nee Adderley. The Petitioners filed this Petition, supported by their own affidavit and those of Willard Leroy Gibson, Ruth Rosanna Adderley Smith and Catherine Williams.
- [4.] The Petitioners contend that they received the Property as a wedding gift from the late Mary Joiner, nee Adderley, in 1974. The Petitioners claim to be the owners of the Property and request that the Court investigate, determine, and declare their title to the Property.
- [5.] The property which is the subject matter of this action is described as **ALL THAT** piece parcel or lot of land measuring 3,007 acres situate in the Settlement of Glintons on Long Island

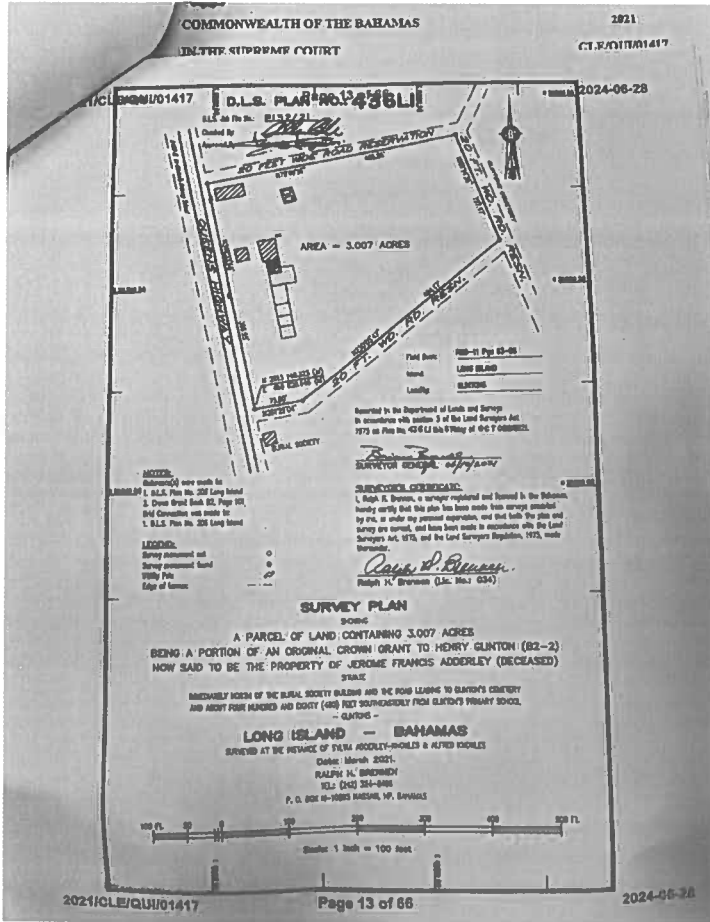
one of the Islands of the Commonwealth of The Bahamas which piece parcel or lot of land is bounded on the **NORTH** by a Twenty (20) feet wide Road Reservation and running thereon Four Hundred Five and Eighty-six hundredths (405.86) feet on the **WEST** by Queens Highway and running thereon Three Hundred Eighty-six and Fifty-five hundredths (386.55) feet on the **SOUTH** by a Twenty (20) feet wide Road Reservation and running thereon Seventy-five and Eighty hundredths (75.80) feet on the **SOUTHEAST** by a Twenty (20) feet wide Road Reservation and running thereon Four Hundred Four and Seventeen hundredths (404.17) feet and on the **EAST** by a Twenty (20) feet wide Road Reservation and running thereon One Hundred Ninety-seven and Forty-seven hundredths (197.47) feet (herein the Property).

[6.] The Petitioners' evidence is that the Property was given to Sylvia Knowles by Mary Joiner née Adderley as a wedding gift in or about 1974. That evidence explains the origin of their occupation, but the present application in the absence of any documentary evidence falls to be determined based on possessory title.

