

IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
Claim No. 2024/CLE/gen/00133

BETWEEN

AMBROSE NIXON

Claimant

AND

HARVEY NIXON

TROY NIXON

WAYDE JAMES NIXON

Defendant

Before: **The Honourable Madam Justice Simone I. Fitzcharles**

Appearances: **Mr Philip Lundy for the Claimant**
Ms Roshar Brown for the Defendants

Hearing date(s): **10 April 2026; 18 June 2026**

RULING

Applications

1. This is my brief Ruling on two related applications arising in the course of the administration of the Estate of King Richard Nixon, deceased.
2. By the first application the Defendants, Harvey Nixon, Troy Nixon and Wayde James Nixon, seek an order permitting the sale of two parcels of land, which form a part of the Estate of the deceased, situated at Kerland Close, Kool Acres. The Defendants also seek permission to execute the necessary sale documents without the signature of the Claimant, Ambrose Nixon, or alternatively, an order authorizing the Registrar to do so in his stead. The Notice of Application for these reliefs was filed by the Defendants on 18 February 2026 and is supported by an Affidavit sworn by the 3 Defendants and filed on 18 February 2026.
3. The grounds advanced by the Defendants are that they are the majority of the active executors and that the sale is necessary to the due administration of the Estate. They submit that the proceeds of sale are needed to be applied to perfect title to other Estate properties and to meet the accumulating debts of the Estate. The Defendants also submit that Ambrose Nixon's refusal to execute the sale documents with them is preventing the Estate from disposing of assets required for its proper settlement.
4. By the second application, Ambrose Nixon, the Claimant, seeks an interlocutory injunction restraining the Defendants from selling, agreeing to sell, transferring, leasing, excavating or otherwise dealing with the parcel he describes as the subject property, being part of the larger tract at Kerland Close, Kool Acres. The application is supported by an Affidavit filed on 9 April 2026. For general background the Court took into consideration other Affidavits and documents on the Court's file.
5. The grounds advanced in support of the injunction are, in summary, threefold, namely:
 - (1) that at an earlier hearing on 28 October 2025, the Court indicated that one Estate property might be sold to raise income for debts, but gave directions that the subject property should not then be sold or interfered with because Ambrose Nixon had already constructed foundations thereon;
 - (2) that despite those directions, the Defendants pursued severance, marketing and a proposed sale of the property; and
 - (3) that Ambrose Nixon had already invested substantial sums in the lot, and occupied it consistently, he says, with the terms of his late father's Will.

Summary of the Evidence

6. The Defendants' evidence is that the Kerland Close lots are amongst only a few assets in the Estate with good and marketable title and that there is a written offer in respect of at least one of the lots, namely the Northern Lot, at a purchase price of \$95,000.

7. The Claimant's case is that he has been in possession of the subject property since 2010, that he cleared and maintained it since 2014, that he obtained approvals in 2022 and started work on foundations on the land. He contends that his occupation and possession were consistent with the terms of his late father's Will, and in particular the following words:

"All of my heirs can build on my property. No one can stop them."

8. The extract from the Will exhibited by Ambrose Nixon's Affidavit states generally that all the heirs may build on the testator's property, gives 5 acres of the company land to King Richard Nixon's 5 daughters in equal shares and gives the balance to the sons and their descendants.

9. There is also before me a written agreement dated 26 October 2021, signed by the 4 brothers (the parties to this case) as executors by which they agreed to execute their father's Estate in accordance with the laws of The Bahamas and agreed that the majority rules in any decision they must make as executors in relation to leasing, renting and/or selling any Estate assets. They further agreed that 30 days' notice should be given to all executors before the execution of any lease, rental or sale agreement.

Issues

10. In these circumstances, the issues for the Court's determination are:

- (1) whether the Court should vary the earlier restraint so as to allow the sale of the Kerland Close lots in the due administration of the Estate;
- (2) whether the Defendants should be permitted to proceed with the sale notwithstanding the Claimant's refusal to sign; and
- (3) whether Ambrose Nixon has established any sufficient basis for interlocutory injunctive relief.

