

IN THE PRIVY COUNCIL

No. 20 of 1983

O N A P P E A L

FROM THE COURT OF APPEAL OF THE COMMONWEALTH  
OF THE BAHAMAS

B E T W E E N :

BILL WALLACE ENTERPRISES LTD.

Appellant

- and -

STANLEY ROLLE  
and  
CATHERINE ROLLE

Respondents

RECORD OF PROCEEDINGS

CHARLES RUSSELL & CO.  
Hale Court,  
Lincoln's Inn,  
London WC2A 3UL.

PHILIP CONWAY THOMAS & CO.  
61 Catherine Place,  
London SW1E 6HB.

Solicitors for the Appellant

Solicitors for the Respondents

## O N A P P E A L

FROM THE COURT OF APPEAL OF THE COMMONWEALTH  
OF THE BAHAMAS

B E T W E E N :

BILL WALLACE ENTERPRISES LTD.

Appellant

- and -

STANLEY ROLLE  
and  
CATHERINE ROLLE

Respondents

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>	<u>Page</u>
	<u>In the Supreme Court</u>		
1	Statement of Claim	Undated	1
2	Defence	9th May 1978	4
3	Proceedings	18th April 1979	6
	<u>Plaintiffs Evidence</u>		
4	Leonard Chee-a-Tow	18th April 1979	8
5	Claude Chee-a-Tow	19th April 1979	13
6	William Alfred Wallace	11th July 1979	17
7	James Alfred Bowleg	11th July 1979	22
8	Morris Mallory	11th July 1979	23
9	William Alfred Wallace (recalled)	12th July 1979	25
10	Leazer Grant	14th August 1979	26

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>	<u>Page</u>
11	Allan Hanna	14th August 1979	29
12	<u>Proceedings</u> <u>Defendants' Evidence</u>	14th August 1979	31
13	Stanley Rolle	14th August 1979	32
14	Catherine Rolle	15th August 1979	35
15	Noel Grant	15th August 1979	36
16	Hubert Williams	15th August 1979	40
17	Albert Grant	15th August 1979	46
18	Address of Defendants' Counsel	17th August 1979	48
19	Address of Plaintiff's Counsel	17th August 1979	51
20	Judgment	18th June 1980	53
21	Formal Judgment	26th June 1980	73
	<u>In the Court of Appeal</u>		
22	Notice of Appeal	29th July 1980	76
23	Judgment by P.T. Georges, J.A.	19th June 1981	83
24	Judgment of Sir Alastair Blair-Kerr, P.	19th June 1981	95
25	Order granting Final Leave to Appeal to Her Majesty in Council	11th December 1981	96

EXHIBITS

<u>Exhibit Mark</u>	<u>Description of Document</u>	<u>Date</u>	<u>Page</u>
1	Plan drawn by Chee-a-Tow	4th July 1978	117
1A	Conveyance of Rufus Grant to Bill Wallace Enterprises	13th June 1964	98
1B	Conveyance of R. Grant to Bill Wallace Enterprises	18th September 1964	102
1C	Renunciation of Dower A. Grant	15th June 1964	100
1D	Confirmatory conveyance of William A. Wallace to Arnold Flowers	6th June 1979	110
1E	Conveyance of Arnold Flowers to Bill Wallace Enterprises Ltd.	6th May 1967	106
1E (sic)	Renunciation of Dower G. Flowers	15th May 1967	108
1F	Abstract of Title	6th June 1979	118
2	Reduction of Plan of Hanna Hill	15th August 1979	126
3	Certificate of Incorporation of Bill Wallace Enterprises	16th June 1960	97
4	Plan	19th February 1965	104
5	Letter from Kendal Nottage & Co. to Stanley Rolle	17th February 1978	116
6	Conveyance Emmie Grant to Stanley and Catherine Rolle	19th November 1976	113
7	Letters of Administration in Estate of Rufus Grant	27th January 1966	105

---

DOCUMENTS TRANSMITTED TO THE PRIVY COUNCIL  
BUT NOT REPRODUCED

---

<u>Description of Document</u>	<u>Date</u>
Open cheque in the sum of \$59,886 dated	22nd May 1978

O N A P P E A L

FROM THE COURT OF APPEAL OF THE COMMONWEALTH  
OF THE BAHAMAS

B E T W E E N :

BILL WALLACE ENTERPRISES LTD.

Appellant

- and -

STANLEY ROLLE

and

CATHERINE ROLLE

Respondents

10

RECORD OF PROCEEDINGS

No. 1

Statement of Claim  
Undated

In the Supreme  
Court

No. 1  
Statement of  
Claim  
Undated

The Plaintiff is a Company incorporated under the Laws of the Commonwealth of the Bahamas and carrying on business therein.

20 2. The Defendants are man and wife and are residing in the Settlement of Eight-Mile Rock on the Island of Grand Bahama another Island of the Commonwealth of the Bahamas.

30 3. By virtue of two Conveyances made between the Plaintiff of the one part and Rufus Grant of the other part which said Conveyances are recorded in the Registry of Records in the City of Nassau on the said Island of New Providence one of the Islands of the Commonwealth of the Bahamas and recorded in Book 802 at Pages 408 to 410 and in Book 772 at Pages 142 to 144, the Plaintiff is and was at all material times the owner in possession of the two lots of land described in Paragraph 4 hereof.

4. The first lot hereinbefore referred to is as follows:-

In the Supreme (1)  
Court

No. 1  
Statement of  
Claim  
Undated

ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama being bounded on the NORTH by land the property of the Vendor (Rufus Grant) and running thereon Fifty (50) Feet on the EAST by land the property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet on the SOUTH by a Public Road and running thereon Fifty (50) Feet and on the WEST by land the property of the Purchaser (the Plaintiff) and running thereon One hundred (100) Feet. This lot is recorded in Book 802 at Pages 408 to 410.

10

The second lot hereinbefore referred to is as follows:-

(2) ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama and bounded on the NORTH by property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet on the EAST by land the property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet on the SOUTH by the Main Public Road and running thereon One hundred (100) Feet and on the WEST by land the property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet. This lot is recorded in Book 772 at Pages 142 to 144.

20

The above two lots adjoin one another and are hereinafter referred to as "the land."

30

5. Sometime during the month of January, 1978 the Defendants wrongfully entered the land and erected a building thereon.

6. By a letter to the Defendants dated January, 1978 the Plaintiff informed the Defendants that the land belonged to it but the Defendants have continued with the erection of the said building.

7. The Defendants continues unlawfully to use and occupy the Plaintiff's land.

8. By reason of the matters aforesaid the Plaintiff has been deprived of the use of its land and has thereby suffered damage.

40

THE PLAINTIFF THEREFORE CLAIMS:-

(a) An injunction to restrain the Defendants whether by themselves or by their servants or agents or otherwise howsoever from entering, using and occupying the said land.

- (k) Possession of the said land.
- (c) A declaration that the said land is the property of the Plaintiff.
- (d) Mesne Profits at the rate of \$50.00 per month until possession is given up.
- (e) Damages.
- (f) Further or other relief.

In the Supreme Court

---

No. 1  
Statement of Claim  
Undated  
(cont'd)

10

Sgd. M.J. Thompson  
M.J. THOMPSON  
ATTORNEY FOR THE PLAINTIFF

And the sum of \$26.00 (or such sum as may be allowed on taxation) for costs, and also, in case the Plaintiff obtains an order for substituted service, the further sum of \$ (or such sum as may be allowed on taxation). If the amount claimed is not paid to the Plaintiff or his Attorney or Agent within four days from the service hereof, further proceedings will be stayed.

20

Provided that if it appears from the endorsement of the Writ that the Plaintiff is/are resident outside the scheduled territories, as defined by The Exchange Control Act, 1947, or is/are acting by order or on behalf of a person so resident, or if the defendant is acting by order or on behalf of a person so resident proceedings will only be stayed if the amount claimed is paid into Court within the said time and notice of such payment in is given to the Plaintiff, his Attorney or Agent.

(special)

In the  
Supreme  
Court

No. 2

Defence - 9th May, 1978

No. 2  
Defence  
9th May 1978

COMMONWEALTH OF THE BAHAMAS

1978

IN THE SUPREME COURT

NO. 183

COMMON LAW SIDE

BETWEEN:

BILL WALLACE ENTERPRISES LIMITED Plaintiff

AND

STANLEY ROLLE Defendants

and

10

CATHERINE ROLLE

1. The Defendants admit paragraph 2 of the Statement of Claim filed herein;

2. The Defendants do not deny paragraphs 3 and 4 of the said Statement of Claim but say that the land described therein is not the land on which the Defendants have entered and erected a building as alleged in paragraph 5 of the said Statement of Claim and they assert that the land on which they have entered and erected a building was not in possession of the Plaintiff prior to the Defendants' taking possession of it. The Defendants will at the trial hereof put the Plaintiff to strict proof of the claims and assertions made in this respect and otherwise in the said Statement of Claim;

20

3. Paragraph 5 of the Statement of Claim is denied and the Defendants say that they did not enter the land of the Plaintiff as alleged but on the 19th November, 1976 lawfully entered land conveyed to them by Emmie Grant, Administratrix of the Estate of the late Rufus Grant, by an Indenture of Conveyance dated the 19th day of November, 1976;

30

4. The Defendants deny that they entered their land during the month of January, 1978 as alleged;

5. The Defendants deny that they were informed by letter dated January 1978 that the land belonged to the Plaintiff; they further deny that they continued the erection of the said building after they had been so informed. The Defendants say that they only received a letter from Kendal Nottage and Co. attorneys for the Plaintiff, on

40



the 17th day of February, 1978 informing them that the Plaintiff was claiming the land, and they further say that the building had in fact been built and opened as a business since the 9th day of December, 1977;

In the  
Supreme  
Court  
No. 2  
Defence  
9th May 1978  
(cont'd)

10 6. The Defendants admit that they continue to occupy the land as alleged in paragraph 7 of the Statement of Claim but deny that the said land belongs to the Plaintiff and they deny that their user of the said land is unlawful.

Sgd. Hall, Carroll & Co.  
HALL, CARROLL & CO.,  
Attorneys for the Defendants.

TO: Bill Wallace Enterprises Ltd.,  
or Maxwell J. Thompson, its  
Attorney, Chambers, Nassau.

In the  
Supreme  
Court

No. 3

Proceedings - 18th April  
1979

No. 3  
Proceedings  
18th April  
1979

COMMONWEALTH OF THE BAHAMAS 1978  
IN THE SUPREME COURT No. 183  
BILL WALLACE ENTERPRISES LTD. Plaintiff  
VS.  
STANLEY ROLLE AND CATHERINE ROLLE Defendants

For the Plaintiff - Mr. Maxwell J. Thompson  
For the Defendants - Mr. Norris Carroll 10

1st Day 18/4/79  
10.30 a.m.

MR. THOMPSON - Asks leave to amend Statement of Claim -  
wish to delete para 3 and substitute the following:  
"By virtue of an Indenture dated 6.5.67 and made  
between Arnold Lorenzo Flowers etc. etc." (as in  
terms of amendment handed up).

The two lots were purchased by Plaintiff in  
June and September 1964. On 27/4/65, the two lots  
were conveyed by the Plaintiff to Lorenzo Flowers as 20  
security for money borrowed from Flowers. The  
arrangement was that upon payment of the loan, the  
lots should have been re-conveyed. This was done  
in 1967. I only discovered this after filing the  
Statement of Claim.

MR. CARROLL - I do not oppose the application, but  
I need time to consider the matter and see whether  
there are any implications arising out of it. I  
might need an adjournment at some point in the  
case, but it may not be necessary for me to ask for 30  
the adjournment now.

COURT - Leave granted to Plaintiff to amend  
Statement of Claim as prayed on Counsel's undertaking  
to file Statement of Claim as amended.

MR. THOMPSON - Refers to Statement of Claim and  
deletion prayed for. Reads the Statement of Claim.  
Asks leave to delete last line of para 4(1) -  
(Leave granted) and also last line of para 4(2) -  
(Leave granted). The public road is the Main Public  
Highway. 40

Refers to Defence - Para 3 - The Plaintiff's  
President lives in Nassau and seldom goes to Grand

Bahama. It may be true that Defendants entered on land in November 1976. The Defendants building has been erected in centre of Plaintiff's land, straddling both the lots referred to in 4(1) and (2) of the Statement of Claim.

---

In the  
Supreme  
Court

No. 3  
Proceedings  
18th April  
1979  
(cont'd)

In the  
Supreme  
Court  
Plaintiffs  
Evidence

No. 4

Leonard Chee-a-Tow - 18th  
April 1979

No. 4 Leonard Chee-a-Tow - Sworn.

Leonard Chee-a-Tow - 18th April 1979 Examination  
Mr. Carroll - I apprehend that expert evidence is about to be given. Order 38 Rule 34 of the Bahamian Rules has not been complied with. This rule is counterpart of O. 38 Rule 36 of the 1976 White Book.

As to plans, I rely on Order 38 rule 5 of the Bahamian Rules.

10

COURT: Will hear you at appropriate time.

Leonard Chee-a-Tow: Examination in Chief -

I am a Land Surveyor Registered in The Bahamas. Registration No. 011. I have been a Surveyor for 34 years. I have been a Crown Surveyor for six years. I have practised in Guyana. I know Mr. Bill Wallace. He asked me to do a survey of two parcels of land in the Hanna Hill area of Grand Bahama. He submitted copies of two conveyances; one for a parcel of land 100' x 100', and the other for another lot east of this and adjoining which was 50' x 100'. I produced a plan as a result of this survey. This is a copy of the plan I produced.

20

Mr. Carroll now repeats his objection.

Mr. Thompson in reply to Carroll's objection - re admissibility of Plan, Mr. Carroll did not appear on the Summons for directions. I met him before the Summons came on for hearing and told him I would only be asking for a trial date. I never mentioned a Plan or that I would be relying on a Plan. If I have been in breach of O.38, Rule 5, I ask for leave now to produce the Plan.

30

Mr. Carroll:

I am eager to correct wrong impressions. I was never told that a Plan was going to be produced. I was only advised before the application on the Summons for directions that a date was going to be asked for, for trial. I need to inspect the plan, and take instructions. I am not being obstructionist.

40

COURT directs that Plaintiff's Counsel give the Defendants' Counsel an opportunity to inspect the plan and ask such questions as may be necessary of

Counsel for the Plaintiff with a view to agreeing the Plan if possible. Case stood down until 2.30 p.m.

(Signed) V.O. BLAKE, J.  
11.45 a.m.

RESUMPTION - 2.40 p.m.

Mr. Carroll: I have inspected Plan. Do not know if it is accurate and cannot agree it, but will now object to production.

In the  
Supreme  
Court

Plaintiffs  
Evidence

No. 4  
Leonard Chee-  
a-Tow - 18th  
April 1979  
Examination  
(cont'd)

10 Leonard Chee-a-Tow Examination in Chief continued:

This is the plan I produced - Tendered Plaintiff's Exhibit 1. I did my survey 30th June 1978. The plan was dated 4th July 1978. The scale of Plan Ex. 1 is 1" to 50 feet. There is a Family Residence shown on plan. This is the residence of Rufus Grant. Land to North is claimed by Rufus Grant. There is a 6' wide footpath to the West, giving access to Rufus Grant's land North of lots.

20 The hatched area shown on the Plan is the land claimed by the Defendants. The rectangle in the hatched area is the building claimed by the Defendants. From the south eastern corner of the Plaintiff's land to the south western corner of Rufus Grant's land is 156 ft. inclusive of the 6' footpath. As far as I know, Rufus Grant has no land West of the footpath shown on the plan. He has land North and East of the land claimed by the Plaintiff. The land was pointed out to me by Mr. Bill Wallace at the time of the survey.

30 These are the Conveyances from which and on the basis of which I prepared my Plan - Ex. 1. Tendered Exhibits 1A and 1B. 1A Conveyance dated 13/6/64 - Rufus Grant to Plaintiff Company. 1B 18/9/64 - Rufus Grant to Plaintiff Company.

40 TO COURT: I cross hatch in red on Ex. 1, the structure on the land claimed by the Defendants. It was a solid concrete structure, being used as a shop. The Defendants prevented me from going beyond the main road boundary. My rough measurements show that building was 40' long approx. by approximately 24' wide. From north side of Main Road reservation to southern side of the Defendants' structure was approximately 26 - 27'. I told the Defendants I was there to survey on behalf of Mr. Wallace. They were not cooperative. They gave me no information as to their title. They just said "Dont come on the land".

In the  
Supreme  
Court  
Plaintiffs  
Evidence

CROSS-EXAMINATION BY MR. CARROLL

No. 4  
Leonard Chee-  
a-Tow - 18th  
April 1979  
(Contd.)  
Cross-  
Examination

I was not present when Defendants said "Dont come on the land". My chief surveyor Claude Chee-a-Tow was present. Some of the work on the survey was done by me - the rest by Mr. Claude Chee-a-Tow. I cannot say from my own personal knowledge that the Defendants prevented my Chief Surveyor from going on to the land. I did not see the Defendants on any occasion that I visited the land. According to my reports, Defendants did prevent my Chief Surveyor from going on to the land. I made the plan myself from the field notes. C.E. Chee-a-Tow did the survey. The physical work - the Plan was drawn by Keith Michael Chee-a-Tow. I went over the conveyances produced by Mr. Wallace and issued instructions to C.E. Chee-a-Tow as to what I wished to have done. He then returned the field notes to me which I worked up into a computation and then results were plotted on to a sheet of paper and passed on to the Draftsman.

10

20

QUESTION: How did Claude Chee-a-Tow get the angles etc.?

ANSWER: He established the South east and North east corners of Rufus Grant's property, and then he came westwards along the northern side of right of way along the Main Public Road. He put down three markers along that road.

All the information on the basis of which Ex.1 was prepared, came from Mr. Claude Chee-a-Tow. Exhibit 1A refers to the western most Lot. Mr. Wallace remembered that the Grant Family residence was immediately to the East of the land he had purchased. With that information and the description in the Conveyances, we proceeded to set about doing a survey. Without the information about the Family residence which provided a sort of marker, we would not know where to start our survey. Mr. Wallace said the old Family Residence was very very near to his Company's eastern boundary. There was just enough space between this eastern boundary and the Family residence for someone to walk in between.

30

40

I assumed that Rufus Grant's land had a frontage of 300 ft. along the Main Road. I assumed this from a marker found on the Northern Boundary line of the original Crown Grant to Benjamin Lightbourn. I established that line in 1957. I assumed that the Family Residence was that of Rufus Grant. This satisfied the description in Ex. 1B that there was land belonging to Rufus Grant on the East. I do not know if the Family residence shown on the Plan in fact belongs to Albert Grant.

50

I assumed that Rufus Grant's land ended on the West at the Footpath shown on Ex. 1.

In the Supreme Court

In 1957 I personally surveyed the area. The land shown on the plan as now claimed by Rufus Grant, was then claimed by John Franklin Hanna. Land East of that - now shown as claimed by Percy Barr, was claimed by Percy Barr.

Plaintiffs Evidence

No. 4  
Leonard Chee-a-Tow - 18th  
April 1979  
Cross-Examination  
(cont'd)

10 The land shown on Ex. 1 as cross hatched was surveyed by Roy Warren in 1965 for Emmie Dorothy Grant. His plan showed the dimensions of that area and so it was superimposed on Ex. 1. The building itself was located on earth and shown on the Plan by my assistant. I do not have a copy of Warren's plan here. The Warren plan is in existence. We got a copy from someone in Freeport.

TO COURT:

Pathway shown on Ex. 1 was in use when I visited locus for the survey in June 1978.

CROSS-EXAMINATION CONTD.

20 Mr. Wallace relied on no marks on earth as establishing any of his boundaries. He relied only to the Family Residence. The rectangle shown on Ex.1 on the Northern boundary of land claimed by the Plaintiff represents a building. It is a wooden building. I do not know who owns it. Plan shows another building in a south western corner of land claimed by the Plaintiff. This also, I believe is a wooden building. I do not know who owns it. The distance from western boundary of the 25 ft pathway shown on Plan Ex.1 to South western corner of land claimed by Plaintiff is 20ft. I cannot swear that Rufus Grant's land ends where Ex.1 shows it to end. It is possible that he owned land west of the 6ft pathway shown on Ex.1.

40 I never drew any plan for administratrix of Rufus Grant, Emmie Dorothy Grant. When Ex. 1 was drawn, no reference was made to any plan drawn when land was sold to the Defendants. I saw such a plan in your possession during the adjournment earlier granted.

TO COURT:

I drew in green on Ex. 1 the boundary lines I established in previous surveys.

ADJOURNMENT - 4.35 p.m. until 10.45 a.m.19/4/79

(Signed) V.O. BLake, J.

2nd Day - 19/4/79

Time - 10.45 a.m.

In the  
Supreme  
Court

Plaintiffs  
Evidence  
No. 4  
Leonard Chee-  
a-Tow - 19th  
April 1979  
Cross-  
Examination  
(cont'd)

Leonard Chee-a-Tow - Cross-Examination by Carroll  
contd.

On Plan I did for survey of 8/2/57, the Main Road was shown as being 30' wide. On Ex. 1, road is shown as being 50' wide. I do not know when widening took place. It was done after 1957. I remember the road was improved.

Re-  
Examination

RE-EXAMINED:

I prepared a plan in 1957. The Conveyances Exs. 1A and 1D were in June and September 1964 - some seven years after the survey. In those seven years there was much development in the area. The road was improved in that time and probably widened by the Government during those seven years.

10



Claude Chee-a-Tow - 19th April  
1979

In the  
Supreme  
Court

Plaintiffs  
Evidence

Claude Chee-a-Tow - Sworn - Examination in Chief:

No. 5  
Claude Chee-  
-a-Tow - 19th  
April 1979  
Examination

10 I am a Registered Surveyor. Live Freeport,  
Grant Bahama. I am connected with firm Chee-a-  
Tow Ltd. I did a survey of land for Bill Wallace.  
I surveyed two portions of land to the north of  
the Main Road from Freeport to West End. One parcel  
was 100' x 100' - the other 50' x 100'. There is a  
25' pathway in a portion of this land. I personally  
checked what my instrument men did after giving them  
instructions. The survey was done in July 1978.  
The 4th of July 1978. Ex. 1 is the plan prepared  
from survey I did.

20 I see block shown on Ex. 1 and marked Family  
Residence. That is on a portion of the land claimed  
by Rufus Grant. The portion of land on which the  
Family Residence is sited is 148.55 ft. from the  
eastern boundary of land claimed by the Plaintiff.  
From S.E. corner of land shown on Ex. 1 to S.W.  
corner is 156 ft. This includes the 6' wide pathway.  
I do not know if Rufus Grant owned or claimed any  
land West of the 6' footpath. There is a two-storey  
house on the land West of the footpath shown on Ex.1  
occupied by some Haitians. Lands claimed by Rufus  
Grant extended 1250.09 ft. northwards from the South  
eastern boundary with the Main Road. From the north-  
eastern corner going west - the land extended 306 ft.  
30 I mark in ink on Ex. 1 the boundaries of the Rufus  
Grant land, and their measurements, and initial these  
boundaries and measurements. This was the entire  
area claimed by Rufus Grant, as pointed out by Rufus  
Grant's widow - Emmie Grant. The measurements I  
have just referred to and which I have put on the  
plan are based on a survey I did for Mrs. Emmie Grant  
in 1976. It was at that survey that she was present.  
She pointed out the land to me. At that time I did  
not know that Bill Wallace Ltd. or Bill Wallace owned  
40 any land in that parcel.

Mr. Thompson asks for short adjournment - 11.30  
a.m. for 10 minutes - Granted.

Resumption - 11.40 a.m.

Claude Chee-a-Tow - Examination in Chief contd.

First survey was done in 1976 for Mrs. Emmie  
Grant. I did a survey for her of all the land claimed  
by Rufus Grant. I have indicated the boundaries of  
this land on Ex. 1 - Mrs. Grant was present when that

In the  
Supreme  
Court  
Plaintiffs  
Evidence  
No. 5  
Claude Chee-  
a-Tow - 19th  
April 1979  
Examination  
(cont'd)

survey was done. At that time I also surveyed for her, two parcels of land on the eastern side of the 25' pathway shown on Ex. 1. One of these parcels is shown in Ex. 1. as the area cross hatched in pen. The other parcel is not shown on Ex. 1. It was 150' north of northern boundary of the hatched area shown on Ex. 1. This was all I did for Mrs. Grant in 1976.

I did another survey on 4/7/78 for Bill Wallace of Bill Wallace Enterprises Ltd. The land I surveyed for Wallace is the rectangle shown on Ex. 1. enclosing the hatched area with measurements as shown. This area includes a house at south western corner, and part of a house on the northern boundary. Excluding land with Family Residence there would not be sufficient land belonging to Rufus Grant to accommodate Plaintiff with a frontage of 150' on the main road, and Defendants with a frontage of 80'. If family residence were not on land then both Plaintiff and Defendants could be accommodated.