[7.] The Petitioner's Abstract of Title to the property states as follows:

- 1974 • On or about this date, the Petitioners took open and undisturbed possession of the subject piece, parcel, or lot of land described hereinabove.
- 2000 • On or about this date, the Petitioners developed the piece parcel or lot of land described hereinabove as a tire repair and automotive accessory shop.
- 2002 • On or about this date, the Petitioners further developed the piece parcel or lot of land described hereinabove as a gas station and liquor store.
- 2004 • On or about this date, the Petitioners further developed the piece parcel or lot of land described hereinabove by constructing a building used for office spaces, one of which the Petitioners have rented for the past ten (10) years.
- The Petitioners claim the fee simple title to the said piece, parcel or lot of land by virtue of possession adverse to all other persons.

[8.] The Property is described in a filed plan and is shown below



[9.] Notice of the Petition was duly advertised pursuant to the directions order made by the Court on 8 April 2022.

[10.] John Ulrich Adderley filed the sole adverse claim on 23 June 2022. However, the Adverse Claimant did not file an abstract of title, did not appear at trial, and called no evidence in support of his claim.

The Evidence

[11.] The Petitioners depose that they are the owners in fee simple and are in possession of the subject property. They state that their ownership arises by way of possessory title, having been in open, continuous and undisturbed possession of the land, together with their predecessors in title, for a period exceeding twelve (12) years immediately preceding the filing of the Petition.

[12.] The Petitioners further depose that there are no charges, encumbrances or competing interests affecting the Property, and that no other person, apart from their predecessors in title, has been in occupation of the land. They assert that they carried out all improvements to the Property without hindrance or complaint from any person. They also confirm that the contents of their affidavit fully and fairly disclose all material facts relevant to their claim.

[13.] The affidavit of Willard Leroy Gibson, a nonagenarian resident of Long Island, states that he has known the Petitioners for over sixty (60) years and confirms that the subject property was given to them as a wedding gift by Sylvia Knowles' grandmother, Mary Joiner (née Adderley). He deposes that the Petitioners have been in possession of the property since approximately 1974 and have developed and operated it over many years, including as a tire and automotive business and later as a gas station, which remains in operation. He further attests that he has frequented the property for over twenty (20) years and has never known of any disturbance to the Petitioners' possession. He regards the Petitioners as the owners of the property. Mr Gibson died before the trial in this matter.

[14.] The affidavit of Catherine Williams, aged seventy (70), states that she has known the Petitioners for most of her life and confirms that they have been in possession of the subject property from the time of their marriage in or about 1974 to the present. She deposes that their possession has been exclusive and undisturbed, and that they have developed the property over time, including operating a tire and auto accessory shop, a gas station and liquor store, and more recently constructing a building with office spaces. She further states that it is well known in the community that the Petitioners are the owners of the property and that she has never known of any person disturbing their possession.

[15.] Similarly, the affidavit of Ruth Rosanna Adderley-Smith, aged sixty (60), confirms that she has known the Petitioners for over forty-seven (47) years and attests that they have been in continuous and exclusive possession of the property from the 1970s to the present. She corroborates the evidence of development and use of the land for commercial purposes and states that the Petitioners are widely regarded within the community as the owners. She further deposes that she has never known or heard of any challenge to their possession.

[16.] Collectively, the affidavit evidence establishes that the Petitioners have been in long, continuous, open and exclusive possession of the subject property for several decades, have exercised acts of ownership through substantial development and commercial use, and that such possession has been undisturbed and recognised within the community as that of the Petitioners.

[17.] At trial, the Petitioners gave evidence along with Ruth Rosanna Adderley Smith. The Adverse Claimant did not appear and did not call any witnesses.

[18.] Sylvia Knowles testified that the property was given to her by her grandmother, Mary Joiner, nee Adderley, as a wedding gift in 1974. She said she and Alfred Knowles began building on the property in 2000 after filling in part of it that had been a pond.

[19.] She testified that she and Alfred Knowles began developing the Property in 2000 by constructing a tire shop, liquor store, gas station, and office spaces, all concrete structures. She further testified that some of the building space is rented to Island Luck and Flowers (Gaming Companies). She said the property is used for business, not as a dwelling home, and that she and her husband have never lived on it.

[20.] She also testified that no one had disturbed their occupation or claimed ownership until recently, when “Mr. John Adderley” asserted that it was his property after they sought to “get papers for it.”