The Earlier Order of the Court

11. I am satisfied that the earlier order that the lot claimed by the Claimant should not then be sold was made as an interim and practical measure. It was intended to preserve the position while the parties explored whether an amicable arrangement could be achieved. Its purpose was to encourage discussion, and, if possible, a resolution that would preserve the relationship between the brothers while avoiding unnecessary damage.

12. I do not accept that the earlier order was intended to confer upon Ambrose Nixon any priority of entitlement to the subject property, nor to place that parcel of land beyond the Estate's proper administration. It was not made for the purpose of enabling one executor, either by occupation or expenditure, to secure a personal advantage over Estate property.

13. I additionally find, consistent with the clarification given at this hearing, that the Court's explicit earlier position was that no person was entitled to choose and retain Estate property without the agreement of all of the executors. Further, this Court stipulated that any division of the Estate was required to be carried out in accordance with the Will. The earlier order was therefore temporary and facilitative in nature. It was not intended to operate indefinitely so as to hinder the due administration of the Estate. That approach is consistent with the broad principle stated by the Privy Council in **Letterstedt (Vicomtesse Montmort) v Broers and Another**, 9 App Cas 371 (PC), namely that the court's main guide in exercising its supervisory jurisdiction is the welfare of the beneficiaries and the trust estate. In the leading judgment, *Lord Blackburn* stated (at pages 386 and 387):

"It seems to their Lordships that the jurisdiction which a Court of Equity has no difficulty in exercising under circumstances indicated by Story is merely ancillary to its principal duty, to see that the trusts are properly executed. This duty is constantly being performed by the substitution of new trustees in the place of original trustees for a variety of reasons in non-contentious cases...

"In exercising so delicate a jurisdiction as that of removing trustees, their Lordships do not venture to lay down any general rule beyond the very broad principle above enunciated, that their main guide must be the welfare of the beneficiaries...".

(Emphasis added).

The Claim to Retain the Lot

14. I do not accept that the language of the Will on which Ambrose Nixon relies gave him any immediate or exclusive right to choose, occupy and hold onto the subject property for himself. The language relied upon is general. I see no specific devise of the Kerland Close parcels to him in that language. Nor does it authorize any son of King Richard Nixon, before the due administration of the Estate, and before agreement amongst the Executors, to pick out a parcel and treat it as his own.

15. It is also material that the proceedings instituted by the Claimant in this action were, and remained, directed to the administration of the Estate. By his Originating Application, he sought appointment as personal representative of the Estate, or alternatively, the appointment of an official of the Court as judicial trustee. In his second Affidavit the Claimant stated that he sought, amongst other things, permission to be appointed administrator of the Estate, to continue representing the Estate in legal matters, to sell Estate properties to pay Estate debts, to be reimbursed expenses, to open an Estate bank account, and to administer the Estate and grant deeds of assent. No other application was made.

16. I accept that the Claimant later asserted that he had been in possession of the subject property since 2010, that he had cleared it, obtained approvals and built foundations on it. That evidence may explain why he wished to retain the lot. However, it does not establish any right to remove it from the Estate or to prevent the executors from dealing with it for the purposes of due

administration. Viewed in the round, the evidence suggests that the purpose of advancing that history of occupation was to strengthen his personal claim to the lot.

17. I am satisfied that the Claimant did not act in the best interests of the Estate in treating the subject property as if he could seize and retain it for himself. In my view his reliance on the Will is misplaced. The Will did not authorize self-selection of Estate property. Still less did it permit one executor to appropriate to himself a parcel that remained a part of the Estate, in the absence of agreement or lawful administration. That conclusion is supported by the settled fiduciary principle restated in the case of **FHR European Ventures LLP v Mankarious** [2014] UKSC 45, that a fiduciary must not place himself in a position in which his duty and his interest may conflict.

18. Indeed, the written agreement amongst the executors dated 26 October 2021 supports that conclusion. The Court does not treat that agreement as validating conduct contrary to law or as allowing unfairness. It does, however, undermine any suggestion that Ambrose Nixon was entitled to insist upon a unilateral veto while simultaneously pursuing a personal claim to the lot.

19. I add that the Claimant plainly knew how to invoke title-based proceedings when he considered it appropriate to do so. In his second Affidavit he referred to having filed an adverse claim in separate Quieting Titles Act proceedings in relation to other Estate property. That underscores that the present proceedings were not framed in that way. They were, and remain, proceedings concerning the due administration of the Estate.