10

20

TO COURT:

When I surveyed in 1976, there were marks on earth showing boundaries. There was a concrete monument at the S.E. corner on the main highway. This was pointed out by Mrs. Grant. There was also a secondary growth of trees going north from this monument. At this time I found in the eastern boundary three other monuments - steel in concrete. Found monuments also in the northern boundary - steel in concrete. I mark with an X on Ex. 1 where I found these monuments in the 1976 survey. I saw an unoccupied building at that time in the South Western corner of the land. The building shown on the northern boundary was also in existence in 1976. It was then occupied. The entire area I surveyed for Mrs. Grant in 1976 was 8.9 acres.

30

Cross-  
Examination

CROSS-EXAMINED BY MR. CARROLL:

When I did survey for Mrs. Grant in 1976 I had a Plan. This was a plan I myself prepared. Mrs. Grant pointed out the land she claimed in 1976 at the time of the survey. At time of survey she was planning to sell the two portions of land I surveyed for her. I do not know to whom she was selling. I subsequently discovered that the Defendants bought one of the parcels I surveyed. I do not know who bought the other. Mrs. Grant showed me about where the western boundary of the land should be. Land between Western boundary of 25' pathway and western boundary of 6' footpath is about 24' wide.

40

It would seem that there was some idea to have a lot between the pathway and the footpath,

50

but this would be very narrow for a building lot. I have the plan I prepared for Mrs. Emmie Grant, based on the 1976 survey. These you show me are copies of the Plan I prepared for Mrs. Grant.

In the  
Supreme  
Court

Plaintiffs  
Evidence

No. 5  
Claude Chee-  
a-Tow - 19th  
April 1979

Cross-  
Examination  
(Contd.)

10 Plan tendered by consent and marked Ex.2. I see the area coloured Pink on Ex.2. This represents one of the parcels I surveyed for Mrs. Grant in 1976. This is the lot sold to the Defendants. The thick broken line west of the two buildings, west of the pink area, represents the eastern boundary of a parcel of land claimed by one Eleazor Grant and others. From the western boundary of the 25' Pathway shown on this plan, to the eastern boundary of Eleazer Grant's land, is 150'. The western Boundary of Rufus Grant's land is shown on Ex. 2. This is the boundary as it was shown in another survey done in 1965. This survey was done by R. Warren & Associates in 1965, and is referred to in the Surveyor's notes on Ex. 1. The survey by Warren & Associates was the 19th of February 1965. I remember seeing the two conveyances - Ex. 1A and Ex. 1B. I have been living in Grand Bahama since 1963. I think the Main Road was widened in the latter part of 1968 or early 1970. I cannot remember the exact date. It could have been November 1967.

20  
30 Q. If the land sold to the Plaintiff in 1964 was bordering on the Main Road, and the Main Road has been widened since, does it not appear that a portion of the land sold to Plaintiff has been used up for the road?

A. Yes.

40 Ex. 1 makes no allowance for this. It still shows the depth of Plaintiff's land as 100' north of the road on the eastern and western boundaries. The instructions for the survey and plan came from Bill Wallace. Wallace gave no instructions to reduce width of his land by virtue of the widening of the Main Road. I think a relative of the Grants owns the Family residence shown on Ex. 1.

Ex. 2 shows distance between South eastern corner of Grant land to South western corner of Rolles' area shaded in Pink, as 170'

West of the building shown on northern boundary of land claimed by Plaintiff, I saw a little farm. I saw sugar cane, peas, and mixed crops. I saw this at time of 1976 and 1978 surveys for Mrs. Grant, and the Plaintiff. I cannot remember seeing a coconut tree on the land hatched

In the  
Supreme  
Court

Plaintiffs  
Evidence

No. 5  
Claude Chee-  
a-Tow - 19th  
April 1979  
Cross-  
Examination  
(cont'd)

Re-  
Examination

in Ex. 1. in 1978. I saw signs of mixed farming on  
area hatched on Ex.1 at time of my survey in 1978.  
I saw a plum tree to the west of the Family  
Residence at time of that survey.

I now say that the other parcel I surveyed  
for Mrs. Grant in 1976 was 130 ft north of the  
northern boundary of the hatched area shown on  
Ex.1.

Re-examined:

In most cases the Crown reserves land for road 10  
widening. If they have no land for widening they  
either buy or acquire from the private owners. No  
land was acquired as far as I know for widening the  
road. I cannot say whether any land was taken from  
the land claimed by Plaintiff so as to widen the Main  
Road.

ADJOURNMENT 1.10 p.m. for Resumption at 2.45  
p.m.

NOTE: At 1.20 p.m. both Counsel - Messrs. Thompson 20  
and Carroll, attended on me in Chambers. Mr. Thompson  
said his case would not likely close by Friday 20th  
and if it did, he did not think it would be fair to  
adjourn at that stage, part heard until a date could  
be found for continuation after my return from the  
Criminal Sessions. Mr. Carroll said that as he had  
intimated earlier in the proceedings, he wished an  
adjournment to consider the Amendment made by the  
Plaintiff to the Statement of Claim, and make  
searches in the Registrar's office.

In the result both Counsel asked for an 30  
adjournment of the case at this stage, for continuation  
on a date to be fixed.

ORDERED that matter stand adjourned for a date  
to be fixed. Matter is part heard and must be given  
priority when I resume Civil work.

(Signed) V.O. Blake, J.

19/4/79.

William Alfred Wallace - 11th  
July 1979

---

In the  
Supreme  
Court

Plaintiffs  
Evidence

11th July , 1979. Continuation of Hearing.  
Court sat at 10.20 a.m.

No. 6  
William Alfred  
Wallace - 11th  
July 1979  
Examination

William Alfred Wallace - Sworn:

10 Live 8 Country Club Mana , Freeport. I am  
the sole owner of the Plaintiff Company. Company  
is registered under The Companies Act. This is a  
certified copy of the certificate of incorporation.  
Tendered Ex.3.

In 1964 I resided partly in Nassau and partly  
in West End Grand Bahama. I knew Rufus Grant in  
1964. He then lived in Hanna Hill, Eight Mile Rock,  
opposite the property I bought from him. Hanna  
Hill is approx 22 miles from West End. It was  
possible to travel by car from West End to Hanna  
Hill but road was rough. In 1964 I travelled  
there by car several times. I was buying property  
all around.

20 In June 1964 my company bought land from  
Rufus Grant - one parcel - and again on 18/9 64.  
Exhibits 1A and 1B. At time of purchase of lot in  
Ex. 1A Rufus Grant's wife renounced her right of  
dower. This is the renunciation dated 13/6/64.  
Tendered Ex. 1C - by consent. I bought as an  
investment.

30 I was building a motel in Grand Bahama and  
ran out of money. Accordingly , my Company sold  
both lots of land Exs. 1A and 1B to Arnold Flowers.  
The understanding was I would repurchase after  
things got better. My Company repurchased in 1967.  
I have no documents for transaction my Company to  
Flowers but I have executed a Confirmatory Deed  
dated 6/6/79. By consent tendered Ex. 1D. I have  
however , discovered the documents whereby Flowers  
reconveyed to me as well as the renunciation of  
dower by Flowers' wife. By consent both documents  
tendered Ex. 1E.

40 This is an abstract of title to Rufus Grant's  
land in relation to the sale by him of the two lots  
to my Company. Tendered by consent Ex. 1F.

When my Company bought from Rufus Grant in  
1964 , he pointed out the boundaries of the land I  
was buying on each occasion.

In the Supreme Court  
Plaintiffs Evidence  
No. 6  
William Alfred Wallace - 11th July 1979  
Examination  
(cont'd)

On the eastern boundary there was an old building, the family residence which he told me he had given to a relative. The building is there up till today. The southern boundary pointed out was the Main Road. In the South western corner of the land bought, there was an old building. Rufus Grant told me that that building belonged to one Billy Cat who would have it removed. At the time of the transaction, Mr. Lynden Pindling was my lawyer and kept all the documents. He continued to be my lawyer until 1967.

10

When my Company bought the land from Grant in 1964 it was all bush - no pathways and no walkways. Shortly after Grant died, believe sometime in 1968 or 1969, a lady relative of his put a tractor in the land. I passed and saw her. I told her that the property was mine. After the land was cleared I saw people walking through the land. It is after this that I observed that the pathway was developed. I am here referring to the 25 ft wide pathway shown on Ex. 1.

20

Up to 1978 I had no problems with the land. I visited the land myself between 1969 and 1974. I stopped living in Grand Bahama in 1973. I did not visit the land between 1974 and 1977. In 1978 I visited the land. I saw a building on the land. I saw the 1st Defendant on the land. I spoke to him. I told him the land on which the building was belonged to my company and as proof of my ownership I came to Nassau and got a certified copy of my Conveyances from Rufus Grant and took them back to Grand Bahama and showed them to the 1st Defendant. At time I saw building it was completed, but it appeared as if there were places for extensions. There was steel sticking out at the top. When I showed the documents to 1st Defendant he said "It appears as though you are the owner". I later consulted my lawyer in Freeport. Lawyer was Mr. Miller of Kendall Nottage & Co. Letter was written in January 1978. I pointed out land I bought to the Chee-a-Tows for their survey in 1978.

30

40

Mid Morning Break - 11.20 a.m.

Resumption - 11.35 a.m.

Cross-Examination

William Alfred Wallace - Cross-examined by Carroll

I am a professional gambler amongst other things. I have been convicted and gone to prison. I was convicted for operating a lottery. I think this was in 1960 - (Court points out that conviction so long ago should not be dragged in at this stage).

I see Exs. 1A and 1B. In the September Conveyance - the land to the east is described as the property of the Vendor. Grant told me that he had given the residence on East to a relative. I do not know who owns the building now.

In the Supreme Court

Plaintiffs Evidence

No. 6  
William Alfred Wallace - 11th July 1979  
Cross-Examination  
(cont'd)

10 It was in January 1978 that I saw 1st Defendant on the land. There was another building, a two storied stucco building West of building shown in S.W. corner of Ex.1. The building in S.W. corner of Ex. 1 is a wooden building. It was there in 1964.

20 I know the main road was widened, but I do not know when. By consent Plan of Warren & Associates dated 19/2/65. Job 18/65 tendered Ex.4. I observe on Ex.1 the Eastern Boundary of Rufus Grant's land runs for 1250.09. On Ex. 4 it runs for 1260.25 On Ex. 1, Western Boundary runs for 1274.19. On Ex. 4 it runs for 1284.19. I cannot say that the difference is accounted for by fact that part of the land has been taken up by the widening of Main Road.

As far as I know, Rufus Grant had no other land in Grand Bahama apart from that shown in Ex.1. I see Ex. 1F - abstract.

Luncheon Adjournment - 1.05 p.m.

Resumption 2.35 p.m.

Cross-examination Contd.

30 According to Ex.1 my Company's eastern boundary is 148.55 ft. from western boundary of Rufus Grant's land.

40 My company bought 3 pieces of land from Grant - one on the waterfront, and the 2 pieces in Ex.1. The piece on the waterfront was bounded on the North by the Road, but not the Main Road shown on Ex.1. This piece of land is South of the Main Road. I never claimed that the Defendants have been occupying part only of one of the lots I bought from Rufus Grant. I instructed Mr. Miller to write to the Defendants. I believe he did. I see this letter dated 17/2/78, Jethro Miller to 1st Defendant - Tendered Ex.5. This letter refers to a plot of land.

Defendant Rolle did say that it appeared that I was the owner of the land when I showed him my documents.

When my Company bought the first of the two pieces of land, I was told that my Eastern Boundary was 100 feet west of the family residence.

In the Supreme Court

Plaintiffs Evidence

No. 6  
William Alfred Wallace - 11th July 1979  
Cross-Examination (cont'd)

The family residence was there in 1964. It was a stone building with two or three bedrooms - a one floor building. I am certain that the Family Residence was there in 1964.

Q. I suggest that the land sold to you by Rufus Grant in 1964 is the land cross hatched in red on Ex.2.

A. It is not.

I am familiar with the area in which the land in dispute is. I know Carroll's liquor Store. It is opposite the land cross hatched in red on Ex.2. - south west of it. I never knew that the piece of land on which Carroll's Liquor Store is, was formerly owned by Rufus Grant. In 1964 Rufus Grant was living south of the Main Road. It was not directly behind Carroll's liquor store, but directly opposite the lots I bought. The track leading to Rufus Grant's property was on southern side of the Main Road and directly opposite the lots my company bought in 1964. It does not run along the eastern wall of Carroll's Liquor Store. I have been to Rufus Grant's residence many times. The house was a stone building with fruit trees in the yard and maybe 100-150 ft. from the Main Road.

10  
20

When I saw the tractor on the land, nearly all the bush had been cleared. The two storied stucco building is west of my western boundary - about 8-10 feet west of it. I at no time said that this two storied building was on my land. The two storied stucco building belonged to Billy Cat. I did say that this two storied stucco building was on the western side of my boundary. I never did any farming on the lots in dispute. If Emmy Grant tenanted out any of it to Haitians it was between 1974 and 1978. Emmie Grant died some time last year. I do not know anything about a plum tree on the land. I never planted a coconut tree on the land in dispute. I did not observe any plum or coconut tree on land when it was bought, nor after the tractor had cleared the land.

30  
40

I see the house on Northern Boundary of my land in Ex. 1 I do not own this house. I dont know who owns it. It was not on the land in 1973-74 when I returned to Nassau. The western edge of the 25ft pathway on Ex.1 is not my eastern boundary.

Re-Examination

Re-examined: In 1964 there were buildings to the west of my land. The first piece I bought, I paid £250 for. The second piece I paid £100. Land



would not be all that cheap if two other buildings were on it.

TO COURT:

In 1964 land some distance to the West of my land was owned by the Grant family. It was "generation property".

In the Supreme Court

---

Plaintiffs  
Evidence

---

No. 6  
William Alfred  
Wallace - 11th  
July 1979  
Re-  
Examination  
(cont'd)

In the  
Supreme  
Court  
Plaintiff's  
Evidence

No. 7

James Alfred Bowleg - 11th  
July 1979

No. 7  
James Alfred  
Bowleg - 11th  
July 1979  
Examination

James Alfred Bowleg - Sworn:

I am 67 years old. Have lived West End, Grand Bahama from 1935. Am a businessman. I have been a member of Town Planning Committee for West End for about 10 years now, I am still a member of that committee.

I knew the late Rufus Grant. I knew his property at Hanna Hill. I have known Bill Wallace for 14 years or so. Knew Rufus Grant from School days. We went to school together. Wallace showed me the property he bought from Rufus Grant. There was one house on the East of the property. I saw the house as recently as last Sunday. Wallace first showed me the property between 1964 and 1965. There is a building on the property now.

10

TO COURT:

I knew Rufus Grant's Property. I did not know its boundaries I know the Grant's generation land. It was to the West of Rufus' land. Rufus was a few years older than I am. From time I have known Rufus Grant's land, I have known that to the West of it was the Grant's generation land.

20

Cross-  
Examination

Cross-examined by Carroll:

When I first knew Rufus Grant we were both living in Eight Mile Rock. I went to live in West End when I was about 15 - 16 years old.

Rufus' house was on the south side of the Main Road. It was a couple of hundred feet from the sea. Before the new main road was built, there was an old road. The old road was much nearer to the sea than the present Main Road is. When I first knew the house East of Rufus land, it was of wooden construction. On Sunday when I saw it, it appeared to be "stuccoed".

30

NO RE-EXAMINATION

Morris Mallory - 11th July  
1979

In the Supreme  
Court

Plaintiffs  
Evidence - No.8

Morris Mallory  
11th July 1979  
Examination

Morris Mallory - Sworn:

10 Live Freeport. Have lived there since 1965. I am a plumber. I knew Rufus Grant. I lived near to him in Eight Mile Rock between 1963 - 1965, I am now 49 years of age. I know Grant's property in Hanna Hill. I know the Main Road - Freeport to West End. He owned property on both sides of the road. This was near to one Billy Cat's land.

I know Bill Wallace. I know that in 1964 Wallace's company bought land from Rufus Grant. He showed me the land. There were no buildings on the land. There was however a building to the East of the land and another wooden building in the Western corner of the land.

Cross-examined:

Cross-  
Examination

20 I lived in a house belonging to Lorenzo Smith and nearby Rufus Grant's land. I would not care to estimate the distance. I was living west of Rufus Grant's land. I do not know the distance between the building on the East, and the Eastern boundary of property Wallace said he bought from Rufus Grant. I did not know where the western boundary was. There was a 25 ft wide pathway west of the property. I had assumed that the 25 ft wide pathway was not in the property because I have used the pathway several times. The 25 ft wide pathway led to an area where there were old junk cars. I have been to this track road, i.e. the 25' pathway in 1963 and 1964. I now say I do not know how wide this pathway is. As far as I can recollect, it was to the west of the wooden building in the west of the land. I am not sure if the track road was to the east or west of the two-storied building you are talking about. The building I say was on the west of the land pointed out to me by Wallace was not a two storey building. It was a wooden shack. I am certain the two storey building was on the land in 1964. I do not remember if there were other buildings nearby these two buildings.

40 The building on the East of the land was a stone building in 1964. It had a porch and an almond tree in front of the yard, It had a hip roof and I believe it was shingled.

Adjournment 5 p.m.

In the Supreme Court 12/7/79.

Plaintiffs Evidence

Resumption 10.15 a.m.

Morris Mallory - Cross-examination contd.

No. 8  
Morris Mallory  
12th July 1979  
Cross-Examination  
(cont'd)

I know James Bowleg - know him very well. Have not seen him very often over last few years. In the last few weeks I have seen him about six times. Been off and on in West End over the past few years. Cannot say how often I have visited West End between 1964 and 1978. Have been there many times during those years. I live in Freeport. To get from West End to Freeport, one has to pass through Eight Mile Rock. Land in dispute was vacant for a long time between 64 & 78. I never noticed a farm on the land during those years. I really never took any special notice of the land when I passed by. I did observe that someone started a building on the land - maybe three years ago. I took note of the building when the plumber started putting in the ground work. This would have been very early in the construction process. I realised that the building was going up on land Wallace pointed out to me as land his Company had bought. Wallace had left Grand Bahama from 1973. I never saw him again in Grand Bahama until about 1 year ago. He then contacted me. I did find out that 1st Defendant was putting up the building. I knew the 1st Defendant. We never discussed the building he was putting up on the land. I never found out whether he had bought the land. We had no discussion about this at all. I did not speak to 1st Defendant because I thought Wallace might have sold the land to the 1st Defendant. Wallace frequently buys and sells property. I know Rufus Grant's residence. It was south of where the new Main Road is. It was East of Carroll's Liquor Store. I would say Grant's residence was South east of the land in dispute. Carroll's Liquor Store might be west of the land in dispute.

10

20

30

NO RE-EXAMINATION

No. 9

William Alfred Wallace (recalled)  
12th July 1979

In the Supreme  
Court

Plaintiffs  
Evidence

William Alfred Wallace - Recalled by permission of  
the Court Sworn:

No. 9  
William Alfred  
Wallace  
(recalled)  
12th July 1979  
Examination

Examination in Chief -

10 The land in dispute would fetch a market  
rental of \$50 per month. This is the rock bottom.  
I have many lots of land rented out now and I base  
this figure on my experience in the real estate  
market.

Cross-examined by Carroll:

Cross-  
Examination

I have no properties rented in Eight Mile  
Rock. Rental of land in Eight Mile Rock should be  
about 4 cents per sq.ft. per month. Know of no  
property in Eight mile Rock which is rented at this  
figure.

THOMPSON -

20 Yesterday was the first time that any concrete  
suggestion was put to the Plaintiff's witnesses as  
to what precisely is the piece of land it is being  
contended that the Plaintiff bought. Had I known  
this earlier, I could have called evidence to  
indicate that Rufus Grant never owned land as far  
west of disputed lots as Defence suggests. I wish  
an adjournment.

Dates for adjournment discussed between counsel.

THOMPSON

30 On reflection I will not apply for an  
adjournment. I will rest my case. Burden is on  
the Defendants to establish their allegation. I  
will deal with the allegation when it is made.

COURT: If you adopt that course, you will have  
practically mitted your opportunity to call rebutting  
evidence.

THOMPSON - I think then that I will ask for the  
adjournment.

CARROLL - I do not oppose the application.

40 COURT - Matter stands adjourned until 14/8/79  
at 10.00 a.m.

5th day of Trial

RESUMPTION - 14/8/79 - Time 10.25 a.m.

In the Supreme Court

No. 10

Plaintiffs Evidence

Leazer Grant - 14th August 1979

No. 10  
Leazer Grant  
14th August  
1979  
Examination

Leazer Grant - Sworn:

Examination in Chief -

Am 55 years of age. Plumber - Lived in Hanna Hill all my life save for brief absences. Knew land of Rufus Grant deceased. He was my second cousin. I know the land in dispute in this case. I own land on the north side of Road leading from West End to Freeport. I know that area very well. Next to my land is land owned by Allan Hanna. We call him "Billy Cat". Next to Billy Cat's land was Rufus Grant's land.

10

I see Exhibit 2. My land is shown on this plan. Rufus Grant's land was east of my land. Billy Cat is dead. His family now lives on the land. There is a two storey building on the southern side of Billy Cat's land. Billy Cat erected this building. Rufus Grant was alive at that time. Rufus did not object to Billy Cat building this house. House is one of those shown in the area cross hatched in red on Ex. 2. Rufus Grant never at any time claimed the land on which this building is. Billy Cat died about 5 months ago. Up to the time of his death he had owned this land for 16 years, and he built the two storey building about two years after he started to occupy his land. When Billy Cat built, there was a pathway about 6 - 8 ft wide east of Billy Cat's land and on Rufus Grant's land. The foot path was the boundary more or less between Rufus Grant's land and Billy Cat's land. The land on which Billy Cat built, was Billy Cat's land. The land where Billy Cat built was never Rufus Grant's land as far as I know.

20

30

Cross-Examination

Cross-examined:

Myself, Madeline Hall, Irene Williams, Ivan Grant and others live on land shown on Ex.2 as "land claimed by Leazer Grant et al" Before Billy Cat moved on to his land, he lived West of my boundary and behind John Franklin Hanna. Billy Cat moved on to the land referred to in Ex. 2 in recent times. Billy Cat was first occupying an area of land on the parcel marked "G" shown on Ex. 2, then he moved to the parcel marked "claimed by Albert Hanna", and after that he moved to the area north of the Main Road of which I have spoken and which he occupied for some 16 years before his death.

40

Carroll's Liquor Store is now situated on the parcel on Ex.2 marked "claimed by Wilkie Hanna". Rufus Grant's house was south east of parcel marked "claimed by Wilkie Hanna" on Ex.2. It was about 100 ft. more or less away from Carroll's Liquor Store.

Qn. I suggest Rufus Grant's house is due south of Carroll's Liquor Store.

A. It might be due south.

10 Rufus Grant and Billy Cat were relatives. They were first Cousins. They were the children of a sister and a brother. Rufus was the child of the brother. I do not know that there were disputes between Rufus and Billy Cat over the land in dispute and the parcel shown cross hatched in red on Ex.2. The pathway I have referred to was between Billy Cat's land and Rufus Grant's land. Ex.2 does not show the 6 - 8 ft. wide pathway of which I spoke. The pathway today might now be much wider than when I first knew it - cars maybe can go through it. I know the land in dispute. There is a new building on it. I do not know who owns the new building. It looks as if a business is carried on there. It is a stone building. The pathway was west of where that stone building now is. There is a wooden stucco building north of the new building. Dont know who owns this building. It looks as if it is on Rufus Grant's land. This building is east of the pathway I know and of which I speak. The pathway was between two buildings. I feel the wooden building is owned by Billy Cat. I believe the pathway was a right of way and also the dividing line between lands of Billy Cat and Rufus Grant. I inferred that the pathway was cut out by hand with cutlass I infer this from the way the pathway looked. I dont know if a surveyor did it. I do not know if Wilkie Hanna got his land from Rufus Grant. I knew two persons by name of James Grant from 8 Mile Rock: Neither one of them is alive today. I know William Pinder of Pinder's Point, and his son William Jr. William Snr. is dead. He died about 16 years ago. I know Howard Bartlett Snr. He is not my brother-in-law. I knew Henry Grant. Rufus Grant's land was bounded on the East by Henry Grant. This is the piece he owned south of the Main Road. The piece of land North of the Main Road owned by Rufus Grant was also bounded on the East by Henry Grant. Henry Grant died about twelve or more years ago. Albert Grant now occupies Henry Grant's land south of the Main Road. Another Albert Grant, the brother of Henry Grant deceased occupies the land formerly owned by

In the Supreme Court

Plaintiffs Evidence

No. 10  
Leazer Grant  
14th August  
1979 - Cross  
Examination  
cont'd

In the Supreme Court

Plaintiffs Evidence

No. 10  
Leazer Grant  
14th August  
1979 - Cross  
Examination  
(cont'd)

Henry Grant north of the Main Road. The family residence is on a piece of land north of the Main Road and is occupied by Albert Grant. Henry Grant and Rufus Grant were cousins.

Re-  
Examination

Re-Examined:

I see Exhibit 1. The 6ft wide pathway shown here is the one I have been talking about.