[21.] Alfred Knowles gave similar evidence that the property came through Sylvia Knowles as a wedding gift from her grandmother in 1974 and that commercial development followed, including a gas station, tire shop, liquor store, office space, and some fruit trees at the back. He also said no one had disturbed his and his wife’s ownership or sent any notice claiming ownership.

[22.] The third witness, Ruth Rosanna Adderley-Smith, said she had known Sylvia all her life and Alfred from before he married Sylvia, and that Sylvia is her cousin. She said it was her understanding that the Property was a gift to Sylvia from Mary Joiner, and that she had known Sylvia and Alfred, the owners of the property, for more than 35 years.

[23.] She described the present property as comprising a building complex with a liquor store, an ice cream parlour, a tire shop, other businesses, and a washhouse. She said she had patronised the businesses there. She also said she had never heard of anyone disturbing the petitioners’ possession or of anyone giving them notice that the Property belonged to someone else.

[24.] The evidence that the Property was given to Sylvia Knowles as a wedding gift in or about 1974 explains the origin of the Petitioners’ occupation. It does not, however, establish a documentary title on its own. The present application, therefore, falls to be determined based on possessory title.

Submissions of the Petitioners

[25.] Counsel for the Petitioners submits that they are entitled to a declaration of title and the issuance of a Certificate of Title pursuant to the QTA, in respect of the subject property.

- [26.] It is submitted that the Petitioners are in possession of the property as owners in fee simple, their title arising by way of long, continuous, open and undisturbed possession extending from approximately 1974 to the present, far exceeding the twelve-year limitation period prescribed under section 16(3) of the Limitation Act, Ch. 83.
- [27.] Counsel contends that the Petitioners, together with their predecessors in title, have exercised exclusive possession of the property without interruption, challenge or competing occupation. Such possession is said to have been adverse to all others and accompanied by the requisite intention to possess.
- [28.] The Petitioners rely on affidavit evidence establishing that no other person other than the Adverse Claimant has occupied or asserted rights over the property during the relevant period, and that there are no subsisting encumbrances, save as disclosed.
- [29.] It is further submitted that the Petitioners have undertaken substantial acts of possession consistent with ownership, including the development of the land into a tire repair and automotive business, the construction and operation of a gas station and liquor store, and the erection of commercial buildings used for office rental. These developments were carried out with the requisite governmental approvals and demonstrate the Property's permanent and exclusive use.
- [30.] Counsel submits that these acts satisfy the legal requirements for factual possession and animus possidendi as articulated in **Powell v McFarlane** (1977) 38 P & CR 452 and affirmed by the Privy Council in **Armbrister v Lightbourn** [2012] UKPC 40, namely that possession must be open, peaceful, adverse, and accompanied by the intention to exclude the world at large, including the paper owner.
- [31.] Reliance is also placed on local authority and academic commentary confirming that acts inconsistent with the enjoyment of the true owner—particularly permanent or semi-permanent development—are sufficient to establish adverse possession.
- [32.] Counsel further submits that the Petitioners' evidence meets the statutory requirements under sections 3, 8 and 16 of the **QTA**, which empower the Court to investigate title and declare the Petitioners to be the legal and beneficial owners where possession sufficient to extinguish competing claims has been established.
- [33.] As to the Adverse Claim filed by John Ulrich Adderley, it is submitted that the same is without merit. Counsel points out that the Adverse Claimant has failed to comply with the Orders of this Court, including an order to regularise or withdraw his claim, and has provided no evidence in support thereof.

[34.] It is therefore submitted that the Adverse Claim should be dismissed or treated as abandoned, and that it does not raise any credible challenge to the Petitioners' title.

[35.] In all the circumstances, Counsel urges the Court to find that the Petitioners have established a good title by possession, that any competing title has been extinguished by operation of the Limitation Act, and that the Court should grant the declarations sought and order that a Certificate of Title be issued to the Petitioners.

[36.] Counsel candidly acknowledged that, because of age and the passage of time, the years given by the witnesses "may not have been completely accurate," but argued that the evidence clearly showed possession well beyond the limitation period and substantial permanent alteration of the land by filling the pond and constructing buildings and the operation of businesses.