Variation of the Earlier Restraint

20. The Court accepts the evidence of Harvey Nixon, Troy Nixon and Wayde James Nixon in preference to that of Ambrose Nixon on the present applications. On the evidence I accept, the Defendants seek the proposed sale for the proper administration of the Estate, namely, to raise funds to address accumulating Estate debts and to perfect title to other properties of the Estate. I also accept the evidence that the Kerland Close lots are among the few assets of the Estate with good and marketable title, and that there has been a written offer in respect of the Northern Lot.

21. In those circumstances, the continued operation of the earlier restraint would hinder, rather than help, the proper administration of the Estate. The earlier order was made in aid of possible compromise. That purpose has not been fulfilled. I am satisfied that it should now be varied so that it does not prevent the sale sought in the due administration of the Estate. I also regard the reasoning in **Patrick Schumacher v Brian Clarke** [2020] EWHC 3381 (Ch) as persuasive by analogy. It bears out that a court may properly intervene, rather than allow the administration to remain paralyzed, in situations where trustees experience fiduciary conflicts and deadlock, and as such, cannot make decisions.

Application for Sale of Subject Property

22. I am satisfied that the Claimant's refusal to sign is preventing the Estate from disposing of assets needed to raise money for its proper settlement. I am further satisfied that his refusal is materially influenced by his own wish to retain estate property for himself. That is inconsistent with the obligations of an executor.

23. It is the task of the Court to favour the due administration of the Estate. When one executor seeks to preserve for himself estate property under cover of a general testamentary expression and thereby frustrates an otherwise proper sale, in my view, the Court is entitled to intervene.

24. The Defendants' application should therefore be granted.

The Injunction Application

25. The injunction application must be considered in light of the findings already made. Ambrose Nixon has not established any specific devise of the subject property to himself, nor any current right to select and retain it to the exclusion of the Estate's administration.

26. The basis of his injunction application is the earlier restraint, his occupation of the lot and the fact that he has spent money on developing it. For the reasons I have given the earlier restraint was not intended to operate permanently against the due administration of the Estate. His occupation and expenditure did not entitle him to appropriate the lot to himself or to prevent the executors from dealing with it for the purposes allowed.

27. The Court pays due consideration to the often-rehearsed principles which govern the grant or refusal of interlocutory injunctions as set out in **American Cyanamid Co v Ethicon Ltd** [1975] AC 396. Contemplating those principles, I am not satisfied that it is just or convenient to restrain the Defendants from proceeding with the sale. The Estate has debts and title issues to address. Administration is at a standstill because of the actions of the Claimant. A live offer exists to sell the subject property, and delay harms the due administration of the Estate. The Claimant's prejudice is not that he has a clear proprietary title to the lots, but instead, that he claims he has spent money and desires ultimately to benefit from building there. The balance plainly favours permitting the administration of the Estate to continue. In that respect, I consider the reasoning of the Privy Council in **National Commercial Bank Jamaica Ltd v Olint Corp Ltd** [2009] UKPC 16 as applicable. The authority supports that at the interlocutory stage the court ought to take the course most likely to produce a just result and least likely to cause irremediable prejudice. The application for an interlocutory injunction is therefore refused.

Disposition

28. In the circumstances, and based upon my findings, I make the following orders:

- (1) The earlier restraint relating to the Kerland Close lot claimed by Ambrose Nixon is varied to the extent necessary to permit the due administration of the Estate.
- (2) The Defendants' application for leave to sell the 2 Kerland Close, Kool Acres parcels is granted.
- (3) The Defendants are authorised to execute the necessary agreements for sale and deeds of assent without the signature of Ambrose Nixon, or alternatively, if required, the Registrar is authorised to execute the same in his stead.

- (4) The Claimant's application for an interlocutory injunction is refused.
- (5) For the avoidance of doubt, what the Court determines is that Ambrose Nixon cannot, by unilateral occupation, expenditure or invoking general language in the Will of King Richard Nixon, appropriate estate land to himself or obstruct the administration of the Estate.

Dated 11 September 2026



Simone I Fitzcharles

Justice