ADJOURNMENT 12.05 p.m.

Plaintiff's last witness not in attendance.

RESUMPTION 2.40 p.m.

10



Allan Hanna - 14th August  
1979

In the Supreme  
Court

Plaintiffs  
Evidence

No. 11  
Allan Hanna  
14th August  
1979  
Examination

Allan Hanna Sworn : Examination in Chief -

10 I am Allan Hanna Jnr and known as Billy Cat  
Jnr. I am 37 years of age. Allen Hanna Snr. was  
my father. He died about 5 - 7 months ago. I am a  
native of Hanna Hill - was born there and grew up  
there. I now work at Great Harbour Cay. Hanna Hill  
is still my home. I am a Building Contractor.

20 My father owned land at Hanna Hill north of  
the Main Road. West of my father's land ,Leazer  
Grant had land. Rufus Grant owned land east of my  
father's land. All the lots adjoined each other.  
There was a track road in between Allan Hanna and  
Rufus Grant. Before my father died, he built houses  
on his land. He built about 7 houses on the north  
side of his land. Some of the houses were as close  
as 10 - 12 ft. from the road. Some of these houses  
were close to the southern boundary of my father's  
land. Rufus Grant was alive when the houses were  
built. Rufus did not object to my father building  
these houses as far as I know.

I know Bill Wallace. Dont know when he  
bought land from Rufus Grant. I think I can read a  
plan.

30 I see Ex.2 - Most of the area cross hatched on  
Ex.2 with a number of buildings on it is in my  
father's land. I am my father's heir-at-law and I  
allow my mother to rent out the houses. Land north  
of this area was my father's property. As far as I  
know, all this land has been my father's from the  
time I was born.

TO COURT:

I have never known of any dispute between  
Rufus Grant and my father about the land shown on  
Ex.2 to which I have just referred. (Land marked  
on Ex.2 with agreement of Counsel).

CROSS-EXAMINED:

40 I grew up on the land and I know it well. I  
do not now live on my deceased father's land. I  
did live on it some time. I lived in a house at  
spot marked "X" on Ex.2 on my father's land. House  
was mine. Prior to that I lived with my father on  
the South side of the Main Road. House has been  
marked by me on Ex.2 with a red "X". I was born in

Cross-  
Examination

In the Supreme Court

Plaintiffs Evidence

No. 11  
Allan Hanna  
14th August  
1979 - Cross  
Examination  
(cont'd)

my father's house south of Main Road. Lived there until I got married; at about age 22. It was then that I moved to the house I built on the north of Main Road - marked "X" on Ex.2. I was born in a house south of the main road. The land shown on Ex. 2 south of Main road as Albert Hanna's was my father's also. Albert is my brother and my father gave him this land. Rufus Grant's house was south roughly of land which my father gave to Albert Hanna. Land marked "claimed by Wilkie Hanna" is generation land. It formerly belonged to Allen and Walter Hanna. The land south of this was the land of the Grants and the Hannas. The land north of the Main Road marked "Allan Hanna" was not generation land, as far as I know.

10

Rufus Grant and my father never had any quarrels or fights over land. They have had quarrels when they were drunk. I did not know what they quarrelled or argued over, when drunk. I have never heard that Rufus took a gun at my father. I have never seen this happen. I have seen Rufus with a gun - a shot gun. He used it to shoot cows or pigs which he wished to kill for sale or for family use. Have never seen Rufus with a gun when he was drunk.

20

I know the boundary between my father's land and Rufus' land. It was west of pathway shown on Ex.2, or very close to it. It was east of the 2nd most easterly of 3 buildings shown in area cross hatched red on Ex.2. The most westerly of those buildings was a barber shop and was on my father's land. My father never claimed any land north of main road belonging to Rufus Grant. I do not know that when Defendants bought area shaded red on Ex.2, my father told them it was his land.

30

COURT: How is this admissible - It is not a declaration against interest.

I do not know that when Defendants built on land in dispute my father broke down the construction boards. I cannot remember when Rufus Grant died. No houses were built on my father's land north of the Main Road since 1964.

40

NO RE-EXAMINATION

Mr. Carroll -

10           Defence basically is that Rufus Grant died  
4/2/66. Emmie Grant was appointed administratrix of  
his estate on 27 /7/66. She sold the Defendants the  
piece of property in dispute - Conveyance dated  
19/11/76. If Defendants had checked the Registry of  
Records and found any records concerning the land,  
all they would have found was very vague legal  
descriptions which do not in any way specify with  
particularity the land claimed by the plaintiff. As  
far as the Defendants knew and believed, the land  
which they bought was in the possession of Emmie Grant.

20           Defendants then went into lawful occupation on  
19/11/76 and continued in lawful occupation.  
Evidence will be led to show that the land hatched  
red on Ex.2 was most probably the land sold to  
Plaintiff Company by Rufus Grant.

In the Supreme  
Court

No. 13

Defendants  
Evidence

Stanley Rolle - 14th August  
1979

No. 13  
Stanley Rolle  
14th August  
1979

Stanley Rolle - Affirmed : Examination in Chief -

Live Hanna Hill , Grand Bahama. Been living there for eleven years. Live on South side of Main Road and south east of the land in dispute. My house is about 250 ft away from the land in dispute.

In 1976 wife and I decided to purchase the land in dispute We bought it from Emmie Grant. This conveyance dated 19/11/76 is the conveyance between Emmie Grant and myself and wife.

10

Certified copy Conveyance dated 19/11/76 - Emmie Grant to Defendants. Tendered Ex.6 by consent.

I put up a building on the land. Building was completed in November 1977. Construction started July 1977. It is a stone building with reinforced steel on second floor. It is a building with two floors. It cost around \$70,000. One floor is completed - floor area 60 x 28 feet. I carry on a dry goods business on these premises. Business started in December 1977. I never continued building after Wallace told me land belonged to his Company. I now say Wallace never told me the land belonged to his company. No one ever told me that Plaintiff Company was claiming the land. First time I knew that Plaintiff company was claiming the land was one day in February 1978 when Wallace brought me two conveyances. These purported to show the land was his company's. We had no conversation. I never told him after looking at them ,that it appears the land I bought was his company's land. I subsequently received letter - Ex. 5.

20

30

Q. Did any one else claim the land you bought?

A. Yes. Allan Hanna.

COURT: Rules inadmissible - Allan Hanna dead - not a declaration against interest and irrelevant.

Examination continued:

Albert Grant owns land east of land I bought. From my boundary to Albert Grant's boundary is about 13 ft. The Family Residence shown on Ex.1, is Albert Grant's House.

40

When I bought the land there was a scarlet plum tree and a coconut tree, a sour orange tree, some potato slips, cane trees. It looked as if it had been farmed. A Haitian was farming the area then.

ADJOURNMENT 4.30 p.m.

6TH DAY OF TRIAL

15/8/79 - Resumption - 10.15 a.m.

Stanley Rolle - Examination in Chief continued:

10 I own house I live in at Eight Mile Rock, i.e. Hanna Hill. I do not however own the land on which the house is built. The land is about 100 x 100 ft. I have leased the land from one Percy Barr. I pay \$60 p.a. rent for the land. I lease no other land in Hanna Hill. The church I attend is built on land that is 100' x 80'. I am a member of the church committee. Rental is \$50 per year for the church land.

CROSS-EXAMINED - THOMPSON:

20 Been living Hanna Hill eleven years. Leases I spoke of were by agreement. I would ask \$100 per annum rental for land I am claiming in this case. I would let the shop for about \$70 - \$80 per month. Hanna Hill area is still under-developed.

30 I did not get a lawyer to represent me in the transaction. Mr. Carroll was acting for Vendor and I asked him to represent us. Carroll told us that it was alright to purchase land from Emmie Grant. We bought on the strength of Carroll's advice that title was clear. I did not pay Carroll to represent our interests in the transaction. I never heard at any time that land I bought belonged to Plaintiff company. Emmie Grant never told me Plaintiff company bought the land. Shortly after I got Ex.5, I took it to Emmie Grant. She told me then that the land sold to Plaintiff company was not the land I had bought. She told me land sold to Plaintiff company by Rufus Grant contained the Barber Shop. I did not know that that land belonged to Billy Cat. I frequently went to the Barber Shop. I had no idea before who owned the land on which barber shop is, or the other houses on that land behind the barber shop.

40 After I bought land, I compensated Haitian for his farm and employed a tractor to clean the farm area. The Haitian is no longer in the Bahamas.

In the Supreme Court

Defendants Evidence

No. 13  
Stanley Rolle  
14th August  
1979  
(cont'd)  
15th August  
1979

Cross-Examination

In the Supreme TO COURT:  
Court

Defendants  
Evidence

No. 13  
Stanley Rolle  
15th August  
1979  
(cont'd)

The only basis on which I can say that area hatched in red on Ex.2 is land sold by Rufus Grant to Plaintiff company, is the statement made to me by Emmie Grant.

NO RE-EXAMINATION

Mr. Carroll asks for a short adjournment. I wish to have a word with my clients.

ADJOURNMENT GRANTED

(By consent Letters of Administration, estate Rufus Grant tendered Ex.7)

10

No. 14

Catherine Rolle - 15th August  
1979

---

In the Supreme  
Court

Defendants  
Evidence

CATHERINE ROLLE - Affirmed:

No. 14  
Catherine Rolle  
15th August  
1979  
Exmination

Examination in Chief

I have heard the evidence of my husband -  
the 1st Defendant. I agree with everything he said  
and I adopt it.

10 Bill Wallace never asked me or my husband to  
vacate the land we bought. He never ever told us  
that his company owned the land.

In Feb '78 Wallace came to me at Charon Hall -  
Freeport. He handed me a letter, Ex.5. I read it  
when he left.

20 In '78 about Nov. I paid a lawyer to search  
the records because husband and I wished a mortgage  
on the building. A month after the search the  
Canadian Imperial Bank of Commerce lent us money on  
security of the land and building. We borrowed  
\$15,000.

CROSS-EXAMINED:

Cross-  
Examination

I have looked at plan attached to my  
conveyance from Emmie Grant - Ex.6. The plan  
attached to Ex.6 does not show that Plaintiff  
company bought the land hatched in red on Ex.2.  
which I contend was land sold by Rufus Grant to  
Plaintiff company. The defence that this is so -  
is not an after thought.

30 Re-examined: I see plan attached to Ex.6. I do  
not see the name Allan Hanna on this plan.

In the Supreme  
Court

No. 15

Defendants  
Evidence

Noel Grant - 15th August  
1979

No. 15  
Noel Grant  
15th August  
1979  
Examination

NOEL GRANT - Sworn :

Live Freeport. I manage a Pub in Freeport. Rufus Leon Grant was my father. I grew up at 8 Mile Rock, Hanna Hill. I am 49 years of age. I grew up along with my father. My mother's name was Gertrude Bevens.

I have a house in Hanna Hill. My father Rufus Grant gave me the land on which I built my house. My father and I were very close. Land on which I have my house is on the south side of the main road. My father died and left a widow Dorothy Emmie Grant. I built my house between 1955 and 1957. Land on which Defendants built their shop is across the street from my house. It is on north side of Main Road and about 50-75 ft. from my house.

10

My father told me that he had sold Bill Wallace certain property. He told me this in 1964 and 1965. He told me that himself and Allan Hanna had quarrelled over land and so he sold Wallace a piece of land to prevent Allan Hanna from coming further east into his, Rufus Grant's property. He pointed out this land to me. The land sold to Wallace was north of the Main Road and facing Carroll's Liquor Store. It was west of the shop of the Defendants. I remember a pathway west of the Defendant's shop. My father had this pathway opened. I know he did this in the sixties. Pathway was west of area where Rolle's shop now is. There was only one pathway.

20

30

Allan Hanna was known as "Bully Cat" On occasion I heard my father and Bully Cat quarrel over property. First time I heard such a quarrel was in the very late forties or in the early fifties. Quarrel was over a wooden building that Bully Cat built on south side of Main Road and west of Carroll's Liquor Store. Carroll's Liquor Store is west of spot where I built my house. My father's house was south of my house.

40

I knew the boundaries of my father's land south of the road. East of my father's land, was land belonging to Henry Grant.

On northern side of road my father's land was bounded on the East by Henry Grant. Henry



Grant's land on north side of road is now occupied by Albert Grant. My father's land on north side of road was approximately 250 ft. wide - east to west. On N. side of road my father's land was bounded on the west by Leazer Grant, Bully Cat, Austin Grant and one Smith.

In the Supreme Court

Defendants Evidence

No. 15  
Noel Grant  
15th August  
1979  
Examination  
(cont'd)

10 My house on south side of road is about 50 - 75 ft west of my father's eastern boundary. There was a boundary wall on the south between my father's land and Henry Grant's land on the east. There was no boundary wall on the northern side of the road - only a footpath. There were two footpaths on the north - one to the east and one to the west. I would say the footpath on the west side of the piece of land to the north was close to the middle of the frontage of my father's land on the Main Road. Immediately west of the pathway in the middle of the land is a little stucco building. This stucco building is used as a barber shop. Bully Cat  
20 claimed that he owned the land where the Barber Shop is.

TO COURT:

At the time my father told me he had sold land to Wallace, there were no buildings on the land he said he had sold to Wallace. All the buildings now on the land were put up between '64 to '65 and the present time.

Examination Contd.:

30 Dorothy Emmie Grant and my father farmed my father's land. All the land was not farmed at one time. They farmed land right up to the western boundary on the piece on the north. Sometime or another they farmed the piece of land which my father told me had sold to Bill Wallace. I have seen my father and stepmother farm the land which was sold to the Defendants.

40 After my father's death, the property was cleaned up. Some on the north and on the south. Only a part of the property on the north was cleaned. Part of the property on which the Defendants built on the north was cleaned. It was cleaned by a tractor. We cleaned up to the eastern boundary west of Albert Grant's house. On the west side we cleaned to a little bit west of the pathway. The cleaning was in the sixties after my father's death - about a year or two after his death.

TO COURT:

I was born 28/12 28. I am now 50 - will be 51 next birthday. I was mistaken when I said I was 49

In the Supreme Court

years of age. At time I heard first quarrel I was in my late teens. All I can say is that I was then a young man.

Defendants Evidence

Examination Cond.:

No. 15  
Noel Grant  
15th August  
1979  
Examination  
(cont'd)

On north side of road, Leazer Grant claimed land immediately west of my father's land. Bully Cat also claimed land immediately west of my father's land on the N. side of the road, and adjoining my father's land. Bully Cat never claimed any land immediately adjoining my father's land in the vicinity of the Main Road.

10

TO COURT:

In December 1976 I learnt that the Defendants had bought a piece of land from Emmie Grant. About two weeks ago I was asked to come and give evidence in this case. Mr. Carroll spoke to me. Before that both Defendants asked me to give evidence. I did not give Mr. Carroll a written statement two weeks ago. It was about two months ago that I mentioned to the Defendants and their lawyer for the first time that I knew the land my father sold to the Plaintiff company and he showed me where it was.

20

ADJOURNMENT - 1.00 p.m.

RESUMPTION - 2.30 p.m.

Cross-Examination

Cross-examination - Noel Grant:

I am my father's heir-at-law. My father was not married to my mother. My mother died when I was very young. My father's mother brought me up. I lived in his house with my grandmother. My father married Emmie Grant about five years before he died. It is not only two years before death, he married Emmie. He was not a poor man.

30

The piece of land my father told me he sold to Wallace was about 150' x 100'. On the west of this land was Leazer Grant, and on the east was my father's land. House shown on plan as Family Residence was not on my father's land. It was on Henry Grant's land. My father never gave Henry Grant the land on which the Family Residence was built. My father told me he sold Wallace one piece of land only on the north side of the road.

40

At this moment of time Leazer Grant's land is west of Billy Cat's land. Leazer Grant's land is now the same place it was when my father sold to Wallace.

I was 44 yrs. old in 1964. I now say in 1964 I was 34. I now say I was 36 in 1964.

Leazer Grant bordered land sold by my father to Wallace on the west. Land belonging to the Crown was on the north of the piece sold by my father to Wallace. Land to the north was Crown land. Land to the east was my father's. Main Road was southern boundary. From Leazer Grant's land to the east, piece sold to Wallace, ran about 150 ft. My father never told me he sold Wallace two pieces of land.

Inthe Supreme Court

Defendants Evidence

No. 15  
Noel Grant  
15th August  
1979 - Cross  
Examination  
(cont'd)

10 Father had a brother. Brother died before my father. Brother had wife and children. After death of my father, Emmie came to Nassau. She came to me and spoke to me about what was to be done to the property.

20 I was not present when Bill Wallace passed by and saw tractor on land after my father's death. No one told me that Wallace had tried to stop the work. The work was not stopped. My Aunt told me Wallace had tried to stop the work but she told me that that was not the land that my father had sold to Wallace.

I would say Wallace is a very intellignent man. I agree that a man who buys land should know the land he has bought.

TO COURT:

Emmie Grant lived with my father for years before marriage. She was his second wife. Father's first wife was Adina. She died in the latter part of the fifties.

30 TO THOMPSON WITH PERMISSION

It is possible Adina died in 1964.

COURT'S NOTE the correct name of the former wife is Adline (See Renunciation of Dower Ex. 1C).

Re-examined:

Re-  
Examination

40 Emmie Grant lived with my father when I was still a child. My father separated from Adina his first wife when I was about 15 - 16 yrs. I now say that the northern boundary of the land sold to Wallace by my father was not Crown land but other land belonging to my father. I have been to Court once before. I dont find it pleasant to give evidence but I do not find it too difficult.

ALBERT GRANT - NO ANSWER

Mr. Carroll - Albert Grant was not sub-poenaed on 11/8/79. We made hotel and air lines bookings for him. We tendered a ticket and \$50 conduct money and undertook to pay his hotel expenses. His evidence is critical.

In the Supreme  
Court

No. 16

Defendants  
Evidence

Hubert Williams - 15th August  
1979

No. 16  
Hubert Williams  
15th August  
1979  
Examination

HUBERT WILLIAMS - Sworn:

Employed to Dept of Lands & Surveys. I am a photogrammetrist. Photogrammetry is process of making maps using aerial photographs. It also involves interpretation of aerial photographs.

In the course of my work I deal with photographs kept by my Department.

10

Mr. Thompson:

I am objecting to any aerial photographs. Under O 38 5, I should have had ten days notice of inspection.

Carroll:

I agree but the Court has a discretion. I only became aware of the photographs recently.

Examination Contd.

On payment of an inspection fee, any member of the Public has a right to go into the Department of Lands & Surveys and inspect an aerial photograph and also obtain a copy of the photograph on application and payment of a higher fee than in the case of inspection only.

20

COURT:

I will exercise my discretion and allow evidence to be given of the photographs subject to Counsel for the Plaintiff having a right to inspect same and ask questions of Counsel for the Defendants relating thereto - i.e. what of relevance it purports to show for purposes of this case.

30

Matter adjourned at 3.45 p.m. until 10 a.m. on Thursday the 16th August 1979.

16th August  
1979

16/8/79 - 7TH DAY OF TRIAL

Time 10.05 a.m.:

Hubert Williams - Examination in Chief contd.

I see these three aerial photographs. One of them is an enlargement of the other two photographs. They are aerial photographs taken on 27/4/67 from an altitude of 7,500 feet. This gives an approx. scale of 1" = 15,000 inches. Photograph shows an area of Hanna Hill - Eight Mile Rock, Grand Bahama.

40

I was shown this plan Ex.2 by Counsel for the Defence on Monday the 13th August 1979. I did a reduction of the Plan Ex.2 to a scale matching that shown in the aerial photographs. I superimposed the reduction on the enlarged aerial photograph. I obtained a relationship between the two. As a result, it is possible by reference to the aerial photograph to identify areas shown in Ex.2.

In the Supreme Court

Defendants Evidence

No. 16  
Hubert Williams  
16th August  
1979  
Examination  
(cont'd)

10           Enlargement of aerial photograph tendered together with one copy of the original aerial photograph. This copy to be procured from Lands & Surveys by Counsel for the Defendants. Tendered Ex.8.

I look at Ex.2. I see line to East with bearing 230.01'. I was able to synchronize that line with something shown on enlargement in Ex.8. It appears as a cut line on the enlargement. I mark this cut line on the enlargement in red.

20           I see on Ex.2 a house called the Family Residence. I mark this on Ex.2 in green. I synchronized this house with the enlargement in Ex.8. I mark this house in green on the enlargement. I see area coloured pink on Ex.2. This is shown in the enlargement. I cross hatch this area in red on the enlargement.

30           I produce an overlay of the plan Ex.2 reduced to a scale to match the scale used in the aerial enlargement. I did this overlay myself. Overlay tendered Ex.9.

When this overlay Ex.9 is superimposed on the enlargement it appears that the area shaded pink in Ex.2, and cross hatched in red on Ex.8 is an area of land that had been cleared. When land has been cleared, and is cleared at the time of an aerial photograph, such land will appear in the photograph in white. Structures and buildings will also appear in white dependent on the colour of the roof.

40           I mark on the enlargement Ex.8 outlined in a broken blue line, areas north and south of the area cross hatched in pink on Ex.8 which appear to have been cleared at the time.

50           By using the overlay Ex.9, I can tell the eastern boundary of the area shaded pink in Ex.2, and identify it on the aerial enlargement. I have marked this on Ex.8 in green. This line would be the eastern boundary of the cleared area on the northern side of the road. By a similar use of the overlay Ex.9, I mark on Ex.8 the 25' wide pathway in pencil.

In the Supreme Court

Defendants Evidence

No. 16  
Hubert Williams  
16th August  
1979  
Examination  
(cont'd)

I can say that this pathway existed in 1967 when this aerial photograph was taken. I say this because by close examination of a 3 dimensional picture, I can say that the pathway was there in 1967. The original photographs taken of the aerial survey are all three dimensional. When I used my pocket stethoscope (sic) to examine the original photographs, I could identify the pathway. There was a difference in density between the area to the east and west of the pathway and the pathway itself.

10

On plan Ex.2 immediately west of the western boundary of the 25' wide pathway is a figure representing a house. I mark this house on Ex.2 with an "X" in black. I mark it similarly on Ex.8. This appears to be a small structure and to have had a roof at the time the aerial photograph was taken.

I look at aerial photograph Ex.8. There is no indication from the aerial photograph of the existence of a footpath west of structure marked X in Exs. 2 and 8, running towards the North. The only footpath in the area shown in Ex.8 is a footpath running north of structure and immediately west of the structure marked X in Ex. 2.

20

By using the overlay, I can say that the remainder of the area west of the structure marked X on Ex.2., and appearing on Ex.2 synchronises with what appears in the aerial enlargement Ex.8.

Mid Morning Break - 11.19 a.m.

30

RESUMPTION

TO COURT:

Q. If there was a footpath west of structure marked with black in 1964 and it had fallen into disuse by 1967, would it appear on enlargement?

A. No.

Examination in Chief Contd.

I look again at Ex.2. I see area coloured pink and what appears to be a house North of that area. I can identify this house or structure on enlargement Ex.8. I mark this structure with a blue cross on Exs. 2 & 8.

40

Enlargement Ex.8 shows a structure south of Main Road opposite area hatched in red on Ex.8. I mark this structure with a red X on Ex.8. West of

this structure marked with the red X there is an area which represents an unpaved roadway. I outline this unpaved roadway in pencil on Ex.8.

In the Supreme Court

Defendants  
Evidence

No. 16  
Hubert Williams  
16th August  
1979  
Examination  
(cont'd)

10 Maps are made for the Department from the aerial photographs taken in aerial surveys. These maps may be inspected and/or purchased by members of the public. I produce a copy of such a map of the area shown in the enlargement Ex.8. Map tendered Ex.10. This map is known as a topographic map. Sheet Number Q.V.1936 and Q.V.1937.

20 The unpaved roadway marked on Ex.8 appears to lead to a structure which I outline in green on Ex.8. To the west of the northern end of this unpaved roadway there appear to be two other structures. I mark these two structures with a "blue tick" on Ex.8. Examination of these with a stereoscope suggests that the most westerly of these two structures is definitely a two storey structure. The eastern border of the cleared area outlined in blue on Ex.8 is continuous north to south. In my opinion, the area to the extreme south was cleared first then the other area south of main road, and then the area north of the main road. I am of this opinion because there is evidence of vegetation in the area south of the Main Road and very little vegetation in the area north of Main Road.

30 If the western boundary of the cleared areas shown on south of road in blue outline on Ex.8 is produced northerly in the same direction, it would enclose the area shown on Ex.2 as land of Billy Cat. I mark this produced line in red on Ex.8.

TO COURT:

40 The effect of producing this line in manner aforesaid would give a frontage on the main road east to west 261 feet measuring from green line on Ex.8 on east to red line on west on scale of the plan. The scale of the photograph would make the distance 290 feet. The possible explanation for this difference is interpretation. My line produced in red on Ex.8 might be in a different position from western boundary of Billy Cat's land shown on Ex.2.

EXAMINATION CONTD.

50 The distance between the most easterly red line shown on Ex.8, and the broken line in green is 161 feet according to the scale of the enlargement used in aerial photograph. Using the scale of plan Ex.2, it would be 170 feet. The difference may again be explained on the same basis as interpretation.