Locus in Quo

[37.] The Court did not visit the locus in quo but reviewed authenticated aerial photographs and video footage, exhibited pursuant to the affidavit of Jenny Morris, filed on 8 December 2025, in accordance with Practice Direction #2 of 2025. In the Affidavit, Ms. Morris deposes that she is a certified drone pilot holding a Remote Pilot Licence issued by the Federal Aviation Administration (FAA) of the United States of America and is duly registered with the Civil Aviation Authority Bahamas (CAA-B). She confirms that she is authorised to operate remotely piloted aircraft within The Bahamas. Copies of her certification and registration are exhibited.

[38.] In the affidavit, Ms. Morris states that she was instructed by Whiteleaf Law Chambers, the Petitioners' attorneys, to capture aerial photographs and video footage of the Property. She deposes that on or about 4 December 2025, she attended the Property located in the Settlement of Glinton's, Long Island, accompanied by the Petitioners, for the purpose of recording aerial images and video footage. In her observations, the Property is bounded on its western side by Queen's Highway, with unpaved roads along its northern and southern boundaries, and extends eastward into dense vegetation.

[39.] She further describes the structures present on the property. The principal structure is a single-storey commercial plaza comprising approximately eight units, apparently occupied by various businesses, situated on the western portion of the land.

[40.] Additional structures identified include a canopy with two automobile fuel pumps, a storage room, an unfinished structure, a water well, a garbage storage area, and two fuel storage tanks enclosed within a fenced area. Ms. Morris also notes that the area to the rear of the plaza is rocky terrain with visible signs of agricultural activity, including banana trees and other vegetation. She confirms that all of the aforementioned features are depicted in the still

photographs and aerial video footage exhibited in her affidavit, marked “JM-3” through “JM-10,” together with a USB flash drive containing the video recordings.

[41.] The Court has carefully reviewed the photographic exhibits and the aerial video footage produced through the affidavit of Jenny Morris, including Exhibits “JM-3” through “JM-10” and the accompanying electronic recordings. In accordance with Practice Direction #2 of 2025 and the Court’s general case management powers under the Civil Procedure Rules, the Court is entitled to consider such visual evidence as part of the evidential record without the necessity of conducting a physical visit to the locus in quo. The modern approach recognises that properly authenticated photographic and video evidence may provide an accurate and reliable representation of the property's relevant physical features.

[42.] Having viewed the said materials, the Court is satisfied that they fairly and adequately depict the layout, structures, and surrounding characteristics of the Property and further corroborate the evidence of the Petitioners. The Court relies on the photographic and video evidence for the purposes of its factual findings in this matter.

[43.] The visual evidence provides objective confirmation of the Petitioners’ acts of possession and the extent of their development of the Property.

Issues

[44.] The issues for determination are:

- (a) Whether the Petitioners have established, to the requisite standard under the QTA and applicable principles of Bahamian law, a good title to the Property, whether by documentary title, possessory title, or a combination of both;
- (b) Whether the Adverse Claimant has established a competing interest in the Property which is recognised in law and sufficient to defeat, qualify, or otherwise affect the Petitioners’ claim to title.

Law, Analysis and Disposition

[45.] Pursuant to **Section 3 QTA**, 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 the QTA.

[46.] **Sections 8** of the QTA empower the Court to investigate title and to receive such evidence as satisfies it of the relevant facts, whether by affidavit, oral testimony, or otherwise. **Section 8** of the QTA provides:

“(1) The court in investigating the title may receive and act upon any evidence that the court receives 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.”

[47.] Under **Section 16(3) of the Limitation Act, Chapter 83**, title to land may be extinguished after twelve (12) years’ adverse possession. **Section 16(3)** provides that:

“(3) 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.”

[48.] The Court’s function in proceedings under the QTA is investigative. The Court is concerned with the relative strength of competing claims to title and must determine whether the Petitioners have established a better title than any adverse claimant.

[49.] From the evidence, the Court finds that the Petitioners have not established a documentary title to the Property. The claim, therefore, falls to be determined solely based on possessory title.

[50.] In matters involving possession, the law requires proof of (i) factual possession and (ii) the requisite intention to possess (*animus possidendi*) as per **Powell v McFarlane** (1977) 38 P & CR p452.

[51.] The appropriate starting point in considering competing claims remains the Privy Council's decision in **Ocean Estates Ltd v Pinder** [1969] 2 AC 19, *Lord Diplock* opined at page 25 as follows:

“Where questions of title to land arise in litigation the court is concerned only with the relative strengths of the titles proved by the rival claimants. If party A can prove a better title than party B he is entitled to succeed notwithstanding that C may have better title than A, if C is neither a party to the action nor a person by whose authority B is in possession or occupation of the land. It follows that as against a defendant whose entry upon land was made as a trespasser a plaintiff who can prove any documentary title to the land is entitled to recover possession of the land unless debarred under the Real Property Limitation Act by effluxion of the 20-year period of continuous and exclusive possession by the trespasser.”

[52.] The law, therefore, is that, in order to succeed in his claim, a party must demonstrate a documentary title, or show that he or his predecessor went onto the land as a trespasser and, by virtue of such possession beyond the limitation period, extinguished the documentary title of his opponent or its predecessors in title. In considering the meaning of possession, *Slade J.* in **Powell v. McFarlane** at 470 held that:

“(1) In the absence of evidence to the contrary, the owner of land with the paper title is deemed to be in possession of the land, as being the person with the prima facie right to possession. The law will thus, without reluctance, ascribe possession either to the paper owner or to persons who can establish a title as claiming through the paper owner.

(2) If the law is to attribute possession of land to a person who can establish no paper title to possession, he must be shown to have both factual possession and the requisite intention to possess (“animus possidendi”).

(3) Factual possession signifies an appropriate degree of physical control. It must be single and conclusive possession, though there can be a single possession exercised by or on behalf of several persons jointly. Thus an owner of land and a person intruding on that land without his consent cannot both be in possession of the land at the same time. The question what acts constitute a sufficient degree of exclusive physical control must depend on the circumstances, in particular the nature of the land and the manner in which land of that nature is commonly used or enjoyed. In the case of open land, absolute physical control is normally impracticable, if only because it is generally impossible to secure every part of a boundary so as to prevent intrusion. “What is a sufficient degree of sole possession and user must be measured according to an objective standard, related no doubt to the nature and situation of the land involved but not subject to variation according to the resources or status of the claimants”: *West Bank Estates Ltd. v. Arthur* [1967] AC 665, 678, 679; [1966] 3 WLR 750, PC, per Lord Wilberforce. It is clearly settled that acts of possession done on parts of land to which a possessory title is sought may be evidence of possession of the whole. Whether or not acts of possession done on parts of an area establish title to the whole area must, however, be a matter of degree. It is impossible to generalise with any precision as to what acts will or will not suffice to evidence factual possession....

Everything must depend on the particular circumstances, but broadly, I think what must be shown as constituting factual possession is that the alleged possessor has been dealing with

the land in question as an occupying owner might have been expected to deal with it and that no-one else has done so.

(4) The *animus possidendi*, which is also necessary to constitute possession, was defined by Lindley MR, in *Littledale v. Liverpool College* [1900] 1 Ch 19, as “the intention of excluding the owner as well as other people.” This concept is to some extent an artificial one because in the ordinary case the squatter on property such as agricultural land will realise that, at least until he acquires a statutory title by long possession and thus can invoke the processes of the law to exclude the owner with the paper title, he will not for practical purposes be in a position to exclude him. What is really meant, in my judgment, is that the *animus possidendi* involves the intention, in one’s own name and on one’s own behalf, to exclude the world at large, including the owner with the paper title if he be not himself the possessor, so far as is reasonably practicable and so far as the processes of the law will allow.

The question of *animus possidendi* is, in my judgment, one of crucial importance in the present case. An owner or other person with the right to possession of land will be readily assumed to have the requisite intention to possess, unless the contrary is clearly proved. This, in my judgment, is why the slightest acts done by or on behalf of an owner in possession will be found to negative discontinuance of possession. The position, however, is quite different from a case where the question is whether a trespasser has acquired possession. In such a situation the courts will, in my judgment, require clear and affirmative evidence that the trespasser, claiming that he has acquired possession, not only had the requisite intention to possess, but made such intention clear to the world. If his acts are open to more than one interpretation and he has not made it perfectly plain to the world at large by his actions or words that he has intended to exclude the owner as best he can, the courts will treat him as not having had the owner requisite *animus possidendi* and consequently as not having dispossessed the owner.”