In the Supreme Court

Defendants Evidence

No. 16  
Hubert Williams  
16th August  
1979  
Examination  
(cont'd)

The distance between the green line shown on Ex.8, and western wall of Family Residence shown in green is 26' using the scale of the photograph. Using the scale of the plan, Ex.2 is approx. 28'.

From eastern edge of green line on Ex 8 to edge of small structure indicated by black X on Ex.8, is 102' according to scale of photograph - according to the plan Ex.2 it is 110 ft. There is no cleared area of 150' north of the Main Road in vicinity of area hatched in red on Ex.8.

10

The dimensions of the structure marked with a black X on Exs. 2 & 8, are 15' x 15'.

RESUMPTION 2.30 p.m.

Examination contd.

I measure on Exhibits 2, and 8, a distance 250 feet west of the eastern boundary being shown by the most easterly of the two red lines shown on Ex.8. On the photograph Ex.8, this point would fall just east of the house marked with the black X. On the plan it would fall at the western boundary of the area shaded in pink.

20

I measure a distance 250 ft. west of green line shown on Ex.8 (the eastern boundary of the area shaded pink in Ex.2). This point would fall at the point marked Z on Ex.2.

Cross-Examination

CROSS-EXAMINED - BY THOMPSON

The measurement from the western side of the Family Residence shown on Ex.2 and the western edge of the 25' pathway is 135'. The distance between the western side of the family residence and the western wall of house marked in a black X on Ex.2 is 160 ft. I mark a point 250 ft from western side of Family Residence on Ex.2 going west with the letter "A" in black. on Ex.2. A point 250' west of the eastern boundary of the area shaded in pink on Ex.2, would fall at the point marked Z on Ex.2. I mark on Ex.2 a point 250' west of the eastern boundary of the area shaded in pink. I mark that point "B". I mark on Ex.2 a point 100 feet east of the eastern boundary of the area shaded pink. I mark that point "C".

30

40

From the main road to the end of northern part of cleared area on north shown on Ex.8 is 722 feet. I mark end of a cleared area on north in Ex.8 that would have a depth or north to south measurement of 1250' with a red line running east to west.



The area shown as cleared on Ex.8 on the north is 131' wide, at its widest point!

TO COURT:

The distance between point marked Z on Ex.2, and the line marking the eastern boundary of Leazer Grant's land is 10 feet.

Re-Examined by Carroll -

Widest point of cleared area on the north shown on Ex.8 is not adjacent to the Main Road.

---

In the Supreme Court

Defendants Evidence

No. 16  
Hubert Williams  
16th August  
1979 - Cross  
Examination  
(cont'd)

Re-  
Examination

In the Supreme  
Court

No. 17

Defendants  
Evidence

Albert Grant - 15th August  
1979

No. 17  
Albert Grant  
15th August  
1979  
Examination

Albert Grant - Called - Sworn:

Examination in Chief -

Live Eight Mile Rock - Hanna Hill. I am  
captain of a fishing boat.

I know the Defendants in this case. I know  
their shop in Hanna Hill. Their shop is about 25  
feet from my western boundary - i.e. western  
boundary of my house. My house is on the northern  
side of the road. My house is about 25 feet east  
of my western boundary.

10

I built my house myself. Percy Barr owns  
the land on my eastern boundary. I do not know who  
owned the land that the Rolles' shop is now on before  
the Rolles built. I now say I knew that Rufus Grant  
used to own that land.

Rufus Grant never gave me any land. Rufus  
Grant was a second or third cousin of mine.

20

My uncle Henry Grant owned the land on which I  
built my house before I put up my house.

I built my house fifteen years ago. It is  
a stone house. Henry Grant died about 25 years ago.  
I was born in 1942. Henry Grant gave me the land on  
which I built my house from I was 10 yrs. of age.  
This would have been about 1952.

When I was about 15 yrs. of age, I started to  
exercise acts of ownership. I then cleared the land  
of bush. Henry Grant pointed out the boundaries of  
the land he gave me. The boundaries of my land  
today are the same as they were when Henry Grant  
gave me the land. The western boundary of the land  
was a stone wall. This stone wall is not there any  
more. Banana trees now mark my western boundary;  
I planted them. Before I built my house, I planted  
a gumalery tree, on the side of my house. There is  
also a lemon tree in the western boundary. At the  
north side of the western boundary there is a fig  
tree. The boundary wall of which I speak is still on  
the south side of the Main Road. I do not know  
Bill Wallace. Have never seen nor heard of any one  
by that name.

30

40

I know the Defendants eastern boundary. This is supposed to be my western boundary. The eastern wall of the Rolle's shop was some 5 - 6 ft west of my western boundary.

In the Supreme Court  
Defendants Evidence

The Main Road is so far from my house that I have nothing to do with it. I still live in my house at Eight Mile Rock.

No. 17  
Albert Grant  
15th August  
1979  
Examination  
(cont'd)

10 I remember the Queen's Highway being widened. Dont remember what year. My house is about 40 ft north of the Queen's Highway.

I do not know anything about land owned by Rolle's being cleared by a tractor.

CROSS-EXAMINED:

Cross-  
Examination

20 Rufus Grant was my third cousin. Henry Grant and Rufus Grant were first cousins. I was given a piece of land 200 ft north to south by 150 ft east to west. Rufus Grant never claimed any of my land. Rufus Grant never asked me to get off the land. I never heard that Bill Wallace ever bought any land near my land. I have no papers to support my claim to ownership.

I knew Emmie Grant. She never asked me to move off my land. I did not know that Rufus Grant had a brother in the U.S.A. I do not remember when Rufus died. He died after I built my house - maybe about 5 yrs after. Emmie Grant died about 1 - 1½ yrs. ago.

30 I am captain of the schooner "Happy Days". I have a crew of one. The Rolles are good neighbours of mine.

Re-Examination - None.

CASE FOR DEFENCE

Adjournment 4.45 p.m.

In the Supreme  
Court

No. 18

No. 18  
Address of  
Defendants'  
Counsel  
17th August  
1979

Address of Defendants' Counsel  
17th August 1979

8th Day 17/8/79 - 10.05 a.m.

ADDRESSES

Mr. Carroll

Case for Defendants is that when they bought in 1976, land was not the land Plaintiff bought in 1964.

Land Plaintiff bought in 1964 was piece of land to west hatched red on Exhibit 2. Defendants are not able to give much direct evidence of what Plaintiff bought. They have to depend on witnesses to shed some light on the situation. The evidence of the Plaintiffs witnesses is helpful to Defendants in establishing Defendants' case.

10

THE EVIDENCE OF DEFENCE WITNESSES WHICH SUPPORT DEFENDANTS

(1) NOEL GRANT - knew Father's property. Leazer Grant's land was west. Bully Cat claimed the land east of Leazer Grant, but that land was Rufus Grant's land. Henry Grant was east of Rufus Grant's land on north and south of the Main Road.

20

Father's land was cleared about 1 yr. after his father's death, by tractor - i.e. about 1967. Aerial survey shows land had been cleared prior to April 1967. Land in dispute was part of land cleared. Wallace never stopped them clearing.

(See Plaintiff's evidence p.p. 20-21).

Q. BY COURT: If Plaintiff tried to stop clearing, then was he making a false claim?

30

A. YES. Not criminal. He might have been mistaken.

Noel Grant said Rufus Grant showed him land he had sold to Plaintiff Company. Noel Grant was a reliable witness. Fact that he was uncertain in relation to his age at various points in time should not be held against him. At time Rufus Grant told him what land had been sold to Plaintiff company, there were no houses on the property hatched red on Ex. 2.

40

MENTIONED TWO FOOTPATHS

In the Supreme Court

10 Noel Grant said his father's land on North and South of Main Road was bounded on E. by Henry Grant's land. This evidence is crucial. Plaintiff's own abstract of title which they put in supports this in relation to Rufus Grant's land on the North. Affidavits of William Pinder, James Grant and Howard Bartlett Snr. are to this effect. -Leazer Grant a witness for the Plaintiff supports this also, (See p.38 Evidence of Rufus Grant). The affidavits were made in 1959. These affidavits were made for benefit of Rufus Grant and should be construed against him and his successors in title.

No. 18  
Address of Defendants' Counsel  
17th August 1979  
(cont'd)

Evidence of James Arthur Bowleg for Plaintiff supports Defence that land cross hatched in red on Ex 2, was land sold to the Plaintiff. See evidence at p.27 to the Court. Family residence is not a stucco building.

20 ALBERT GRANT'S EVIDENCE REFERRED TO

It is probable that a gift of land would be made to a child at the age of ten. Grant rejects the suggestion that his western boundary is only 3' away from his house.

AS TO SURVEYS

30 I am submitting that only reason why eastern boundary of Plaintiff's land on Ex. 1 is shown as it is, and so close to Family Residence is because it was established in accordance with Plaintiff's instructions.

Mid morning Break - 11.55 a.m.

RESUMPTION 12.10 p.m.

CARROLL - Continuing Address

Bill Wallace's evidence.

Submit Wallace is not certain of where the land he bought is situated -

BECAUSE

40 (a) In Cross examination he said his eastern "boundary" was 100' west of the family residence (See XXN Wallace - p.24) Those instructions were not given to the surveyors since Ex 1 does not support this. Ex.1 does not support this. Ex 1 suggests the eastern boundary of the 1st lot purchased was only 53' west of the Family Residence.

In the Supreme Court See Ex.1 which refers only to "plot of land bought in September 1964".

No. 18  
Address of  
Defendants'  
Counsel  
17th August  
1979  
(cont'd)

If Wallace's evidence is that the Eastern boundary of the lot 100 x 500 was 100 ft west of Family Residence, that is wrong. Ex.1 suggests it is 50 - 53'. If he was told that the western boundary was 100' west of the Family Residence, that also is not supported by Ex.1, since this shows 153'.

Court should infer that cleaning of land which Wallace complained about was cleaning done before 1967 and shown in Ex.8. Wallace is also wrong when he said that cleaning affected all of his land. On basis of Ex. 8, it affected a part only. So he may also be mistaken as to where his property his company bought was situated. 10

MORRIS MALLORY'S EVIDENCE -

See Sec 13 of Evidence Act Cap 42. This evidence does not prove the facts. Similarly Sec 13 applies to evidence of James Bowleg. 20

HUBERT WILLIAMS - PHOTOGRAMMETRIST

His evidence supports the Defendant's case. Critical question is where did Rufus Grant's E. Boundary start?

If on Red line shown Ex. 8, it would appear that Defendants may be on land sold to Plaintiff company. But evidence is against this.

Taking all of the evidence and the submissions, I submit that on a balance of probabilities the Defendants are not occupying any land sold to the Plaintiff Company. 30

CLOSES - 1.15 p.m.

Luncheon Adjournment.

Address of Plaintiff's Counsel  
17th August, 1979

In the Supreme  
Court

No. 19  
Address of  
Plaintiff's  
Counsel  
17th August  
1979

RESUMPTION 17/8/79 - 2.35 p.m.

Mr. Thompson Addresses -

Refers to - Lyle & another vs. Richards et al.  
1866 L.J. Vol.35 - p.214.

Order of St. Benedict et al vs. K.M. Miller  
et al - 18 of 1969, Ct. of Appeal Bahamas.

10            These cases establish that where it is  
impossible to know from the deeds, where a boundary  
line is drawn, and there is ambiguity, oral evidence  
may be admitted to determine the boundary.

S 13 of the Evidence Act - This has no application  
to the case. Plaintiff not trying to prove truth  
of the transaction. Evidence of Bowleg & Mallory was  
introduced to identify the property.

COURT - The identification of these two witnesses  
was based on what Plaintiff told them.

20            I will confine myself solely to Ex.1.

Issue of identification of land sold to  
Plaintiff company is critical. Question is whether  
land conveyed is land claimed. Evidence is  
admissible to identify the parcel as the  
Conveyances. There is a latent ambiguity in them.  
The latent ambiguity is that the documents do not  
show where precisely on the Main Road the southern  
boundary of the Plaintiff's land was to commence  
and end.

30            Abstract of Title goes back well over thirty  
years. There is evidence of possession from 1964  
until 1978. By that I mean Plaintiff company  
asserted its right of ownership in 1978.

Defendants say their right of possession  
arises out of a better title than Plaintiffs have,  
They say Rufus Grant never conveyed the parcel  
Plaintiff says it bought, to the Plaintiff.

40            So what is the Evidence - Does it show that  
land in dispute is land covered by Plaintiff's  
documents of title?

In the Supreme  
Court

No. 19  
Address of  
Plaintiff's  
Counsel  
17th August  
1979  
(cont'd)

It is conceded descriptions of boundaries in Plaintiff's Conveyances are not precise. This ambiguity does not invalidate the transaction nor the Conveyances. I am not relying on Sec. 13 of Cap 42 - Evidence of Bowleg and Mallory is to be construed as meaning that they knew the parcel of land that Wallace bought for his company.

Parcel 100 x 100 - bought by Plaintiff Company in June 1964. Parcel 50 x 100 - September 1964. The Conveyances were duly recorded.

10

I do not rely on Ex.2. Leazer Grant, Jnr. said that Billy Cat's land adjoined Rufus Grant's land. Court should not accept evidence of Noel Grant.

The 25' wide pathway was built after 1964 -

Refers to evidence of Bill Wallace. Defence is an afterthought.

Aerial Photographs - Show position in 1967.

Plaintiff has proved his case.

Statement of Wallace that he was told when 1st lot bought that Eastern boundary was 100' west of Family Residence was an error.

20

Ask for Judgment.

CARROLL:

I have looked at the two cases cited by Thompson. I do not think it necessary to deal with them in reply.

C.A.U.

Adjournment - 3.50 p.m. - 17/8/79.

(Sgd.) V.O. Blake, J.

30

17/8/79.



COMMONWEALTH OF THE BAHAMAS

1978 No.183

IN THE SUPREME COURT

Equity Side

BETWEEN

BILL WALLACE ENTERPRISES LTD. Plaintiff

A N D

STANLEY ROLLE AND CATHERINE ROLLE Defendants

10 Mr. Maxwell J. Thompson for the Plaintiff  
Mr. Norris Carroll for the Defendants

HEARING - 18th and 19th April 1979. 11th and 12th  
July 1979. 14th, 15th, 16 and 17th  
August 1979

J U D G M E N T

Blake, J.

20 Prior and up to the beginning of the year 1964 Rufus Grant of Eight Mile Rock, Grand Bahama was the owner in fee simple of two parcels of land in the area of Eight Mile Rock known as Hanna Hill. His title was based on long possession. These parcels are described in an abstract of title admitted in evidence by consent, Exhibit 1F as follows:-

30 "ALL THAT piece parcel or tract of land situate in the Settlement of Eight Mile Rock in the Island of Grand Bahama aforesaid being bounded on the SOUTH by The Sea and running thereon Two hundred and fifty (250) Feet on the NORTH by the Main Public Road (West End - Hawksbill Creek) and running thereon Two hundred and Fifty (250) Feet on the EAST by land the property of Henry Grant and running thereon One thousand and Seventy-six (1,076) Feet and on the WEST by land the properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One thousand and Seventy-six (1,076) Feet AND ALSO ALL THAT piece parcel or tract of land immediately adjacent to and North of the piece parcel or tract of land hereinbefore described and separated there-  
40 from by the main public road being bounded as follows: on the SOUTH by the said Main Public Road and running thereon Two hundred and Fifty (250) Feet on the NORTH by Crown Land and

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd )

running thereon Two hundred and Fifty (250) Feet on the EAST by land the property of Henry Grant and running thereon One thousand Five hundred (1,500) Feet and on the WEST by the properties of Allan Hanna, Ural Smith and Reginald Grant and running thereon One thousand five hundred (1,500) Feet."

By conveyance dated the 13th of June 1964, Rufus Grant conveyed a portion of his land north of the main road to the Plaintiff company. The lot in question was described by the Deed to be :- 10

"ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama being bounded on the NORTH by land the property of the Vendor and running thereon One hundred (100) Feet and on the EAST by land the property of the Vendor and running thereon One hundred (100) Feet. On the SOUTH by the Main Public Road and running thereon One hundred (100) Feet and on the WEST by land the property of the Vendor and running thereon One hundred (100) Feet." 20

Three months later Rufus Grant conveyed another lot immediately east of the lot last mentioned and butting and binding thereon to the Plaintiff company. This lot was described as follows :-

"ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the said Island of Grand Bahama being bounded on the North by land the property of the Vendor and running thereon fifty (50) feet on the EAST by land the property of the Vendor and running thereon one hundred (100) feet on the SOUTH by the Public Road and running thereon fifty (50) feet on the WEST by land the property of the Purchaser and running thereon one hundred (100) feet". 30

The two lots therefore constituted a parcel of land bounded on the SOUTH by the main road with a frontage thereon of One hundred and fifty (150) feet and bounded on the NORTH, EAST, and WEST by other land which according to the descriptions, was retained by Rufus Grant. Both conveyances were lodged for record by the Plaintiff company and recorded by the Registrar General pursuant to the Registration of Records Act, now Cap. 163 of the 1965 Revised Laws of the Bahamas, on the 25th of August and 21st November, 1964, respectively. The Plaintiff company subsequently conveyed the lands covered by these Conveyances to one Arnold Flowers 40 50

by way of mortgage in 1965. In 1967 Flowers re-conveyed them to the Plaintiff company when the mortgage debt was discharged. None of these transactions was ever recorded and they are of no relevance to the case before me.

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10 Rufus Grant died on the 4th February 1966. Letters of Administration in his estate were granted by the Supreme Court to his widow, Emmie Grant, on the 27th of July of that year. It appears from the evidence that Emmie Grant and the deceased had been living together prior to the date of the marriage.

On the 19th November 1976, Emmie Grant conveyed a parcel of land belonging to the estate of the late Rufus Grant, to the Defendants. This parcel of land is described by reference to a plan attached to a Deed of Conveyance, Exhibit 6 and also in the Deed itself. The subject matter of that Conveyance is stated to be :-

20 ALL THAT piece parcel or lot of land coloured pink on the attached plan being a portion of land belonging to the estate of Rufus Grant (deceased), and being bounded as follows:

30 On the NORTH and running thereon 80 feet by land the property of the said estate on the EAST and running thereon 70 feet by land the property of the said estate on the SOUTH and running thereon 80 feet by the main Eight Mile Rock Road leading to Freeport on the WEST and running thereon 70 feet by a 25 foot wide pathway also situated on land the property of the said estate."

The Defendants subsequently went into possession of the land and erected a shop thereon which it is alleged cost some \$70,000. Emmie Grant died a few months before the trial began.

40 The dispute now before the Court arises in this way: The Plaintiff company contends that the land in the possession of the Defendants and on which the shop has been erected, forms part of the land which the company purchased from the late Rufus Grant in 1964. On the other hand, the Defendants maintain that they are lawfully in possession of the lot sold to them by the late Emmie Grant in 1976. They support this allegation by asserting that the land purchased by the Plaintiff company in 1964 is located some distance to the West of their lot. Consequently, they say that they are not in  
50 possession of any part of the land which the Plaintiff

company bought from the late Rufus Grant in 1964. Although several plans to which reference will be made hereafter, were tendered in evidence, none of them is drawn to the same scale. Neither does any one plan purport to show the land which the Defendants allege the company bought from Rufus Grant, on the one hand, and the land which the company says it did acquire from Rufus Grant, on the other. The area hatched in red on Exhibit 2, is the land which the Defendants say the company acquired, and that coloured pink on the same Exhibit is the lot purchased by the Defendants from Emmie Grant. The Plaintiff company alleges that that area coloured pink is included in the lands which they acquired and is in fact bounded on the NORTH, SOUTH, EAST, and WEST by their land.

10

Before considering the oral testimony of the witnesses, it may be convenient to make a few general observations concerning the Plans Exhibits 1, 2, and 4. Exhibit 1 was put in by the Plaintiff. It was not objected to but Counsel for the Defence stated that he was unable to agree that it was accurate. Exhibits 2 and 4 were put in by the Defendants with the consent of Counsel for the Plaintiff.

20

Exhibit 1 which is dated the 4th July 1978, was the joint work of Messrs. Leonard Chee-a-Tow and Claude Chee-a-Tow, registered Land Surveyors, and Keith Michael Chee-a-Tow. It purports to show:-

- (a) the lots which the Plaintiff company claims it acquired from the late Rufus Grant pursuant to the June and September 1964 conveyances; 30
- (b) the lot sold to the Defendants by the late Emmie Grant in November 1976, hatched in blue, together with the shop erected thereon hatched in red;
- (c) the remainder of the land belonging to the late Rufus Grant.

Mr. Leonard Chee-a-Tow gave Mr. Claude Chee-a-Tow instructions for the survey. Mr. Claude Chee-a-Tow carried out the survey on the basis of the 1964 conveyances and information given to him on the spot by Mr. William Alfred Wallace, principal shareholder in the Plaintiff company. Mr. Claude Chee-a-Tow then returned his field notes to Mr. Leonard Chee-a-Tow who in turn plotted the same on a sheet of paper, and then supervised the drawing of the plan which was done by his draughtsman, Mr.

40

Keith Chee-a-Tow. As to the east to west measurements of the northern and southern boundaries of the Rufus Grant land shown on this Plan, it was assumed that the width of those boundaries was slightly in excess of 300 feet. This is contrary to the abstract of title tendered by the Plaintiff. The abstract indicates that the late Rufus Grant claimed that his land was 250 feet wide. The north to south measurements of the eastern and western boundaries of the Rufus Grant land are shown on this Plan as 1274.19 and 1250 feet respectively. This, again, is contrary to the abstract of title put in by the Plaintiff which states that the length of the Rufus Grant parcel north of the main road was 1500 feet. What is more, although the plan, Exhibit 1, purports to be drawn to a scale of one inch to fifty feet, the lines representing the north, south, east and western boundaries of the Rufus Grant land do not conform to this scale. Neither for that matter does the line representing the distance between the assumed southeastern corner of the Rufus Grant land and the southeastern corner of the diagram representing the plot allegedly sold to the Plaintiff company. In the result, Exhibit 1 is not an accurate Plan in every respect. It correctly shows the land claimed by the Plaintiff and that bought by the Defendants. But it is at best an approximate representation of the relationship of those parcels of land to the remainder of what the Plaintiff says is Rufus Grant's land.

The plan Exhibit 2 was prepared by Mr. Claude Chee-a-Tow in September 1976 at the instance of the late Emmie Grant. It purports to show the land north of the main road which Emmie Grant then said belonged to the estate of her late husband, Rufus Grant, and land immediately to the east and west of it. The line in this plan which represents the western boundary of Rufus Grant's land was fixed by reference to another plan which had been prepared by a firm of surveyors known as R. Warren & Associates in February 1965 as a result of a survey commissioned by the late Rufus Grant. The Warren & Associates' plan is Exhibit 4. It must here be noted that the Warren plan shows the Rufus Grant land as having a southern boundary on the main road measuring east to west 250 feet. This is precisely the same width of main road frontage which Rufus Grant's abstract of title asserts, supported by affidavits sworn in 1959. If the late Rufus Grant ever owned the land hatched in red in Exhibit 2 as well as the whole or substantially the whole of that shown in Exhibit 4, then before the date of the conveyances to the plaintiff in 1964, he must

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

have held a possessory title to land north of the main road with a southern boundary thereon of approximately 400 feet. There is, however, no documentary evidence to suggest that the late Rufus Grant ever claimed such an extensive frontage on the main road. In fact, his son, Noel Grant who was a witness for the defence, says his late father's land ran along the main road for approximately 250 feet. Land with a main road frontage is notoriously more valuable than back land, and when one bears in mind that the length of the Rufus Grant tract according to the plan and the abstract, is something between 1250 and 1500 feet, it is unlikely that he would have underestimated his main road frontage to that extent. It would therefore seem to be more feasible to approach the case on the hypothesis that the southern boundary of Rufus Grant's land north of the main road was 250 feet more or less, as he himself seems to have accepted.

10

20

I come then to the evidence of the main witnesses for the parties. A brief summary of the principal issues of fact canvassed may be of assistance in understanding that evidence. It is common ground that in 1976 there was and still is an old family residence a short distance east of the plot of land which was sold to the Defendants. Similarly, there was no dispute that the eastern boundary of a tract claimed by one Leazer Grant, lies some 175 or so feet west of the Defendants' lot. There is another tract of land in between Leazer Grant's eastern boundary and the western boundary of the Defendants' lot. The Plaintiff's case is that the old family residence formerly belonged to the late Rufus Grant and that the eastern boundary of the Rufus Grant land is east of that residence. The plaintiff further says that the western boundary of the late Rufus Grant's land lies somewhere between the western boundary of the Defendant's lot and the eastern boundary of Leazer Grant's land, and is in fact the line shown as such on Exhibit 4 which is reproduced on Exhibit 2. Thus the Plaintiff says that the land between the Rufus Grant land and Leazer Grant's land belonged at all material times to one Allan Hanna otherwise known as "Billy Cat". The Defendants for their part contend that Rufus Grant owned very little or no land east of the lot they purchased from Emmie Grant. They say that the family residence is on land which always belonged to Henry Grant and not to the late Rufus Grant.