Limitation Period

[53.] The evidence of the Petitioners and their witnesses establishes that the Property has been occupied and developed by the Petitioners for many years, indeed from at least the 1990s and, on some evidence, from the 1970s.

[54.] The documentary evidence, including the Bahamas Power and Light letter confirming electricity supply from 1994, together with planning approvals and building permits, corroborates the Property's long-standing occupation and development.

[55.] The Adverse Claimant contends that the Petitioners’ occupation was initially permissive, deriving from the late Fred Adderley.

[56.] Assuming that the Court accepts that contention in the Adverse Claimant’s favour, the Court finds that, by no later than 2003 (the date of Fred Adderley’s death), any such permission must be taken to have come to an end.

[57.] From that point, the Petitioners' continued occupation—marked by the construction of permanent commercial structures, the installation of utilities, and the operation of independent businesses—was plainly inconsistent with any licence and therefore adverse.

[58.] The period between 2003 and the filing of the Petition in 2021 exceeds twelve years. Accordingly, the statutory period prescribed by section 16(3) of the Limitation Act is satisfied.

[59.] On the evidence before the Court, the Petitioners satisfy the limitation requirement. The Adverse Claimant did not appear at trial and did not pursue his adverse claim. In those circumstances, the adverse claim was not substantiated and must be dismissed.

Factual Possession

[60.] As already stated in **Ocean Estates Ltd v Pinder**, it is well established that a claim for adverse possession requires proof of two elements: (i) factual possession; and (ii) an intention to possess (*animus possidendi*).

[61.] I am satisfied that the Petitioners exercised such control. The Property was developed and used for sustained commercial purposes, including a gas station, liquor store, tire shop, and office rentals. Permanent structures were erected, utilities installed, and the land adapted for business use. The scale and permanence of these developments go far beyond equivocal acts and strongly indicate exclusive possession.

[62.] These acts are unequivocally referable to factual possession as owners and are inconsistent with any competing control. The possession, as evidenced, was open, peaceful, and exclusive.

Animus Possidendi

[63.] The second requirement, *animus possidendi*, is the intention to possess the land for one's own benefit and to exclude the world at large, including the paper owner, so far as is reasonably practicable. The claimant doesn't need to demonstrate an intention to own the land, but rather an intention to exercise dominion over it. As per *Slade J.* in **Powell v MacFarlane**, the "*animus possidendi*" in this way:

[64.] Applying the principles from **Powell v MacFarlane** to the present case, I am satisfied that the Petitioners conduct demonstrates the requisite intention. The scale, permanence, and commercial nature of the developments, together with their long-standing use of the Property, are consistent only with an intention to exercise dominion over the land for their own benefit.

[65.] There is no evidence that their occupation was referable to any continuing permission, licence, or acknowledgement of a superior title during the relevant period.

[66.] Evidence that the Petitioners were regarded within the community as the owners supports the conclusion that their possession was open and notorious, though it is not determinative of title.

Conclusion

[67.] The Adverse Claimant failed to comply with procedural directions, did not appear at trial, and adduced no evidence. In those circumstances, the adverse claim is both procedurally abandoned and substantively unproven.

[68.] Having considered all the evidence, I find that the Petitioners have established factual possession of the Property, together with the requisite intention to possess, for a period exceeding that required by the Limitation Act. In doing so, the Petitioners have displaced the presumption of possession in favour of the paper owner and have established a possessory title sufficient to extinguish any competing claim.

[69.] The Petitioners have therefore demonstrated a better title than the Adverse Claimant and are entitled to the relief sought.

[70.] I therefore conclude that the Petitioners have proved possession sufficient for the relief sought. It is hereby ordered that:

- i. The adverse claim filed by John Ulrich Adderley is dismissed.
- ii. The Petitioners are declared to be the owners in fee simple of the Property by virtue of possessory title;
- iii. A Certificate of Title shall issue to the Petitioners pursuant to the Quieting Titles Act, Chapter 393; and
- iv. The Court will hear the Petitioners on costs.

Dated the 5th day of May, 2026

Justice Darron D. Ellis