30

40

50

Finally, they maintain that the lands of Rufus Grant and Leazer Grant were contiguous so that the

western boundary of Rufus Grant's land was in fact the eastern boundary of Leazer Grant's land. In effect, therefore, so far as the dispute about the western boundary is concerned, what it comes down to is that the land which the Plaintiff alleges belonged to "Billy Cat", is said by the Defendants to have belonged at all material times to Rufus Grant, and that it was from this portion of land that the two lots sold to the Plaintiff in 1964 were carved. The Plaintiff, of course, says that its two lots came from land east of this area.

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10

20

30

The Plaintiff made no attempt prior to 1978 to survey or establish on earth the boundaries of the lots it purchased in June and September 1964 from the late Rufus Grant. Neither did the Plaintiff ever go into possession of that land. Seven witnesses were called to establish the identity and location of the subject matter of the 1964 conveyances and to contradict the case put forward by the Defendants. The Plaintiff's witnesses were Messrs. Leonard Chee-a-Tow, Claude Chee-a-Tow, William Alfred Wallace, James A. Bowleg, Norris Mallory, Leazer Grant, and Allan Hanna, Jr. Apart from proving the plan Exhibit 1, to which reference has already been made, the evidence of the Chee-a-Tows did not substantially advance the case for the Plaintiff. Leonard Chee-a-Tow said, however, that when the 1978 survey was carried out, William Wallace fixed the eastern boundary of the Plaintiff's land by reference to the old family residence shown on Exhibits 1 and 2. According to this witness, Wallace said on the occasion of the survey :-

"That the old family residence was very very near to his company's eastern boundary. There was not enough space between this eastern boundary and the family residence for someone to walk in between."

40

50

James Bowleg was not particularly helpful. Although he claimed to have known the late Rufus Grant from school days and as well, his property at Hanna Hill, Bowleg was unable to give any information about its boundaries. The best he could do was to say in answer to the Court, that "the Grants generation land" was to the west of Rufus Grant's land. He said that between 1964 and 1965, he understood that the Plaintiff had bought land from Rufus Grant. William Wallace told him so and showed him the property that had been acquired. There was a house to the east, presumably the old family residence.

Norris Mallory was also unable to assist in giving any information about the subject matter of

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

the Plaintiff's purchase in 1964 , apart from what he had been told or shown by Wallace. Whilst hearsay evidence of the nature of reputation is generally admissible to establish boundaries where matters of public or general interest are concerned, it is inadmissible in cases of private boundaries (see Thomas v. Jenkins 1837 , 6 AD. and EL 525). Accordingly , for the purposes of determining what land the Plaintiff in fact bought from the late Rufus Grant, and the boundaries of the latter's land at the relevant time , I will confine myself to the evidence of William Alfred Wallace, Leazer Grant and Allan Hanna , Jr. and the evidence of the Defendants' witnesses to the contrary.

10

William Alfred Wallace negotiated the 1964 purchase from the late Rufus Grant on behalf of his company. He said that in that year he resided partly in Nassau , New Providence , and partly in West End Grand Bahama. He knew the late Rufus Grant. When the Plaintiff bought the property , Rufus Grant pointed out the boundaries on each occasion to him. He continued :-

20

"On the eastern boundary there was an old building and family residence, which he told me he had given to a relative ..... The southern boundary pointed out was the main road. In the southwestern corner of the land bought , there was an old building. Rufus Grant told me that that building belonged to 'Billy Cat' who would have it removed."

30

Wallace said that at that time the land purchased was all in bush , there were no pathways on it , but some time after Rufus Grant's death , he observed whilst passing by that there was a tractor working on the land. He spoke to an unidentified lady who was on the land and told her that the land that was being cleared belonged to his company. Some time after that , he observed that the 25 foot wide pathway shown on Exhibits 1 and 2 had been cut. He stopped living in Grand Bahama in 1973 and up to that time there were no further problems with the land. He did not visit the site between 1974 and 1977, but returned in 1978. At that time he saw a building on the land and as well met the first Defendant. He told the first Defendant that the land on which the building had been erected belonged to the plaintiff company. He went to Nassau , obtained certified copies of the Company's conveyances , and sometime later returned to Grand Bahama when he showed the documents to the first Defendant. The first Defendant said ::

40

50



"It appears as though you are the owner."

In the Supreme  
Court

Wallace said that he subsequently consulted his attorney, Mr. James Miller of Kendall Nottage & Co., Freeport, Grand Bahama, and Mr. Miller wrote to the first Defendant a letter dated the 17th February 1978 in which he claimed the land on behalf of the Company, and called on the Defendants to vacate (see Exhibit 5).

No. 20  
Judgment  
18th June 1980  
(cont'd)

10 In cross-examination Wallace said that when  
the first lot was purchased in June 1964 Rufus  
Grant told him that the eastern boundary of that lot  
was 100 feet west of the family residence. If this  
be so, what Wallace pointed out to Leonard Chee-a-  
20 Tow in July 1978 as the eastern boundary of that  
lot is incorrect. Exhibit 1 shows the eastern  
boundary of the first lot acquired in 1964 to be a  
little over 50 feet west of the eastern side of the  
family residence. Wallace denied the suggestion  
put forward for the first time by Counsel for the  
30 Defence on the third day of the trial, and not  
specifically alleged in the Statement of Defence,  
that the two lots purchased by the Plaintiff in 1964  
constituted the area hatched in red on Exhibit 2. He  
also denied that the western side of the 25 foot  
wide pathway shown on Exhibit 1, was the eastern  
boundary of the two lots which his company had  
purchased.

30 Leazer Grant, a plumber aged 55 years, said  
that the late Rufus Grant was his second cousin and  
he knew Rufus Grant's land at Hanna Hill. He said:-

"I owned land on the north side of the road  
leading from West End to Freeport. I know  
that area very well. Next to my land is land  
owned by Allan Hanna. We call him 'Billy Cat'.  
Next to Billy Cat's land was Rufus Grant's  
land."

This witness was intelligent enough to read and  
understand a Plan. When he was later shown Exhibit  
2, he testified as follows :-

40 "My land is shown on this plan. Rufus Grant's  
land was east of my land. 'Billy Cat's land  
is east of my land and between my land and  
Rufus Grant's land. 'Billy Cat' is dead.  
His family now lives on the land."

Leazer Grant alleged that when "Billy Cat" erected  
a two-storey building on the land which he had  
earlier described as lying in between his land and  
Rufus Grant's land. Rufus Grant did not object.

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

As I understand the evidence, the building that the witness was referring to is one of the two shown on Exhibit 2 west of the wooden shack in the south-eastern corner of the land claimed by the Plaintiff.

Leazer Grant also spoke of a footpath about 6 to 8 feet wide which was located on the land of the late Rufus Grant and immediately to the east of "Billy Cat's" land. He described the footpath as the boundary, more or less, between Rufus Grant's and "Billy Cat's" land. "Billy Cat" died about five months prior to the 14th of August 1979 and had owned the land north of the main road, of which the witness spoke, for some 16 years prior to his death. 10

Under cross-examination, Leazer Grant maintained that although "Billy Cat" formerly occupied land south of the main road, he had removed to the parcel on the north some 16 years before his death. He denied knowledge of disputes between Rufus Grant and "Billy Cat" concerning ownership of the area hatched in red on Exhibit 2. When he was pressed about the existence of the footpath, he said it was not shown on Exhibit 2, but might now have been widened and merged into the 25 foot pathway indicated on Exhibits 1 and 2. He insisted, however, that when he first knew the footpath it was between two buildings and that it was a right of way as well as the dividing line between the lands of Rufus Grant and "Billy Cat". He agreed that Rufus Grant's land north of the main road was bounded on the east by the land of Henry Grant, a cousin of Rufus, who died around 1967, and that the old family residence was being occupied by Albert Grant, a brother of Henry Grant. 20 30

The final material witness for the Plaintiff was Allan Hanna, Jr. the son of Allan Hanna, Sr. Like his father before him, Allan Hanna, Jr. is also known as "Billy Cat". Allan Hanna, Jr. said he was 37 years old and was by occupation a Building contractor. He described land north of the main road which he said belonged to his late father. To quote from his evidence :- 40

"West of my father's land, Leazer Grant had land. Rufus Grant owned land east of my father's land. All the three lots adjoined. There was a track road in between Allan Hanna and Rufus Grant."

His father built several houses on his land without any objection from Rufus Grant. This witness could read and understand Plans. He looked at Exhibit 2 and said that most of the area cross-hatched in red 50

on that Exhibit, was included in land formerly belonging to his father. In the course of his evidence, the Plan Exhibit 2 was marked to show the eastern and western boundaries of his father's land in accordance with the testimony which he gave. If his evidence is to be believed, then Rufus Grant's western boundary was always east of the two most easterly of the three buildings shown on the southern boundary of the area cross-hatched in red on Exhibit 2. Allan Hanna, Jr. was not shaken in cross-examination. He denied that his late father and Rufus Grant ever quarrelled or fought over the right or title to land anywhere in the area. He admitted that they did have quarrels when drunk but about what he did not know. He knew the boundary between his late father's land and Rufus Grant's land. It was west of the 25 foot pathway shown on Exhibit 2, and east of the second most easterly of the three buildings shown in the area cross-hatched in red on that Exhibit.

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10

20

30

40

When the Defendants decided in November 1976 to purchase the lot from the late Emmie Grant, they took no steps to conduct a search at the Registry of Records with a view to ascertaining whether the late Rufus Grant had disposed of any of his land prior to his death in 1966. Had they done so, they would have discovered that the land covered by the 1964 conveyances had been sold to the Plaintiff company. Even though the descriptions of the parcels contained in those conveyances were admittedly vague, the effect of the search would have been to put the Defendants on enquiry and it would have been their duty in their own interest, to find out from the Plaintiff company what land they had bought before they proceeded to completion. Instead of that, the Defendants elected to act on the gratuitous advice of their Counsel who was then representing Emmie Grant, that Emmie Grant could give them good title. The result was that they never discovered that the Plaintiff was asserting title to the land they had bought, until some time in 1978 and after they had erected their shop. Despite this, no steps have been taken by the Defendants to join the estate of Emmie Grant as a third party in these proceedings and to claim an indemnity in the event the Court were to find that the Plaintiff is entitled to a judgment.

50

It is of some significance that when the Defendants filed their Statement of Defence on the 9th May 1978, they were unable to give any indication as to the location of the land that the Plaintiff company had acquired in 1964, and which acquisition they did not deny. In fact, it was not until the 11th of July 1979, (after the case had been part

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

heard on the 18th and 19th of April 1979), that the Defendants were able to suggest for the first time where the land bought by the Plaintiff company was supposed to be found.

Both the Defendants gave evidence. In the main they relied upon two witnesses, namely, Noel Grant and Albert Grant to prove that:-

- (i) The land which Leazer Grant and Allan Hanna, Jr. said belonged to Allan Hanna, Sr. (Billy Cat), was the property of Rufus Grant. 10
- (ii) The Plaintiff's two lots were cut from the parcel mentioned in (i).
- (iii) The eastern boundary of Rufus Grant's land did not include the old family residence. The said residence was on land which belonged to Henry Grant.

The Court was also invited to say that the reasonable inferences to be drawn from the expert evidence of Mr. Hubert Williams, a Photogrammetrist employed by the Department of Lands & Surveys, supported the Defendants' case. 20

The first Defendant spoke of the purchase from Emmie Grant and the advice he received before completing the transaction. Construction of his shop began in July 1977, was completed in November, and the shop opened for business in December of that year. He at first said that he never continued the building after Wallace told him that the land on which the shop was built belonged to the Plaintiff. By this, of course, he impliedly admitted that Wallace had made such a claim. However, he immediately retracted this statement and alleged that he had had dealings with Wallace on one occasion only, and that was in February 1978 when Wallace brought two conveyances to him purporting to show that the Plaintiff had title to the land on which the shop had been erected. He said that there was no conversation with Wallace on that occasion. He specifically denied that he told Wallace after seeing the documents, that it appeared that the land on which he had built was the Plaintiff's. He admitted receiving the letter, Exhibit 5, from the Plaintiff's attorney. As to the lot which had been bought, he testified that the eastern boundary was about 13 feet west of Albert Grant's western boundary, that there were fruit trees on the lot, and that the land appeared as though it had previously been farmed. In cross-examination, he averred that he was told by Emmie Grant that the land which had been sold to the Plaintiff in 1964, was cited to the 30 40 50

west and in the area hatched in red on Exhibit 2. He said he learnt this from Emmie Grant shortly after he received the letter of the 17th February 1978, Exhibit 5. If this be true, then one wonders why this was not alleged in the Statement of Defence which was filed in May of 1978. After all, at that time Emmie Grant was still alive and there was no reason to suppose that she would not have been available to give evidence on behalf of the Defendants at the trial.

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10

The second Defendant contented herself with endorsing the testimony of her husband. Save for her statement that in November 1978 a loan of \$15,000 was obtained from the Canadian Imperial Bank of Commerce on the security of the land and building, she added nothing new. No instrument of loan or mortgage was produced.

20

Noel Grant claimed that he had knowledge of the boundaries of his father's land at Hanna Hill. As to the parcel north of the main road, Grant said:

"On the north side of the road, my father's land was bounded on the east by Henry Grant. Henry Grant's land on the north side of the road is now occupied by Albert Grant. My father's land on the north side of the road was approximately 250 feet wide east to west. On the north side of the road my father's land was bounded on the west by Leazer Grant, Austin Grant, and one Smith."

30

At a later stage, however, his description of the land on his father's western boundary became confusing. He said:

"On the north side of the road, Leazer Grant claimed land immediately to the west of my father's land. "Billy Cat" also claimed land immediately west of my father's land on the north side of the road and adjoining my father's land. "Billy Cat" never claimed any land immediately adjoining my father's land in the vicinity of the main road."

40

At no stage did the witness ever clarify where was the land north of the main road immediately west of his father's land, that he said "Billy Cat" claimed, nor where that land was in relation to Leazer Grant's land. The situation became a little more complicated when he said in cross-examination :-

50

"At this moment in time, Leazer Grant's land is west of "Billy Cat's" land. Leazer Grant's land is now the same place as it was when my father sold land to Wallace."

Taken at face value, this latter statement would seem to suggest that "Billy Cat's" land was east of Leazer Grant's land as alleged by the Plaintiff.

Noel Grant also testified that some time in 1964 or 1965, Rufus Grant told him he had sold Wallace a piece of land "so as to prevent Allan Hanna, Sr. from coming further east into his, Rufus Grant's property". He said his father pointed this land out to him. He described it in chief as land north of the main road and west of the Defendants' shop. Despite the vagueness of this description, Counsel for the Plaintiff elected in cross-examination to ask the witness to expand upon the matter. Noel Grant then said that the land which his father had sold to Wallace was 150 x 100 ft. and that it was bounded on the west by Leazer Grant's land and on the east by other land the property of his father. Asked who owned the land north of the parcels sold to the Plaintiff, the witness said unhesitatingly that that was Crown land. He resiled from this in re-examination and after some hesitation said that he now remembered that the northern boundary was not Crown land but other land belonging to his later father.

10

20

Although Noel Grant claimed to be the manager of a pub in Freeport, he found it extremely difficult to speak accurately as to his own age, and encountered formidable problems in arriving at a correct answer as to his age at the time his father sold the land to the Plaintiff company. It appears that this witness was contacted by the Defendants long after the Statement of Defence had been filed. In fact, contact was not made with him until around May or June of 1979, that is, after the hearing had commenced and the case had been part heard and adjourned in April of 1979. Grant said that it was then for the first time that he mentioned to the Defendants that he knew the land that his father had sold to the Plaintiff. He was asked two weeks before he testified, to come and give evidence.

30

40

The witness, Albert Grant, said he was captain of a schooner named "Happy Days", and she had a crew of one. The burden of his evidence was that what has been described by Wallace and others as the old family residence, was a house which he personally had built in 1964. According to him, the house was built on a parcel of land which Henry Grant had given to him when he, the witness was 10 years of age. The lot on which he built was 200 ft. by 150 ft., and he started to exercise ownership over it by the time he was 15 years old. He built the house when he was 22 years. He admitted that he had no

50

documents to cover his ownership. Of course, if Albert Grant is believed, the inescapable conclusion is that William Alfred Wallace was wrong when he described the family residence as being an old building in 1964. It would then have been virtually a new structure.

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10 Finally, I come to the testimony of the Photogrammetrist, Mr. Hubert Williams. When Noel Grant gave evidence, he stated that after his father's death in 1966, areas of his land north and south of the main road had been cleaned by a tractor. A part of the property on the north was cleaned extending up to the eastern boundary. The area cleaned extended on the west to a point west of the 25 foot pathway which he said was close to the middle of his father's land. He gave no evidence as to the dimensions of the areas south of the main road that were cleaned. Mr. Hubert Williams was able to identify the land depicted on Exhibit 2 on an aerial survey photograph, Exhibit 8, which photograph had been taken in 1967. He expressed the opinion that the photograph showed that certain pockets of land north and south of the main road must have been cleared prior to the date of the photograph. Such pockets, he said, would show up in white. He outlined these pockets in Exhibit 8 with a broken blue line. There is one such pocket shown on the photograph north of the main road. There are four such pockets of cleared land south of the main road. As will later appear, it was suggested by the Defence that the two pockets to the east, the larger of which is south of the smaller, are part of the land south of the main road which the late Rufus Grant owned. Williams identified the lot of land sold to the Defendants, and cross-hatched it in red on Exhibit 8. He was asked to mark the eastern boundary of the Defendants' lot with a green line. This green line coincides with the eastern boundary of the area north of the main road, which he said appears to have been cleared prior to the date of the photograph. An examination of Exhibit 8 indicates that the eastern boundaries of the most easterly of the cleared pockets of land south of the main road, run roughly in a straight line south to north, and if produced northerly would coincide with the eastern boundary of the cleared pocket north of the main road. The western boundaries of the pockets south of the main road also run roughly in a straight line south to north. The Photogrammetrist was then asked what would be the effect of producing the line representing the western boundaries of the two most easterly of the cleared pockets south of the main road in a northerly direction. His answer was :

"If the western boundary of the cleared areas shown on the south side of the road in the blue outline in Exhibit 8, is produced northerly in the same direction, it would include the area shown on Exhibit 2 as the land of "Billy Cat."

I was accordingly invited to hold that Rufus Grant's land included the land which the Plaintiff said belonged to "Billy Cat", and to treat Williams' evidence as supporting the evidence of Noel Grant. This was the real burden of Mr. Williams' evidence and it is unnecessary to deal with the several other peripheral matters that were canvassed through him. As I understand it, the argument was as follows :-

10

(a) The abstract of title, Exhibit 1F indicates that Rufus Grant owned land north and south of the main road, and that the parcel to the north was immediately adjacent to the parcel to the south.

(b) Noel Grant said that areas of his father's land north and south of the main road had been cleared after his death. The area to the north which had been cleared extended to his father's boundary on the east.

20

(c) The eastern and western boundaries of Rufus Grant's land north of the main road must therefore be approximate projections of the eastern and western boundaries of the most easterly of the cleared areas shown on Exhibit 8 south of the main road.

30

It seems to me that it would be most unsafe to decide the case on so tenuous a basis. In the first place, there was no evidence from Noel Grant that the land to the south shown on Exhibit 8 as cleared land, was in fact his father's land. Neither did Grant say that his father's land on the south had been cleared for its entire width east to west. In fact, he gave no evidence as to what was the western boundary of the parcel of land south of the main road which his late father owned. Mr. Williams himself had no personal knowledge as to who owned the two most easterly of the cleared areas south of the main road which he identified and marked on Exhibit 8. There was therefore no evidence to prove that the entirety of these two areas belonged to Rufus Grant. Besides, the theory which was propounded by Counsel for the Defence based on Williams' evidence was never put to a single witness called by the Plaintiff, and the Plaintiff was never given an opportunity to produce evidence to refute it.

40

50



In these circumstances, it would be an exercise based on dangerous speculation to conclude that Rufus Grant's land south of the main road, comprised the two most easterly of the cleared pockets outlined in blue on Exhibit 8, and on that basis determine the location of the eastern and western boundaries of the Rufus Grant holding north of the Main Road.

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

10 After the most careful examination and  
consideration of the evidence and the submissions  
made by Counsel for the parties, I find myself  
quite unable to accept the case for the Defendants.  
I was not impressed by Noel Grant. This witness  
gave his evidence in a halting and hesitant manner.  
The descriptions which he gave of the boundaries  
of the late Rufus Grant's land were far from clear  
and in at least one respect contradictory. I do  
not regard him as a reliable witness. The  
20 circumstances under which he came forward at the  
last minute so to speak, and the manner in which  
he gave his evidence, left me with the distinct  
impression that he was more concerned to do what he  
could to assist the case which the Defendants had  
belatedly put forward, rather than to speak the  
truth. I do not believe him when he says that his  
father told him in effect that the area of land  
sold to the Plaintiff was the land hatched in red  
in Exhibit 2. I also reject the evidence of  
30 Albert Grant that the family residence was built  
by him on a piece of land which Henry Grant gave  
him when he was 10 years old. It was significant  
that although the Defence suggested through this  
witness that the family residence was built as  
recently as 1964 and consequently would have been  
a new structure at the time of the Plaintiff's  
purchase, not a single question was put to William  
Alfred Wallace in cross-examination to challenge  
his statement that when his company bought in  
40 1964, the building was old. I have already found  
that it would be unsafe to act on the evidence of  
Mr. Hubert Williams.

I accept the evidence of Leazer Grant, Allan  
Hanna, Jr. and William Alfred Wallace. I find as a  
fact that :-

- (a) The late Rufus Grant owned no land west of  
the footpath shown on Exhibit 1. That footpath  
was roughly the dividing line between the land  
of Rufus Grant on the east and Allan Hanna,  
Sr. (Billy Cat) on the west.
- 50 (b) The area hatched in red on Exhibit 2 falls  
substantially on land which had been in the

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

continued occupation and possession of the late Allan Hanna for some 16 years prior to his death in 1979. Leazer Grant owns the land east of the Allan Hanna parcel.

- (c) If the late Rufus Grant and Allan Hanna, Sr. had any quarrels over land, such quarrels were confined to the erection by Allan Hanna of the shop in the southeastern corner of the land bought by the Plaintiff. This building is shown on Exhibits 1 and 2. 10
- (d) The old family residence was at all material times on Rufus Grant's land. It is not and never has been on Henry Grant's land and it was built prior to 1964. Albert Grant now occupies it as a licensee of the late Rufus Grant.
- (e) The land purchased by the Plaintiff in 1964 and covered by the June and September conveyances, Exhibits 1A and 1B, is as shown on the Plan prepared as a result of the 1978 survey by Messrs. Leonard Chee-a-Tow and Claude Chee-a-Tow, Exhibit 1. William Alfred Wallace suffered a lapse of concentration and made a minor but honest mistake when he said that the eastern boundary of the lot purchased in June 1964, was 100 ft. west of the old family residence. At the time of the 1978 survey, he correctly identified to the Chee-a-Tows what his company had bought. 20
- (f) William Alfred Wallace did tell the first Defendant in 1978 and before action was brought, that the land on which the Defendants had built was the property of the Plaintiff, and he later produced the conveyances to the first Defendant to support his claim. 30
- (g) When James Bowleg said in answer to the Court that the "Grant Generation land" was to the west of Rufus Grant's land, he was merely painting a broad picture of the land to the west of Rufus Grant's land, and not purporting to describe its western boundary. Indeed the statement aforementioned was preceded by an unequivocal statement from the witness that he did not know the boundaries of Rufus Grant's land. 40
- (h) The land in the possession of the Defendants would fetch a rental of \$50 per month.

My findings as above summarised, are strengthened by two other circumstances. If the Defendants

contentions were correctly founded, one would have expected to find that when Rufus Grant and Emmie Grant commissioned Warren & Associates and Claude Chee-a-Tow to survey in 1965 and 1976 respectively, the Grants would have claimed that they had a western boundary which butted and binded on the lands of Leazer Grant. But Exhibits 1 and 4 show that this was not so. In addition, an acceptance of the Defendants' case would involve a finding not warranted by the evidence that Rufus Grant's abstract of title prepared in 1959 mis-described the western boundary of his land north of the main road. The abstract stated that the parcel was bounded :-

10

"On the west by land the property of Allan Hanna, Ural Smith, and Reginald Grant".

If the Defendants be right, the western boundary was land the property of Leazer Grant. Similarly, an acceptance of the Defendants' case would involve the further finding not warranted by the evidence that Rufus Grant misdescribed the western boundary of the lot 100 x 50 feet which he sold to the Plaintiff company in 1964. In that conveyance he stated that that lot was bounded :-

20

"On the west by land the property of the Vendor".

If the Defendants be right, the description should have been:

"Land the property of Leazer Grant".

30

I can find no warrant for concluding that the late Rufus Grant did not know where his true boundaries were.

For all of the aforementioned reasons, the Plaintiff has satisfied me on a balance of probabilities that the land which it bought from Rufus Grant in 1964, is the land described by William Alfred Wallace and depicted in Exhibit 1. It seems that Emmie Grant was not aware of the transactions which her husband had had with the Plaintiff company in 1964, and being unaware of them, proceeded to sell the lot in question to the Defendants, genuinely believing that she had a right so to do. The Defendants appear to have been the unfortunate victims of Emmie Grant's ignorance as well as their own failure to carry out a proper search in the Registry of Records before purchasing the lot and laying out a large sum of money in building their shop. It is also unfortunate that

40

In the Supreme Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

In the Supreme  
Court

No. 20  
Judgment  
18th June 1980  
(cont'd)

after the conveyances to the Plaintiff came to light in 1978 and even during this litigation, wiser counsel did not prevail to ensure that a course of action was taken to avoid the severe consequences that a judgment against them was bound to entail.

In the result, much as I sympathise with the Defendants, I am obliged to find against them. There will be judgment for the Plaintiff for :-

1. A declaration that the Plaintiff is the owner in fee simple of the lots of land as described in the conveyances referred to in paragraph 3 and 4 of the Statement of Claim and being the land hatched in blue, shown on the Plan prepared by Chee-a-Tow and Company Ltd., Land Planners and Surveyors, dated the 4th of July 1978. 10
2. An Order that the Defendants give the Plaintiff possession of the land described in the Indenture of Conveyance dated the 19th of November 1976 and made between Emmie Grant of Eight Mile Rock in the Island of Grand Bahama and the Defendants, the said land being part of the parcel of land referred to in 1. 20
3. Mesne profits at the rate of \$50 per month as from the 19th day of November 1976 until the Defendants give the Plaintiff possession pursuant to 2.

The Plaintiff is to have its costs of the action to be agreed or failing agreement to be taxed.

Dated the 18th day of June, 1980.

30

Sgd. V.O. Blake

V.O. Blake, J.

On the application of Counsel for the Defendants, a stay of execution is ordered for a period of six weeks as from today.

Sgd. V.O. Blake

V.O. Blake, J.  
18th June, 1980.

No. 21

Formal Judgment - 26th June  
1980

In the Supreme  
Court

No. 21  
Formal  
Judgment  
26th June 1980

IN THE SUPREME COURT OF THE COMMONWEALTH  
OF THE BAHAMAS

1978

COMMON LAW SIDE

No.183

B E T W E E N

BILL WALLACE ENTERPRISES LIMITED

PLAINTIFF

and

10

STANLEY ROLLE

and

CATHERINE ROLLE

DEFENDANTS

FORMAL JUDGMENT

Dated and entered the 26th day of June A.D.,  
1980.

This action having been tried before the  
Honourable, Mr. Justice Vivian Blake without a jury  
at the Supreme Court in the Public Square in the City  
of Nassau and the said Mr. Justice Vivian Blake  
having on the 18th day of June, A.D., 1980 ordered  
that Judgment as hereinafter provided be entered for  
the Plaintiff with costs to be taxed if not agreed  
and directed that execution be stayed for a period  
of six weeks from the date hereof IT IS THIS DAY  
ADJUDGED as follows:-

20

1. It is hereby declared that the Plaintiff  
is the owner in fee simple of:-

30

(a) ALL THAT piece parcel or lot of land  
situate at Eight Mile Rock in the Island of  
Grand Bahama being bounded on the North by  
land the property of the Vendor (Rufus Grant)  
and running thereon Fifty (50) Feet on the  
East by land the property of the Vendor  
(Rufus Grant) and running thereon one hundred  
(100) ft on the south by a Public Road and  
running thereon Fifty (50) feet and on the West  
by land the property of the Purchaser (the  
Plaintiff) and running thereon One hundred (100)  
Feet. This lot is recorded in Book 802 at Pages  
408 to 410; and also

40

(b) ALL THAT piece parcel or lot of land  
situate at Eight Mile Rock in the Island of  
Grand Bahama and bounded on the North by

In the Supreme  
Court

No. 21  
Formal  
Judgment  
26th June 1980  
(cont'd)

property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet on the East by land the property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet on the South by the Main Public Road and running thereon One hundred (100) Feet and on the West by land the property of the Vendor (Rufus Grant) and running thereon One hundred (100) Feet. This lot is recorded in Book 772 at Pages 142 to 144.

10

being land hatched in blue delineated on a plan prepared by Chee-a-Tow and Company, Land Planners and Surveyors dated the 4th day of July, 1978 a copy of which is attached hereto. ~~and-exhibited-in-this action-is-Exhibit-1.~~

2. The Defendants give the Plaintiff possession of the land described in the Indenture of Conveyance dated the 19th day of November, A.D., 1976 and made between Emmie Grant of Eight Mile Rock, Grand Bahama of the one part and the Defendants of the other part, the said land being part of the land referred to in Paragraph 1 hereof.

20

3. The Defendants pay to the Plaintiff mesne profits at the rate of \$50.00 per month from the 19th day of November, A.D., 1976 until the Defendants give the Plaintiff possession pursuant to Paragraph 2 hereof; and

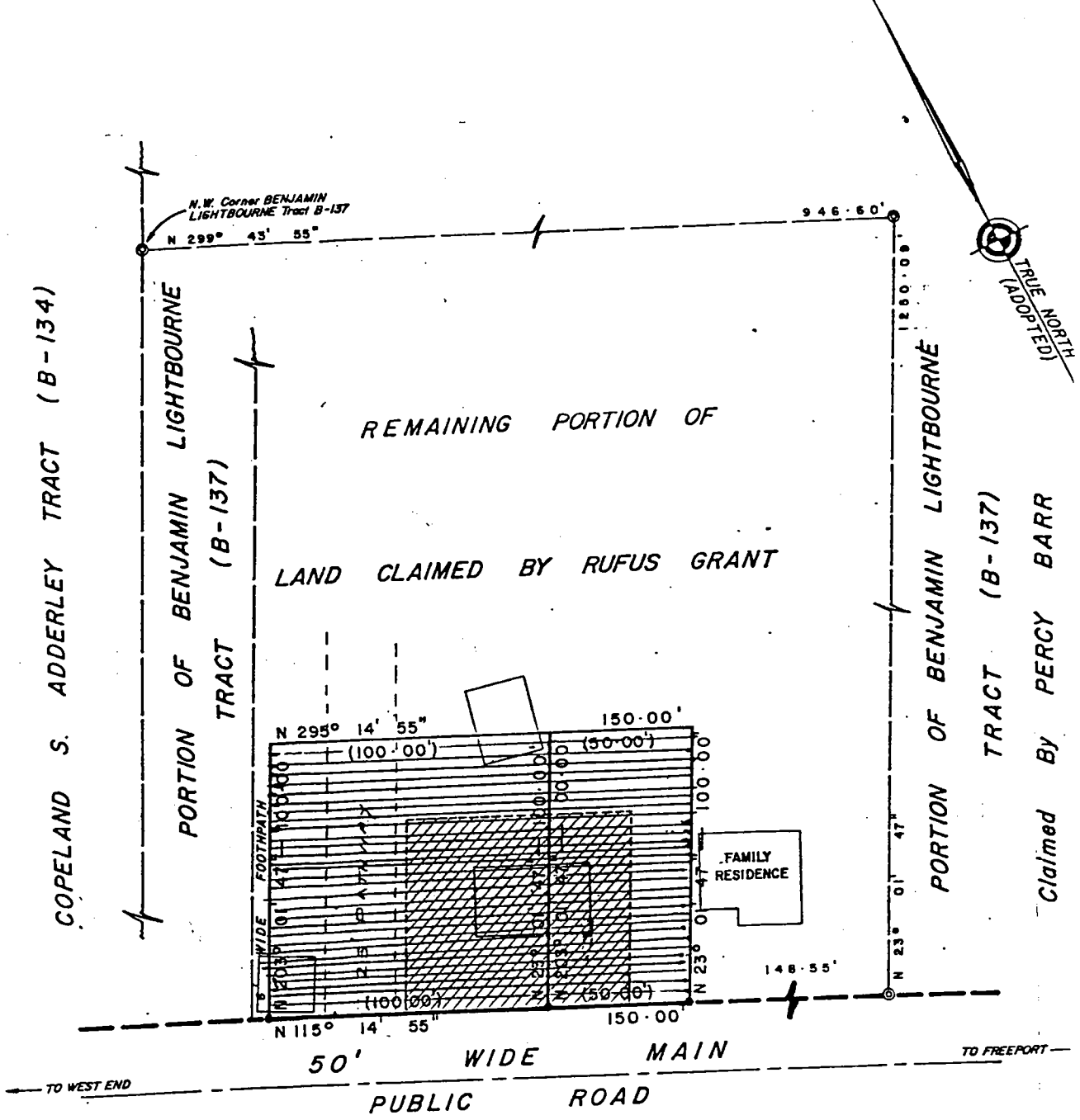
4. The Plaintiff to have its costs of the action to be agreed or failing agreement to be taxed.

30

Dated the 26th day of June A.D., 1980.

By Order of the Court,

Registrar



Recorded in The Department of Lands & Surveys in accordance with Section 3 of The Land Surveyors Act, 1975 as Plan No **GRAND BAHAMA**, This Day of 1978.

Surveyor General

**CERTIFICATE:—**

I, LEONARD V. CHEE-A-TOW OF NASSAU, A SURVEYOR REGISTERED AND LICENSED IN THE BAHAMAS, HEREBY CERTIFY THAT THIS PLAN HAS BEEN MADE FROM SURVEYS EXECUTED BY ME, OR UNDER MY PERSONAL SUPERVISION, THAT BOTH THE PLAN AND THE SURVEY ARE CORRECT, AND HAVE BEEN MADE IN ACCORDANCE WITH THE LAND SURVEYORS ACT, 1975, AND THE LAND SURVEYORS REGULATIONS, 1975, MADE THEREUNDER.

*L. V. Chee-a-tow*

REGISTRATION No 011

H. R. WASON

DEPUTY DIRECTOR  
SURVEYING & MAPPING SECTION

**SURVEYOR'S NOTES:—**

Reference - R. Warren & Associates Ltd. - Plan Job 18/65

- ☒ Denotes survey executed for Emmie Dorothy Grant
- Denotes a steel rod or galvanize pipe in concrete base set.
- ⊙ Denotes a steel rod or galvanize pipe in concrete base found.

**PLAN SHOWING**

TWO LOTS OF LAND CONTAINING A TOTAL OF 14,988.75 SQ. FT. BEING A PORTION OF THE TRACT OF LAND ORIGINALLY GRANTED TO BENJAMIN LIGHTBOURNE B-137.

**SITUATE**

NORTHWARD OF THE MAIN PUBLIC ROAD AT 'HANNA HILL' ON THE ISLAND OF GRAND BAHAMA ISLAND WEALTH OF THE BAHAMAS.

SURVEYED AT THE INSTANCE OF  
**BILL WALLACE ENTERPRISES LTD.**

**CHEE-A-TOW & CO. LT**  
Land Planners & Surveyors  
P.O. Box F-108 Freeport,  
Grand Bahama Island.

DATE:— JULY 4th, 1978.  
SURVEYED BY:— C. E. CHEE-A-TOW  
DRAWN BY:— K. M. C-A-T.  
SCALE:— 1 INCH TO 50 FEET.  
JOB No:— 188/78      PLAN No:— S-151

In the Court  
of Appeal

No. 22

No. 22  
Notice of  
Appeal - 29th  
July 1980

Notice of Appeal - 29th July  
1980

COMMONWEALTH OF THE BAHAMAS 1980

IN THE COURT OF APPEAL No.

Civil Side

B E T W E E N

STANLEY ROLLE

AND

CATHERINE ROLLE

Defendants/  
Appellants

10

AND

BILL WALLACE ENTEPRISES  
LIMITED

Plaintiff/  
Respondent

NOTICE OF APPEAL

TAKE NOTICE that the Court of Appeal will be moved so soon as Counsel can be heard on behalf of the above-named Defendant/Appellants on appeal from those parts of the Judgment and Order herein of the Honourable Mr. Justice Vivian O. Blake given at the trial of this action and made on the 18th day of June, A.D. 1980 whereby it was adjudged:-

20

(1) (at page 6 of the said Judgment)

". . . If the late Rufus Grant ever owned the land hatched red in Exhibit 2 as well as the whole or substantially the whole of that shown in Exhibit 4, then before the date of the conveyances to the Plaintiff in 1964, he must have held a possessory title to land north of the main road with a Southern boundary thereon of approximately 400 feet ...."

30

(2) (at page 7 of the said Judgment)

".. .. It is common ground that in 1976 there was and still is an old family residence a short distance east of the plot of land which was sold to the Defendants....."

(3) (at page 7 of the said Judgment)

"....Similarly, there was no dispute that the eastern boundary of a tract claimed by one Leazor Grant lies some 175 or so feet West of the Defendant's lot...."

40



(4) (at page 7 of the said Judgment)

"... There is another tract of land in between Leazor Grant's eastern boundary and the western boundary of the Defendant's lot..."

In the Court  
of Appeal  

---

No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

(5) (at page 9 of the said Judgment) (Referring to the testimony of James Bowleg)

"...There was a house to the east, presumably the old family residence..."

(6) (at page 13 of the said Judgment)

10 "...When the Defendants decided in November 1976 to purchase the lot from the late Emmie Grant, they took no steps to conduct a search at the Registry of Records with a view to ascertaining whether the late Rufus Grant had disposed of any of his land prior to his death in 1966. Had they done so, they would have discovered that the land covered by the 1964 conveyances had been sold to the Plaintiff Company. Even though the description of the parcels contained in those conveyances were admittedly vague, the effect of the search would have been to put the Defendants on enquiry and it would have been their duty in their own interest, to find out from the Plaintiff Company what land they had bought before they proceeded to completion..."

(7) (at page 13 of the said Judgment)

30 "...It is of some significance that when the Defendants filed their Statement of Defence on the 9th May, 1978, they were unable to give any indication as to the location of the land that the Plaintiff Company had acquired in 1964, and which acquisition they did not deny..."

(8) (at page 20 of the said Judgment)

"...After the most careful examination and consideration of the evidence and the submissions made by Counsel for the parties, I find myself quite unable to accept the case for the Defendants..."

40 (9) (at page 20 of the said Judgment)

"...I also reject the evidence of Albert Grant that the family residence was built by him on a piece of land which Henry Grant gave him when he was 10 years old..."

In the Court  
of Appeal

No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

(10) (at pages 20 and 21 of the said Judgment)

"...I accept the evidence of Leazor Grant ,  
Allen Hanna Jr., and William Alfred Wallace.  
I find as a fact that:-

(a) The late Rufus Grant owned no land west of  
the footpath shown on Exhibit 1. That  
footpath was roughly the dividing line  
between the land of Rufus Grant on the  
east and Allen Hanna Sr. (Billy Cat) on  
the west.

10

(b) The area hatched in red on Exhibit 2 falls  
substantially on land which had been in  
the continued occupation and possession  
of the late Allan Hanna for some 16  
years prior to his death in 1979. Leazor  
Grant owns the land east of the Allan  
Hanna parcel.

(c) The old family residence was at all  
material times on Rufus Grant's land. It  
is not and never has been on Henry Grant's  
land and it was built prior to 1964.  
Albert Grant now occupied it as a licensee  
of the late Rufus Grant.

20

(d) The land purchased by the Plaintiff in  
1964 and covered by the June and September  
Conveyances, Exhibits 1A and 1B, is as  
shown on the plan prepared as a result of  
the 1978 survey by Messrs. Leonard Chee-a-  
Tow and Claude Chee-a-Tow Exhibit 1.  
William Alfred Wallace suffered a lapse of  
concentration and made a minor but honest  
mistake when he said that the eastern  
boundary of the lot purchased in June,  
1964 was 100 feet west of the old family  
residence. At the time of the 1978  
survey, he correctly identified to the  
Chee-a-Tows what his Company had bought.

30

(11) (at page 22 of the said Judgment)

"...My findings as above summarised ,are  
strengthened by two other circumstances. If  
the Defendants' contentions were correctly  
founded, one would have expected to find that  
when Rufus Grant and Emmie Grant commissioned  
Warren & Associates and Claude Chee-a-Tow to  
survey in 1965 and 1976 respectively, the  
Grants would have claimed that they had a  
western boundary which butted and binded on the  
lands of Leazor Grant. But Exhibits 1 and 4

40

show that this was not so. In addition , an acceptance of the Defendant's case would involve a finding not warranted by the evidence that Rufus Grant's Abstract of Title prepared in 1959 misdescribed the western boundary of his land north of the main road..."

In the Court  
of Appeal  
No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

(12) (at pages 22 and 23 of the said Judgment)

10 "...The Abstract stated that the parcel was bounded:-

"On the west by land the property of Allan Hanna , Ural Smith and Reginald Grant".

20 If the Defendants be right, the western boundary was land the property of Leazor Grant. Similarly , an acceptance of the Defendants' case would involve the further finding not warranted by the evidence that Rufus Grant misdescribed the western boundary of the lot 100 x 50 feet which he sold to the Plaintiff Company in 1964. In that conveyance he stated that the lot was bounded:-

"On the west by land the property of the Vendor".

If the Defendants be right, the description should have been:

"Land the property of Leazor Grant".

(13) (at page 23 of the said Judgment)

30 "...For all of the aforementioned reasons, the Plaintiff has satisfied me on a balance of probabilities that the land which it bought from Rufus Grant in 1964 is the land described by William Alfred Wallace and depicted in Exhibit 1.

(14) (at pages 23 and 24 of the said Judgment)

"...In the result, much as I sympathise with the Defendants , I am obliged to find against them. There will be judgment for the Plaintiff for:-

40 1. A declaration that the Plaintiff is the owner in fee simple of the lots of land as described in the conveyance referred to in paragraphs 3 and 4 of the Statement of Claim and being the land hatched in blue, shown on the Plan prepared by Chee-a-Tow

In the Court  
of Appeal

No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

and Company Limited., Land Planners and  
Surveyors, dated the 4th of July, 1978

2. An Order that the Defendants give the Plaintiff possession of the land described in the Indenture of Conveyance dated the 19th of November, 1976 and made between Emmie Grant of Eight Mile Rock in the Island of Grand Bahama and the Defendants, the said land being part of the parcel of land referred to in 1. 10
3. Mesne profits at the rate of \$50 per month as from the 19th of November, 1976 until the Defendants give the Plaintiff possession pursuant to 2.

The Plaintiff is to have its costs of the action to be agreed or failing agreement to be taxed.

FOR AN ORDER that:-

The said parts of the said Judgment and the whole of the Order may be reversed and set aside, and that the costs of this appeal and in the Court below may be ordered to be paid by the Plaintiff/Respondent to the Appellants/Defendants 20

AND FURTHER TAKE NOTICE that the grounds of this appeal are:-

1. The learned Judge misdirected himself as to the general effect of the Plaintiff's evidence and misunderstood that evidence.
  - (a) The learned Judge misunderstood the evidence of Allan Hanna Jr., Leazor Grant and William Alfred Wallace. The Defendants' case is that the learned Judge ought to have appreciated that Allan Hanna (Billy Cat) was a trespasser upon the area of land along the South-Western corner of the Rufus Grant tract North of the Main Road, and that it was unlikely that Allan Hanna Jr., Leazor Grant and William Alfred Wallace was saying that land was owned or belonged to Allan Hanna Sr. (Billy Cat) for which no documentary title was produced and of which occupation and possession by the said Allan Hanna Sr. (Billy Cat) as was so found by the learned Judge, was less than the period required under the provisions of The Real Property Limitation Acts, to constitute Allan Hanna Sr., (Billy Cat) the owner thereof. 30 40

(b) The testimony of William Alfred Wallace at page 9 of the said Judgment "In the South-Western corner of the land bought, there was an old building. Rufus Grant told me that that building belonged to "Billy Cat" who would have it removed," was not appreciated by the learned Judge as evidence of the trespass of "Billy Cat" upon the land of Rufus Grant.

In the Court  
of Appeal  

---

No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

- 10      2.      That the Plaintiff's cause of action against the Defendants depends upon the Plaintiff establishing that the land entered upon by the Defendants was and is land vested in the Plaintiff.
3.      That the learned Judge erred and misdirected himself in holding:-
- 20      i.      that the Defendants were in effect required to discharge the burden of proving the situation of the lands comprised in the Plaintiff's conveyances.
- ii.      In effect that the descriptions of the parcels in the Plaintiff's Deeds were sufficient from which to ascertain the position of the land sold by Rufus Grant to the Plaintiff.
4.      That the learned Judge erred and failed to direct himself properly or at all as to the effect of the uncertainty of the descriptions of the parcels in the Plaintiff's two conveyances.
- 30      5.      The learned Judge erred and misdirected himself in law in holding that a search of the Registry of REcords would have led to the Defendants discovering more than that the description of the parcels contained in the Plaintiff's conveyances was vague and uncertain
6.      Since, as was found by the learned Judge there has never been at any time actual occupation by the Plaintiff of the property described in the Plaintiff's conveyances then one of the necessary constituents of identification of the parcels therein comprised was absent.
- 40

The Appellants/Defendants reserve the right and intend to add to these grounds of appeal when a transcript of the Judge's notes of the evidence is available.

In the Court  
of Appeal

No. 22  
Notice of  
Appeal - 29th  
July 1980  
(cont'd)

Dated this 29th day of July, A.D. 1980

Sgd. Cecil Wallace Whitfield  
Wallace Whitfield & Co.,  
Attorneys for the Appellants/  
Defendants,  
Chambers,  
The Mosmar Building,  
Queen Street, Nassau, Bahamas.

TO: The Respondent/Plaintiff,  
Bill Wallace Enterprises Limited,  
and/or its Attorneys,  
Messrs. Thompson & Thompson.

10

No. 23

In the Court  
of Appeal

Judgment by P.T. Georges, J.A.  
19th June, 1981

No. 23  
Judgment by  
P.T. Georges,  
J.A.- 19th  
June 1981

COMMONWEALTH OF THE BAHAMAS 1980

IN THE COURT OF APPEAL No. 11

CIVIL SIDE

BETWEEN

STANLEY ROLLE

AND

10 CATHERINE ROLLE Appellants

V.

BILL WALLACE ENTERPRISES  
LIMITED Respondents

J U D G M E N T

By deed dated November 19, 1976, Emma Grant, the widow and administratrix of the Estate of Rufus Grant, deceased, conveyed to the appellants a parcel of land at Eight Mile Rock in the Island of Grand Bahama which is described as follows:-

20 "ALL THAT piece, parcel or lot of land coloured pink on the attached plan, being a portion of land belonging to the estate of Rufus Grant, deceased, and bounded as follows:

30 On the North and running thereon 80 feet by land the property of the said Estate; on the East and running thereon 70 feet by land the property of the said Estate; on the South and running thereon 80 feet by the Main Eight Mile Rock Road leading to Freeport and on the West and running thereon 70 feet by a 25 feet wide pathway also situate on land the property of the said Estate."

There was a plan attached to the deed, Exhibit 2, which showed not only the area coloured pink which had been conveyed but also a general delineation of the area North and South of the Eight Mile Rock Main Road.

40 The appellants entered into possession of the parcel of land described in the deed and represented on the plan and erected thereon a reinforced concrete

In the Court  
of Appeal

No. 23

Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

steel structure said to cost \$70,000.00 where from the end of December 1977 they conducted a retail dry goods business.

In February 1978 Mr. William Wallace who is the beneficial owner of the respondent company came to Eight Mile Rock, saw the building and informed the appellants that they had erected a building on lands which belonged to the respondent company having been purchased from Rufus Grant by virtue of two conveyances dated June 13, 1964 and September 18, 1964. The respondent had never physically entered into possession of the parcels of land, nor had a survey been made at the time identifying them. The deeds had, however, been registered. 10

The parcel conveyed on June 13, 1964 for which the consideration was £250 was described as follows:-

"ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama being bounded on the NORTH by land the property of the Vendor and running thereon one hundred (100) feet and on the EAST by land the property of the Vendor and running one hundred (100) feet and on the SOUTH by the Main Public Road and running thereon one hundred (100) feet and on the WEST by land the property of the Vendor and running thereon one hundred (100) feet." 20

The parcels conveyed on September 18, 1964 for which the consideration was £100 was described as follows:- 30

"ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the said Island of Grand Bahama being bounded on the NORTH by land the property of the Vendor and running thereon fifty (50) feet on the EAST by land the property of the Vendor and running thereon one hundred (100) feet on the SOUTH by the Public Road and running thereon fifty (50) feet; on the WEST by land the property of the Purchaser and running thereon one hundred (100) feet." 40

Save for the fact that both parcels of land lay to the North of the Eight Mile Rock Main Road, the descriptions were of little help in identifying them. Indeed it is not even made clear that the parcels were contiguous since the second conveyance made no reference to the first, but if they were contiguous then the parcel bought in September lay to the East of the parcel bought in June.



Having complained of the trespass, Mr. Wallace commissioned a survey of the parcels which he claimed to have been described in the conveyances of June and September 1964. This was completed in July 1978 and the respondent company filed its writ claiming possession of the parcels of land, a declaration that they were the property of the company and mesne profits at the rate of \$50.00 per month.

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

10 Rufus Grant who had sold to the respondent company died in 1967. The respondent company had never occupied the land it had purchased. Identification of the parcels described in the conveyances depended on Mr. Wallace's account of what Rufus Grant had shown him in 1964 as the boundaries of the land, boundaries which he had shown the surveyor in 1978 and which had been represented on his plan. Emma Grant who sold to the appellants had also died by the date of the writ but  
20 the appellants had a plan drawn before the date of the transaction showing the land purchased and they had immediately gone into occupation.

The issues to be decided were primarily issues of fact. In such cases a trial judge enjoys the advantage of having seen and heard the witnesses and his findings as to where the truth lay should not lightly be questioned, particularly where issues of creditibility are squarely based on the manner and demeanour of witnesses.

30 It appears, however, in this matter that the trial judge inverted the onus of proof. He stated:-

"It is of some significance that when the Defendants filed their Statement of Defence on the 9th of May 1978, they were unable to give any indication as to the location of the land that the Plaintiff company acquired in 1964, and which acquisition they did not deny. In fact it was not until the 11th of July 1979 (after the case had been part heard on the 18th  
40 and 19th of April 1979) that the Defendants were able to suggest for the first time where the land bought by the Plaintiff Company was supposed to be found."

With respect, the defenants were never under an obligation to suggest where the land purchased by the plaintiff company was supposed to be found. Further the fact that the appellants did not specifically deny that the respondent company had in fact purchased the parcels described in the Statement  
50 of Claim could not be construed as an admission which shifted an onus on to them. A denial of this would

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

have achieved no more than compel formal proof of the deeds. The appellants did, however, assert that the land described in the deed was not the land on which they had erected their building and that the land on which they had erected their building had not been in possession of the respondent company prior to their entering into possession of it. The paragraph concluded:-

"The Defendants will at the trial hereof put the Plaintiff to strict proof of the claims and statements made in this respect and otherwise in the said Statement of Claim."

10

The approach of the learned trial judge is confirmed in yet another passage of the judgment:-

"Wallace denied the suggestion put forward for the first time by counsel on the third day of the trial, and not specifically alleged in the Statement of Defence, that the two lots purchased by the Plaintiff in 1964 constituted the area hatched in red in Exhibit 2".

20

Since the appellants were in possession of a parcel of land clearly defined the onus was on those asserting ownership to prove it. A defendant in such a case need do no more than plead possession. It is up to the claimant then to establish the identity of the parcel he claims to have purchased. Clearly if the appellants could show where the respondent's land could be found their case would be greatly strengthened but it cannot be a significant criticism of their case that they did not set out from the beginning to do so.

30

The result of that approach was that the issues appear to have been decided on a concentrated and critical analysis of such evidence as tended to support the appellants suggestion as to where the respondent company's land could be found rather than appraisal of the case for the company. The basic approach was that the appellants had belatedly put up a case which should be viewed with caution and once that claim failed then the respondent company's claim succeeded.

40

Typical of the approach is the emphasis placed by the learned judge on the fact that the suggestion as to where the respondents land might be was not made until "the 11th of July 1979 (after the case had been part-heard on the 18th and 19th of April)." On April 18th and 19th the only witnesses to testify were the surveyors - the Chee-a-Tows. Mr. Wallace gave evidence on 11th of July after the adjournment

and the suggestion was put to him then. If there was no duty to plead the suggestion as to where the company's land was supposed to be then it can hardly be said that the putting of the suggestion was suspiciously delayed.

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

10 A further example of the consequences of this approach can be seen in the learned judge's appraisal of Noel Grant - son of Rufus Grant and a witness for the appellants. In evidence-in-chief Noel Grant stated that he was 49. In answer to the Court he stated that he was born on December 28, 1928. Later in cross-examination he is recorded as saying:-

"I was 44 years old in 1964. I now say in 1964 I was 34. I now say I was 36 in 1964."

In his judgment the learned judge commented as follows:-

20 "he found it extremely difficult to speak accurately as to his own age and encountered formidable problems in arriving at the correct answer as to his age at the time his father sold the land to the plaintiff company."

This, among other matters, contributed to the learned judge's impression that he was not a reliable witness.

On the other hand Mr. William Wallace stated in cross-examination:-

30 "When my company bought the first of the two pieces of land I was told that my EAstern boundary was 100 feet west of the family residence."

This statement was not explored in re-examination though its implications ought to have been clear. It completely contradicted the respondent company's case as shown in the plan. In his judgment the learned judge commented thus:-

40 "William Alfred Wallace suffered a lapse of concentration and made a minor but honest mistake when he said that the Eastern boundary of the lot purchased in June 1964 was 100 feet west of the old residence. At the time of the 1978 survey he correctly identified to the Chee-a-Tows what his company had bought."

The explanation of the "honest mistake" does

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges  
J.A. - 19th  
June 1981  
(cont'd)

not come from Mr. Wallace himself as far as the notes of evidence reveal. In addressing the Court his counsel is recorded as describing it as an error which was apparently accepted: The correctness of the identification of the property to the Chee-a-Tows appears to be assumed to be correct - the very issue which required analysis in the light of the evidence - while a statement which raised doubts as to the witness' accuracy is characterised as "an honest and minor mistake."

10

I am accordingly satisfied that the learned trial judge approached the issues from the assumption that the burden of proof was on the appellants and for that reason this court is entitled to review the evidence to ascertain whether despite this misdirection the conclusions of the learned trial judge can be supported.

In approaching the facts it should be borne in mind that the whole area consisted of comparatively unused tracts of land over which various parties sought to acquire possessory title. In all the surveys it is described as the "Benjamin Lightbourne Tract". Exhibit 2 shows that the part of the tract south of the main road had been occupied at least along its northern boundary on the Main Road. The part to the North was comparatively free of occupants. The learned judge stated towards the end of his judgment that there was support for his judgment in the fact that the surveys Exhibit 1 and Exhibit 4 commissioned by Rufus Grant and Emma Grant did not show that the Rufus Grant parcel was bounded on the West by Leazer Grant as the appellants asserted it was. The reference to Exhibit 1 is an error. That is the survey commissioned by the respondent company. The intention must have been to refer to Exhibit 2. Accepting this, the point could equally and as forcefully be made that neither survey shows the Western boundary to be Allan Grant and others as mentioned in the Abstract of Title prepared in 1959 to which the learned judge refers. Exhibit 4 does not state the abutters either to East or West. Exhibit 2 does not state the abutter to the East but significantly on the West shows an area, not noted as claimed by anyone, between the Rufus Grant claim and the Leazer Grant claim. It was within that area that the appellants suggested that the respondent company's portion lay.

20

30

40

The possibility that Rufus Grant may have sold to the respondent company a parcel of land to which his claim was disputed cannot in my view, be dismissed out of hand as implausible. Indeed on Mr. Wallace's own evidence this was the case since there was on the land sold to him a building which Rufus

50

Grant said had been put up by Billy Cat (as Allan Hanna Sr. was known) and which Billy Cat would move. Strangely enough Mr. Wallace took no steps to have that building moved and the survey commissioned by him shows a structure partly on the south western corner of the parcel sold to the company and partly on the strip marked as a 6' wide footpath.

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

10 The whole of the case for the respondent  
company rested on the identification of the "family  
residence." It should be noted that its  
identification under that name rested on no more than  
what Rufus Grant was stated to have told Mr. Wallace.  
A witness Albert Grant testified that he had built  
that house 15 years ago. He was testifying in August  
1979 and that would have made the date 1964. The  
building would thus have been new in 1964 and not an  
old family residence. The trial judge first reviewed  
Albert Grant's evidence without comment as to his  
manner and demeanour. Albert Grant testified that the  
20 land on which he had built the house had been given  
him by Henry Grant when he was 10 which would have  
been in 1952. He had begun to occupy it when he was  
15 and built the house when he was 22. The learned  
trial judge noted that "he admitted that he had no  
documents to cover his ownership." But that was the  
position of Rufus Grant and Leazer Grant as well. He  
noted that:-

30 "if Albert Grant is believed the inescapable  
conclusion is that William Wallace was wrong  
when he described the family residence as being  
an old building in 1964. It would then have  
been virtually a new structure."

Later he rejected Albert Grant's evidence that  
he had built the structure and immediately commented  
as if in support of that rejection:-

40 "It was significant that although the Defence  
suggested that the family residence was built  
as recently as 1964 and consequently would have  
been a new structure at the time of the  
Plaintiff's purchase, not a single question  
was put to William Alfred Wallace in cross-  
examination to challenge his statement that  
when his company bought in 1964 the building  
was old."

Notes of evidence are not routinely recorded  
in question and answer form since the burden of  
keeping the record unhappily devolves on the trial  
judge, but the following note appears in the cross-  
examination of Mr. Wallace:-

In the Court  
of Appeal

No.23

Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

"The family residence was there in 1964. It was a stone building with two or three bedrooms - a one floor building. I am certain that the family residence was there."

The company bought in June and September 1964. Albert Grant said he erected the building 15 years ago. He gave no exact dates. The cross-examination does show that Wallace was certainly being challenged as to the presence on the land of an "old" family residence and indeed any family residence at all.

10

But Albert Grant's evidence is of significance in another respect. He was asserting that he owned the land east of Rufus Grant's and that it was given to him by his uncle Henry Grant. He stated that a stone wall marked his western boundary. That was no longer there but there were now banana trees. The name Henry Grant does not appear on any land shown north of the Main Road but Leazer Grant, whose evidence the learned judge accepted stated:-

20

"Another Albert Grant, the brother of Henry Grant, deceased occupies the land formerly owned by Henry Grant north of the Main Road. The family residence is on a piece of land north of the Main Road and is occupied by Albert Grant."

It appears that the term "family residence" having originally been used to describe the building became thereafter the method of referring to it. Be that as it may the evidence of Leazer Grant and Albert Grant must raise serious doubts that the "family residence" was on land owned by Rufus Grant. Whose "family residence" it was has never been made clear. It was certainly not Rufus Grant's family residence for he lived on his land south of the Main Road.

30

It is also of interest to note that William Wallace described the house which stood on the south western corner of the land he bought as "an old building". That was the building which Rufus told him belonged to Billy Cat. Leazer Grant on the other hand testified that Billy Cat had moved on to that parcel of land "in recent times" which in terms of years was 16 years from the date of his death in 1979. It was on the southern part of his land. He did that about 2 years after he had moved there. That building must have been new in 1964. Wallace's description could not have been correct in relation to that building.

40

50

Two of the witnesses called to support the plaintiffs claim, James Bowleg and Morris Mallory, both testified that Wallace had shown them the property he had bought from Rufus Grant. The learned trial judge said he did not accept their evidence. Both of them made statements which in part supported the appellants claim.

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

Bowleg stated:-

10 "When I first knew the house East of Rufus' land it was of wooden construction. On Sunday when I was in it appeared to be stuccoed."

He had previously stated that Wallace had showed him the property he had bought and

"there was one house East of the property. I saw the house as recently as Sunday."

20 The only "stuccoed" house in the area was that used as a barber shop and that appears to be the building erected by Billy Cat which had in course of time been "stuccoed". This description makes it plain that the land Bowleg recollected that Wallace showed him was not the land shown on Exhibit 1. That witness also stated that the land to the west of Rufus Grant's land was "generation land" and not apparently land owned by Billy Cat.

Neither Bowleg nor Mallory mentioned the family residence which constituted the landmark as far as the respondent company's case was concerned.

30 Leazer Grant, a witness for the respondent company whose testimony the learned trial judge accepted, was called not to identify what land Rufus Grant had sold the company but what land Rufus Grant owned. As has been mentioned she was clear that Alan Hanna (Billy Cat) did not move in on the land to the west of the parcel shown as claimed by Rufus Grant in the surveys until 1963. The land may very well have been "generation land" as Bowleg testified, open to claimants. This may well explain the representation in Exhibit 2 of the area of land between Leazer Grant's claim and Rufus Grant's claim. Leazer Grant was on her parcel well before 1963. Leazer testifies that Rufus did not object to Billy Cat putting up his house - but there is evidence that Rufus considered that the house trespassed on his claim for if Wallace is to be believed he was told by Rufus that Billy Cat would move the building. Again Leazer is recorded as saying that:-

"The land on which Billy Cat built was never Rufus Grant's land as far as I know."

In the Court  
of Appeal

No. 23  
Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

Wallace's evidence was that at least in part it was and Exhibit 1 thus shows it.

Leazer does mention the "family residence." She stated that it was occupied by Albert Grant who now occupies the land of Henry Grant north of the Main Road. She also stated that Rufus Grant's land north of the Main Road was bounded on the East by land of Henry Grant. In that case it seems far more reasonable that a family residence connected with Henry Grant should have been on Henry Grant's land rather than on land belonging to Rufus Grant. It would seem also reasonable to have infer that it was Henry Grant who passed the property to his brother Albert rather than that Rufus gave Albert permission to stay there as Wallace testified that Rufus told him. Leazer Grant would then appear to be placing the Eastern boundary of the Rufus Grant land at a point west of the "family residence" - again clearly contradicting the plan Exhibit 1.

10

Allan Hanna (Billy Cat Jnr.) who gave evidence for the respondent company clearly contradicted Leazer. He stated that before his father death, his father had built about 7 houses on the land west of Rufus Grant's claim. He was a witness, however, who was clearly not independent. He had an interest of his own to serve for he was asserting his claim to a parcel of land.

20

At the close of the case for the respondent company, therefore, the only evidence of identification of the parcels was that given by Mr. Wallace and it was flawed by his statement in cross-examination contradicting what was represented in the survey plan. As regards the identification of the parcel claimed by Rufus Grant, Allan Hanna (Billy Cat Jnr.) had testified positively as to the location of the western boundary line but he was contradicted as to length of occupation by Leazer Grant, while Leazer Grant's evidence created some uncertainty as to where the eastern boundary line ran. Because of his approach to the matter, however, the learned trial judge was not concerned with the weaknesses of that case but rather with how well the appellants would establish where the respondent company's land lay - a duty which did not, in my view, rest upon them.

30

40

Understandably, the evidence led by the defence did not relate substantially to what Rufus Grant may have shown Mr. Wallace. There was no difficulty in establishing what the appellants had bought. There was the conveyance and the plan. Noel Grant son of Rufus Grant, had heard from his father that he had

50



10 sold a plot 100 feet by 150 feet to William  
Wallace. He said that his father had told him of  
a quarrel between himself and Allan Hanna (Billy  
Cat) as a consequence of which he had decided to  
sell part of the land to William Wallace to  
prevent Hanna from encroaching further east on his  
land. Again, the background of unused land with  
various parties setting up claims by occupation  
must be borne in mind. Leazer Grant for example  
20 testified that Billy Cat had first occupied an  
area marked "G" on Exhibit 2. That was South of  
the Main Road. Later he had moved to an area  
marked "claimed by Albert Hanna" which again was  
south of the Main Road and directly opposite the  
parcel north of the Main Road to which in Leazer's  
words he had moved "in recent times". The evidence  
reveals no documentary title to any of these parcels  
of land. Even on the evidence of Wallace Billy Cat,  
had trespassed on part of the parcel sold to him - a  
circumstance which lends support Noel Grant's  
testimony that the sale was intended to stop the  
trespass.

30 The Learned trial judge rejected a theory  
advanced by counsel for the appellants in the court  
below based on an indication in the Abstract of Title  
tendered in evidence that the land owned by Rufus  
Grant south of the Main Road was immediately  
adjacent to that which he owned north of the Main  
Road, that both areas were cleared after his death  
and that aerial photographs taken after his father's  
death showed that the edges of the cleared portions  
north and south of the Main Road supported the con-  
clusions that the eastern and western boundaries of  
the land north of the Main Road were on approximate  
projections of the boundaries of the land south of the  
Main Road.

40 Where the evidence aimed at identifying the  
area claimed by Rufus Grant is as uncertain as was  
the evidence led in this case the temptation to  
speculate is difficult to resist and the rejection  
of that theory hypothesis does not appear true to  
affect the strengths of the respective cases.

50 All the evidence seems to point to the con-  
clusion that on both the eastern and western  
boundaries of the portion of land delineated in  
the plan marked Exhibit 4 there were strips of land  
the claimants to whom were not identified on the  
plans. Both Exhibit 4 and exhibit 1 show the only  
claimant east of Rufus Grant to be Percy Barr but  
there is an abundance of evidence that Henry Grant  
owned land abutting that of Rufus Grant on the East  
and no connection has been shown between Percy Barr  
and Henry Grant. Similarly to the West of Rufus  
Grant. James Bowleg testified that there was

In the Court  
of Appeal

No. 23

Judgment by  
P.T. Georges,  
J.A. - 19th  
June 1981  
(cont'd)

"generation land" and it is not unreasonable to infer that it is into this "generation land" that Billy Cat moved in 1964. In the absence of very settled occupation and established boundaries "claims" shown with precision on plans might easily fail to represent the reality on the ground and all against the background of an absence of any documentary title.

There was no doubt whatever about what the appellants had purchased. What the respondent company had purchased could be determined only by the recollection of Mr. Wallace in a situation in which the physical characteristics of the terrain had changed considerably. It is of some significance to note that assuming that the dimensions of the land had been measured, as the figures on the deeds would lead one to infer, no mark was placed on the corners to establish it with some semblance of permanence. That would have required no survey. The learned judge noted in his judgment that he sympathised with the Defendants but was obliged to find against them. The approach which he adopted to the resolution of the issues was responsible for that result.

10

20

In the circumstances I would allow the appeal and enter judgment for the appellants here and in the court below with costs.

Delivered this 19th day of June 1981.

Sgd. P.T. Georges

P.T. Georges, J.A.

30

No. 24

Judgment of Sir Alastair Blair-Kerr,  
P. - 19th June 1981

---

In the Court  
of Appeal

No. 24  
Judgment of Sir  
Alastair  
Blair-Kerr, P.  
19th June 1981

IN THE COURT OF APPEAL OF THE BAHAMAS  
CIVIL APPEAL NO. 11 OF 1980

---

STANLEY ROLLE

and

CATHERINE ROLLE

Appellants

and

10

BILL WALLACE ENTERPRISES LIMITED Respondents

J U D G M E N T

I have given this appeal the most careful consideration. I have had the privilege of reading in draft the judgment of my Brother Professor Telford George. I agree with the views expressed by him; and I too would allow the appeal and enter judgment for the appellants here and in the court below with costs.

Sgd. Alastair Blair-Kerr

20

Sir Alastair Blair-Kerr, P.

DELIVERED this 19th day of June, A.D. 1981.

I agree and have nothing to add.

Sgd. Jasmin J.A.

---

In the Court  
of Appeal

No. 25

No. 25  
Order granting  
Final Leave to  
Appeal to Her  
Majesty in  
Council - 11th  
December 1981

Order granting Final Leave to  
Appeal to Her Majesty in Council  
11th December 1981

---

COMMONWEALTH OF THE BAHAMAS  
IN THE COURT OF APPEAL

CIVIL SIDE

STANLEY ROLLE

AND

CATHERINE ROLLE

Appellants

10

V.

BILL WALLACE ENTERPRISES LIMITED Respondent

Before the Honourable Chief Justice

Upon hearing Counsel for the Respondent  
and Counsel for the Appellants

IT IS ORDERED that final leave to appeal to  
Her Majesty in Council pursuant to the provisions  
of the Bahama Island (Procedure in Appeals to Privy  
Council) Order 1964 be granted to the Respondent.

Dated the 11th December, 1981.

20

Registrar

Exhibit 3 - Certificate of  
Incorporation of Bill Wallace  
Enterprises - 16th June ,1960

NS VOL 302 PAGE 448

No. 3502

BAHAMA ISLANDS  
NEW PROVIDENCE

10 I, James Liddell, Registrar General for the  
Bahama Islands, do hereby certify that a  
Memorandum of Association of BILL WALLACE  
ENTERPRISES, LIMITED has this day been registered  
in my office under the provisions of The Companies  
Act (Cap.124).

Whereby the said Parties have become and are  
an incorporated Company under the name and style  
of BILL WALLACE ENTERPRISES, LIMITED

And I further certify that the Liability of  
the said Company is Limited.

20 Given under my hand at the City of Nassau  
the 18th day of June, A.D. 1960.

Sgd. James Liddell  
Registrar General

Bahama Islands  
REGISTRAR GENERAL'S OFFICE

I certify the within to be duly proved and recorded  
in book Vol. 302 pages 448 to - in accordance with  
the provisions of the Registration of Records Act,  
Chapter 116.

5th day of July 1960

30 Sgd. V.C. Roberts  
Asst. REGISTRAR GENERAL

EXHIBITS

Exhibit 1A  
Conveyance  
of Rufus  
Grant to  
Bill Wallace  
Enterprises  
13th June  
1964

E X H I B I T S

Exhibit 1A - Conveyance of Rufus  
Grant to Bill Wallace Enterprises  
13th June 1964

PUBLIC TREASURY STAMP DUTY PAID Two pounds  
Fifteen shillings  
Sgd. illegible  
Barrister-at-Law  
Chambers  
Nassau, Bahamas.

10

BAHAMA ISLANDS VOL 772 PAGE 143  
New Providence

THIS INDENTURE is made the Thirteenth day of  
June in the Year of Our Lord One thousand Nine  
Hundred and Sixty-four BETWEEN RUFUS GRANT of Eight  
Mile Rock in the Island of Grand Bahama (hereinafter  
called "the Grantor") of the one part AND BILL  
WALLACE ENTERPRISES LIMITED a Company incorporated  
under the Laws of the Bahama Islands and carrying on  
business within the Colony (hereinafter called "the  
Purchaser") of the other part

20

WHEREAS the Vendor is seised in fee simple in  
possession of the hereditaments and premises herein-  
after described and has agreed to sell the same for  
a like estate unto the Purchaser and its assigns for  
the sum of Two hundred and Fifty (£250) Pounds

NOW THIS INDENTURE WITNESSETH that in pursuance of  
the said agreement and in consideration of the sum  
of Two Hundred and fifty (£250) Pounds paid to the  
Vendor by the Purchaser (the receipt whereof the  
Purchaser and its assigns ALL THAT piece parcel or  
lot of land situate at Eight Mile Rock in the Island  
of Grand Bahama being bounded on the NORTH by land  
the property of the Vendor and running thereon One  
Hundred (100) feet and on the EAST by land the  
property of the Vendor and running thereon One  
hundred (100) feet on the SOUTH by the main Public  
Road and running thereon One hundred (100) feet and  
on the WEST by land the property of the Vendor and  
running thereon One hundred (100) feet TO HOLD the  
same unto and to the use of the Purchaser and its  
assigns in fee simple.

30

40

IN WITNESS WHEREOF the Vendor hath hereunto  
set his hand and seal the day and year first herein-  
before written.

Sgd. Rufus Grant

Signed Sealed and Delivered by the above-named Rufus  
Grant in the presence of:-

Sgd. Onward Jones

EXHIBITS

WEST END  
Grand Bahama

Exhibit 1A  
Conveyance  
of Rufus  
Grant to  
Bill Wallace  
Enterprises  
13th June  
1964  
(Contd.)

10 I, Onward Jones of West End in the Island  
of Grand Bahama make Oath and say that I was  
present and saw Rufus Grant sign seal and as and  
for his Act and Deed execute and deliver the fore-  
going CONVEYANCE dated the                    day of  
A.D. 1964 for the purposes therein mentioned; and  
that I subscribed my name as the witness to the due  
execution thereof.

SWORN to this 13th day of )  
June A.D., 1964                    ) Sgd. Onward Jones

Before me,

Sgd. Illegible  
Notary Public



EXHIBITS

Exhibit 1C - Renunciation of  
Dower A. Grant - 15th June 1964

Exhibit 1C  
Renunciation  
of Dower A.  
Grant - 15th  
June 1964

Sgd. Illegible  
Barrister-at-Law, Chambers,  
Nassau, Bahamas.

BAHAMA ISLANDS  
Grand Bahama

VOL 772 PAGE 146

BY VIRGINIUS KNOWLES, ESQUIRE.-  
Commissioner in Freeport  
Grand Bahama.

10

TO ALL WHOM THESE PRESENTS SHALL COME BE SEEN MADE  
KNOWN OR MAY IN ANYWISE CONCERN, GREETING:

WHEREAS by an Indenture made the 13th day of June in  
the Year of Our Lord One thousand Nine Hundred and  
Sixty-four Between Rufus Grant of Eight Mile Rock  
in the Island of Grand Bahama of the one part And  
Bill Wallace Enterprises Limited a Company  
incorporated under the Laws of the Bahama Islands  
and carrying on business within the Colony of the  
other part the said Rufus Grant granted and  
conveyed unto and to the use of the said Bill Wallace  
Enterprises Limited in fee simple All the  
hereditaments and premises hereinafter described in  
the Schedule hereto

20

NOW KNOW YE that on this fifteenth day of June in  
the Year of Our Lord One Thousand Nine Hundred and  
Sixty-four personally came and appeared before me  
the said Virginus Knowles Commissioner as aforesaid  
ADELINE the wife of Rufus Grant who being by and  
before me examined separate and apart from her  
husband did acknowledge and declare that she did and  
doth freely and voluntarily and without any manner of  
compulsion fear or dread of her said husband or any  
other person or persons whomsoever Remise Release  
Renounce and forever Quit Claim unto the said Bill  
Wallace Enterprises Limited its successors and  
assigns in fee simple ALL and ALL manner of Dower  
Right Title of Dower which she the said ADELINE now  
hath or hereafter shall or may have or claim of in  
to or out of the said hereditaments and premises as  
by her said husband conveyed to the said Bill  
Wallace Enterprises Limited in fee simple so that  
neither she the said ADELINE nor any other person  
or persons for her or in her name or deriving Right  
Title Interest or Claim Through or under her name  
any manner of Dower of Action of Dower in to or out  
of the said hereditaments and premises at any time  
or at all times hereafter shall or may have or  
claim or prosecute but of and from the same shall  
be utterly debarred and forever excluded by these  
presents

30

40

50



THE SCHEDULE HEREINBEFORE REFERRED TO

EXHIBITS

10 ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama being bounded on the NORTH by land the property of the Vendor and running thereon One Hundred (100) feet on the EAST by land the property of the Vendor and running thereon One hundred (100) feet on the SOUTH by the main Public Road and running thereon One hundred (100) feet and on the WEST by land the property of the Vendor and running thereon One hundred (100) feet.

Exhibit 1C  
Renunciation  
of Dower A.  
Grant - 15th  
June 1964  
(cont'd)

IN WITNESS WHEREOF I the said VIRGINIUS KNOWLES ,  
ESQUIRE., Commissioner as aforesaid have set my hand  
and caused my Seal of Office to be hereon impressed  
the day and year Lastly hereinbefore written.

Sgd. Adline Grant.

Sgd. Illegible  
COMMISSIONER

20 DATE STAMPED  
JUNE 15 1964

EXHIBITS

Exhibit 1B  
Conveyance of  
R. Grant to  
Bill Wallace  
Enterprises  
18th September  
1964

Exhibit 1B - Conveyance of R. Grant  
to Bill Wallace Enterprises - 18th  
September 1964

PUBLIC TREASURY STAMP DUTY PAID NIL pounds ten  
shillings  
Sgd. Illegible  
Barrister at Law,  
Chambers,  
Nassau, Bahamas.

BAHAMA ISLANDS NS VOL 802 PAGE 409  
Grand Bahama

10

THIS INDENTURE is made the Eighteenth day of  
September in the Year of Our Lord One Thousand Nine  
Hundred and Sixty-four BETWEEN RUFUS GRANT of Eight  
Mile Rock in the Island of Grand Bahama (hereinafter  
called "the Vendor") of the one part AND BILL WALLACE  
ENTERPRISES LIMITED a Company incorporated under the  
Laws of and carrying on business in the Bahama  
Islands (hereinafter called "the Purchaser") of  
the other part

20

WHEREAS the Vendor is seised in fee simple in  
possession of the hereditaments and premises herein-  
after described and has agreed to sell the same for  
a like estate unto the Purchaser for the price of  
One Hundred (£100) Pounds

NOW THIS INDENTURE WITNESSETH that in pursuance of  
the said agreement and in consideration of the said  
sum of One Hundred (£100) Pounds paid to the Vendor  
by the Purchaser (The receipt whereof the Vendor  
hereby acknowledges ) the Vendor AS BENEFICIAL OWNER  
hereby grants and conveys unto the Purchaser ALL THAT  
piece parcel or lot of land situate at Eight Mile  
Rock in the said Island of Grand Bahama being bounded  
on the NORTH by land the property of the Vendor and  
running thereon fifty (50) feet on the EAST by land  
the property of the Vendor and running thereon one  
hundred (100) feet on the SOUTH by the Public Road  
and running thereon fifty (50) feet on the WEST by  
land the property of the Purchaser and running  
thereon one hundred (100) feet TO HOLD all the  
same unto and to the use of the Purchaser and its  
assigns in fee simple.

30

40

IN WITNESS WHEREOF the Vendor hath set his  
hand and seal hereto the day and year first herein-  
before written

Sgd. Rufus Grant

Signed Sealed and Delivered by the Vendor in the  
presence of Samuel Rigby

BAHAMA ISLANDS  
Grand Bahama

EXHIBITS

Exhibit 1B  
Conveyance of  
R. Grant to  
Bill Wallace  
Enterprises  
18th September  
1964  
(cont'd)

I Samuel Rigby of the Island of Grand Bahama  
make Oath and say that I was present and saw Rufus  
Grant sign seal and as and for his Act and Deed  
execute and deliver the foregoing Conveyance dated the  
day of September A.D., 1964 for the purposes  
therein mentioned; and that I subscribed my name as  
the witness to the due execution thereof.

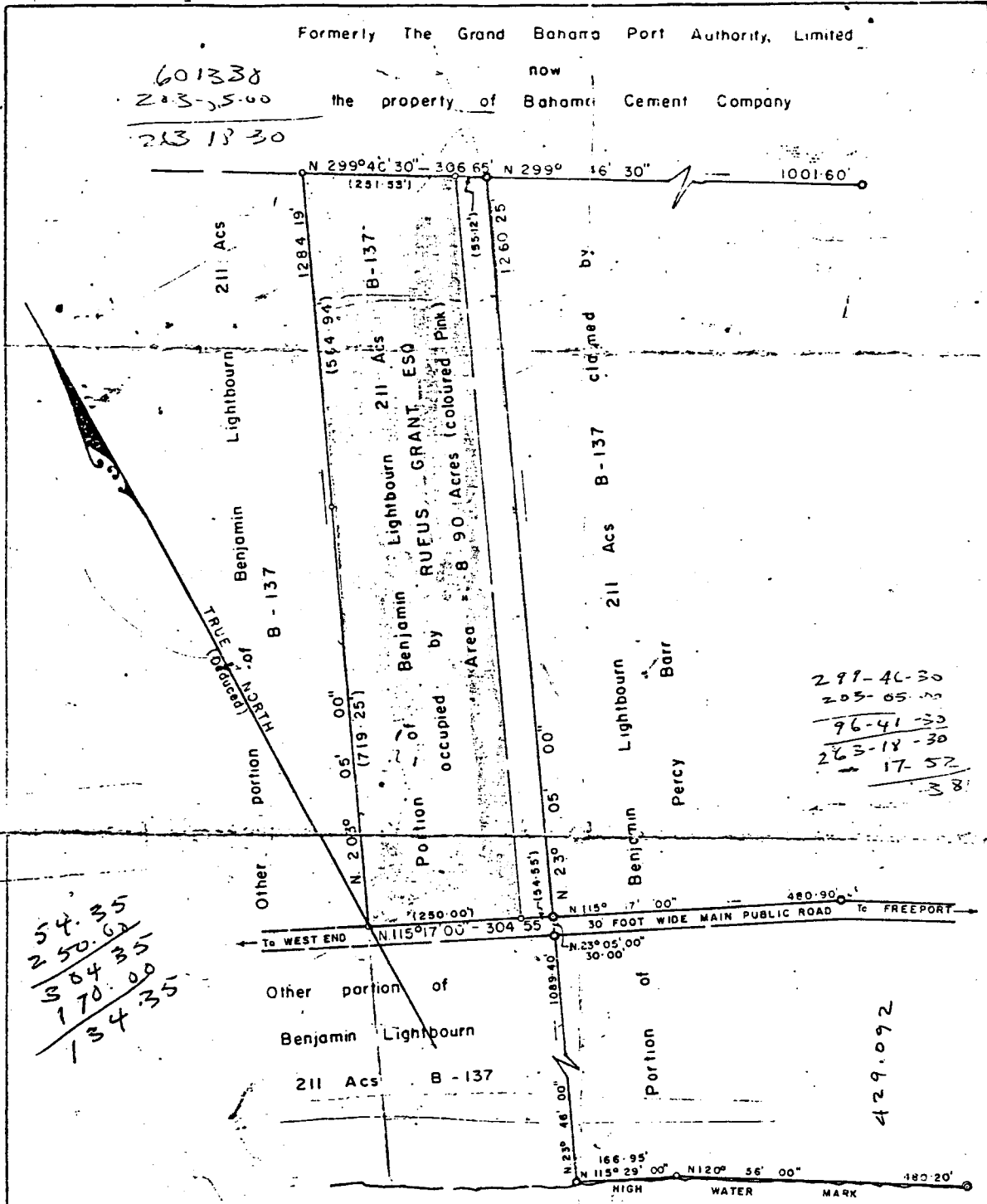
10 SWORN to this 18 day of) Sgd. Samuel Rigby  
September A.D. 1964 )

Before me ,

Sgd. Illegible  
Commissioner



EXHIBIT 4 - PLAN  
19th February 1965



○ DENOTES POINT SET  
● " POINT FOUND

PLAN  
SHOWING  
A Tract of land containing 8.90 Acres being a portion of a tract of 211 Acres originally granted to BENJAMIN I. LIGHTBOURN in 1826 Book B-137 situate on the Northern side of the Main Public Road at HANNA HILL on the Island of GRAND BAHAMA, Bahamas.  
SURVEYED AT THE INSTANCE OF  
"RUFUS GRANT ESQ."

DATE	R. WARREN & ASSOCIATES LTD SURVEYING NASSAU BAHAMAS.	SCALE
19th Feb., 65		1 inch = 200 feet
SURVEYED BY		JOB NO
DRAWN BY		18/65
		CHECKED BY

P.O.B. x F 857  
P.H. 573

EXHIBITS

Exhibit 7  
Letters of  
Administration  
in Estate of  
Rufus Grant  
27th January  
1966

Exhibit 7 - Letters of Administration  
in Estate of Rufus Grant - 27th  
January 1966

---

IN THE SUPREME COURT

PROBATE SIDE

1966  
No. 161

In the estate of

10 RUFUS GRANT late of Eight Mile Rock in  
the Island of Grand Bahama one of the Bahama Islands,  
deceased.

20 Be it known, that on the 27th day of July 1966  
letters of administration of all and singular the  
real and personal estates and effects of RUFUS  
GRANT late of Eight Mile Rock in the Island of Grand  
Bahama, Bahamas, deceased, who died on the Fourth  
day of February, A.D. 1966 at Eight Mile Rock Grand  
Bahama aforesaid Intestate, and had at the time of  
his death a fixed place of abode at Eight Mile Rock,  
Grand Bahama within the Colony, were granted by  
this Court to EMMIE GRANT, the lawful widow of the  
said intestate, she having been first sworn well and  
faithfully to administer the same by paying the just  
debts of the said intestate, and distributing the  
residue of the said estate and effects according to  
law, and to exhibit a true and perfect inventory of  
all and singular the personal estate and effects,  
and to render a just and true account of all the  
property of the deceased whenever required by law  
so to do.

30 Sworn under  
£1

Sgd. Illegible  
CHIEF JUSTICE.

IN THE SUPREME COURT OF THE BAHAMA ISLANDS.  
CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL  
DOCUMENT.

DATED THE 12TH DAY OF JULY 1979

Sgd. L.J. Richards  
per REGISTRAR

EXHIBITS

Exhibit 1E  
Conveyance of  
Arnold Flowers  
to Bill Wallace  
Enterprises Ltd.  
6th May 1967

Exhibit 1E - Conveyance of Arnold  
Flowers to Bill Wallace Enterprises  
Ltd. - 6th May, 1967

BAHAMA ISLANDS  
New Providence

F , RUBY ROKER Of the Western District of the  
Island of New Providence one of the Bahama Islands,  
Secretary, make oath and say that I was present and  
saw Arnold Lorenzo Flowers of the Western District  
of the said Island of New Providence, Businessman,  
sign seal and as and for his Act and Deed execute  
and deliver the annexed Indenture dated the Sixth  
day of May, A.D., 1967 for the purposes therein  
mentioned; and that I subscribed my name as the  
witness to the due execution thereof. 10

SWORN to this Sixth day )  
of May A.D., 1967 ) Sgd. Ruby Roker

Before me,  
Sgd. Illegible  
NOTARY PUBLIC

20

Twenty One Dollars - Cents Receipt No. 74220  
21-00 Date 17.4.79 Penalty Paid Two dollars  
eighty-six cents \$2.86

Sgd. Illegible  
Attorney-at-Law Chambers  
Nassau, Bahamas.

BAHAMA ISLANDS  
New Providence

THIS INDENTURE is made the Sixth day of May in  
the year of Our Lord One thousand nine hundred and  
Sixty-seven BETWEEN ARNOLD LORENZO FLOWERS of the  
Western District of the Island of New Providence one  
of the Bahama Islands Businessman (hereinafter  
called the Vendor) of the one part AND BILL WALLACE  
ENTERPRISES LIMITED a Company incorporated under the  
Laws of and carrying on business in the said Bahama  
Islands (hereinafter called the Purchaser) of the  
other part 30

WHEREAS by an Indenture dated the Twenty-sixth day of  
April in the year of Our Lord One thousand Nine  
hundred and Sixty-five made between the Purchaser of  
the one part and the Vendor of the other part the  
Vendor is seised in fee simple in possession of the  
hereditaments and premises hereinafter described and  
has agreed to sell the same unto the Purchaser for 40

the price of ONE THOUSAND THREE HUNDRED AND FIFTY-SEVEN DOLLARS in the currency of the Bahama Islands

10 NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the said sum of ONE THOUSAND THREE HUNDRED AND FIFTY-SEVEN DOLLARS in the currency of the Bahama Islands paid to the Vendor by the Purchaser (the receipt whereof the Vendor hereby acknowledges) the Vendor AS BENEFICIAL OWNER hereby grants and conveys unto the Purchaser ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama and bounded on the NORTH by land the property of Rufus Grant and running thereon One hundred (100) feet on the EAST by land the property of Purchaser and running thereon One hundred (100) feet on the SOUTH by the main public road and running thereon One hundred (100) feet and on the WEST by land the property of Rufus Grant AND ALSO ALL THAT piece parcel or lot of land situate at Eight Mile Rock  
20 aforesaid and bounded on the NORTH by land the property of Rufus Grant and running thereon Fifty (50) feet on the EAST By land the property of Rufus Grant and running thereon One hundred (100) feet on the SOUTH by the main public road and running thereon Fifty (50) feet and on the WEST by land the property of the Purchaser and running thereon One hundred (100) feet TO HOLD the same unto and to the use of the Purchaser and its assigns in fee simple.

30 IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals the day and year first hereinbefore written

Sgd. Arnold L. Flowers

Signed Sealed and Delivered by the said Arnold Lorenzo Flowers in the presence of:-

Sgd. Ruby Roker

EXHIBITS

Exhibit 1E (sic)  
Renunciation  
of Dower G.  
Flowers -  
15th May, 1967

Exhibit 1E(sic) - Renunciation of  
Dower G. Flowers - 15th May 1967

STAMP DUTY

Nil Dollars Thirty-six Cents  
Receipt No. 74220 36  
Date 17.4.79  
Penalty Paid Two Dollars  
Eighty-six Cents \$2.86

Attorneys-at-Law  
Chambers  
Nassau, Bahamas

BAHAMAS ISLANDS  
New Providence

10

BY MAXWELL JAMES THOMPSON ESQUIRE,  
Chief Magistrate of the Bahama  
Islands

TO ALL TO WHOM THESE PRESENTS SHALL COME BE SEEN MADE  
KNOWN OR MAY IN ANYWISE CONCERN:

WHEREAS Arnold Lorenzo Flowers of the Western  
District of the Island of New Providence one of the  
Bahama Islands Businessman (hereinafter called the  
Vendor) by a certain Indenture bearing date the Sixth  
day of May in the year of Our Lord One thousand Nine  
hundred and Sixty-seven made between him the Vendor  
of the one part and Bill Wallace Enterprises Limited  
a Company incorporated under the Laws of and  
carrying on business within the said Bahama Islands  
(hereinafter called the Purchaser) of the other part  
hath granted unto the Purchaser and its assigns in  
fee simple ALL the hereditaments hereinafter described  
in the Schedule hereto NOW KNOW YE that on this 13th  
day of May in the year of Our Lord One thousand Nine  
hundred and Sixty-seven personally came and appeared  
before me the said Maxwell James Thompson as such  
Chief Magistrate as aforesaid GLORIA the wife of the  
Vendor who being by and before me examined separate  
and apart from her said husband did acknowledge and  
declare that she did and doth freely and voluntarily  
and without any manner of compulsion fear or dread  
of her said husband or of any person or persons  
whomsoever remise release renounce and forever quit  
claim unto the Purchaser and its assigns in fee  
simple ALL and ALL manner of dower right title of dower  
which she the said GLORIA now hath or hereafter shall  
or may have or claim of in to or out of the said  
hereditaments as by her said husband conveyed to the  
Purchaser and its assigns in fee simple so that  
neither she the said GLORIA nor any person or persons  
for her or in her name or deriving right title  
interest or claim through or under her any manner of  
dower or action of dower of in to or out of the said  
hereditaments at any time or at all times hereafter  
shall or may have or claim or prosecute but of and

20

30

40

50



from the same shall be utterly debarred and forever excluded by these presents.

THE SCHEDULE HEREINBEFORE REFERRED TO

10 ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama and bounded on the NORTH by land the property of Rufus Grant and running thereon One hundred Feet on the EAST by land the property of the Purchaser and running thereon One hundred (100) feet on the SOUTH  
20 by the main public road and running thereon One hundred (100) feet and on the WEST by land the property of Rufus Grant AND ALSO ALL THAT piece parcel or lot of land situate at Eight Mile Rock aforesaid and bounded on the NORTH by land the property of Rufus Grant and running thereon Fifty (50) feet on the EAST by land the property of Rufus Grant and running thereon One hundred (100) feet on the SOUTH by the main public road and running thereon Fifty (50) feet and on the WEST by land the property of the Purchaser and running thereon One hundred (100) feet.

IN WITNESS WHEREOF I the said Maxwell James Thompson as such Chief Magistrate as aforesaid have hereunto set my hand and caused my seal of Office to be hereunto impressed the day and year lastly hereinbefore written.

Sgd. M.J. Thompson  
CHIEF MAGISTRATE

---

EXHIBITS

Exhibit 1D  
Confirmatory  
conveyance of  
William A.  
Wallace to  
Arnold Flowers  
6th June 1979

Exhibit 1D - Confirmatory conveyance  
of William A. Wallace to Arnold  
Flowers - 6th June, 1979

THE COMMONWEALTH OF THE BAHAMAS  
New Providence

I, WILLIAM ALFRED WALLACE, Junior of the  
Western District of the Island of New Providence  
one of the Islands of the Commonwealth of the  
Bahamas, Secretary make oath and say that I was  
present and saw WILLIAM ALFRED WALLACE of Harold  
Road in the Western District of the Island of New  
Providence aforesaid, Businessman, sign seal and  
as for his act and deed execute and deliver the  
annexed Confirmatory Conveyance for the purposes  
therein mentioned and that I subscribed my name as  
the witness to the due execution thereof

10

SWORN to this 6th day of )  
June A.D., 1979 ) Sgd. W.A. Wallace

Before me,  
Sgd. Illegible  
NOTARY PUBLIC.

20

SGD. Illegible  
CHAMBERS, THE MOORE BUILDING,  
FREDERICK STREET,  
NASSAU, BAHAMAS,  
ATTORNEY-AT-LAW

One Forty  
1.40  
18/6/79  
Sgd: illegible

THE COMMONWEALTH OF THE BAHAMAS  
New Providence

THIS INDENTURE is made the 6th day of June  
in the year of Our Lord One thousand Nine hundred  
and seventy-nine B E T W E E N WILLIAM ALFRED  
WALLACE of Harold Road in the Western District of  
the Island of New Providence one of the Islands of  
the Commonwealth of the Bahamas, Businessman  
(hereinafter referred to as the Confirmor) of the  
one part AND ARNOLD LORENZO FLOWERS of Blue Hills  
Estate in the Western District of the Island of  
New Providence aforesaid (hereinafter referred to  
as the Purchaser) of the other part

30

W H E R E A S :-

40

(1) The Confirmor is the Beneficial Owner,  
President and Director of Bill Wallace Enterprises

Limited a Company registered under the Laws of the Commonwealth of the Bahamas and carrying on business in the said Commonwealth

EXHIBITS

Exhibit 1D  
Confirmatory  
Conveyance of  
William A.  
Wallace to  
Arnold Flowers  
6th June 1979  
(cont'd)

10 (2) On the 26th day of April, A.D., 1965 the said Bill Wallace Enterprises Limited as Beneficial Owner and in consideration of the sum of One thousand Three hundred and Fifty-seven (B\$1,357.00) Dollars in the currency of the Commonwealth of the Bahamas granted and conveyed the hereditaments and premises described in the Schedule hereto unto the Purchaser TO HOLD the same unto and to the use of the Purchaser in fee simple

(3) The said Conveyance relative to such sale has been lost destroyed or mislaid and not recorded in the Registry of Records in the City of Nassau in the Island of New Providence aforesaid

(4) An exhaustive search has been made and the same is believed to have been lost destroyed or mislaid as aforesaid

20 (5) The Purchaser from the date of the Purchase to the 6th day of May, A.D., 1967 occupied the said hereditaments and premises without disturbance from any person

(6) In consequence of the loss, destruction or mislaying of the said Conveyance the Confirmor has agreed to acknowledge and admit the due execution, stamping and validity of the said Conveyance

30 NOW THIS INDENTURE WITNESSETH that in consideration of the premises the Confirmor hereby admits and acknowledges that he as the President and Director of the said Bill Wallace Enterprises Limited did execute the said Conveyance referred to in Paragraph Number Two (2) hereof in the presence of credible witnesses. AND the Confirmor as such Beneficial Owner hereby grants conveys, releases and confirms with the Purchaser any right title or interest he possessed in the said hereditaments and premises TO HOLD the same unto and to the use of the Purchaser in fee simple

40 THE SCHEDULE HEREINBEFORE REFERRED TO

ALL THAT piece parcel or lot of land situate at Eight Mile Rock in the Island of Grand Bahama another Island of the Commonwealth of the Bahamas aforesaid bounded on the NORTH by land the property of Rufus Grant and running thereon One hundred (100) Feet on the EAST by land the property of the Purchaser and running thereon One hundred (100) Feet on the SOUTH by the Main Public Road and running thereon One hundred (100)

EXHIBITS

Exhibit 1D  
Confirmatory  
Conveyance of  
William A.  
Wallace to  
Arnold Flowers  
6th June 1979  
(cont'd)

Feet and on the WEST by land the property of Rufus Grant AND ALSO ALL THAT piece parcel or lot of land situate at Eight Mile Rock aforesaid and bounded on the NORTH by land the property of Rufus Grant and running thereon Fifty (50) Feet on the EAST by land the property of Rufus Grant and running thereon One hundred (100) Feet on the SOUTH by the Main Public Road and running thereon Fifty (50) Feet and on the WEST by land the property of the Purchaser and running thereon One hundred (100) Feet

10

IN WITNESS WHEREOF the Confirmor hereto has hereunto set his hand and seal the day and year first hereinbefore written

Sgd. William A. Wallace

SIGNED SEALED AND DELIVERED by the above-named WILLIAM ALFRED WALLACE in the presence of:-

Sgd. illegible

---

EXHIBITS

Exhibit 6 - Conveyance - Emmie Grant  
to Stanley and Catherine Rolle - 19th  
November 1976

Exhibit 6  
Conveyance  
Emmie Grant  
to Stanley  
and  
Catherine  
Rolle -  
19th  
November  
1976

S/D 33.75

N Rex Carroll  
Attorney-at-Law  
Chambers,  
Freeport, G.B. Island.

COMMONWEALTH OF THE BAHAMAS VOL 2719 PAGE 214  
EIGHT MILE ROCK.

10 THIS INDENTURE is made the 19th day of  
November A.D., 1976 BETWEEN EMMIE GRANT of Eight  
Mile Rock in the Island of Grand Bahama one of the  
Islands of the Commonwealth of the Bahamas (herein-  
after called "the Vendor") of the one part AND  
STANLEY A. ROLLE and MUTHEL CATHERINE his wife also  
of the said Settlement of Eight Mile Rock (herein-  
after called "the Purchasers") of the other part

WHEREAS:-

20 A. Rufus Grant late of the aforesaid Settlement  
(hereinafter referred to as "the deceased") died on  
the 4th day of February A.D., 1966.

B. The deceased was at the time of his death  
seised of the property described in the Schedule  
hereto for an estate in fee simple in possession  
free from encumbrances;

C. The Vendor was granted Letters of Administration  
of all and singular the real and personal estates and  
effects of the deceased by Number 161 of 1966 on the  
27th day of July, 1966;

30 D. The Vendor as the Administratrix of the estate  
of the deceased has agreed with the Purchasers for  
the sale to them free from encumbrances of all rights,  
title and interest that the Estate of the deceased  
has in over and upon the said property for the sum of  
\$4,500.00 in the currency of the said Commonwealth.

40 NOW THIS INDENTURE WITNESSETH that in pursuance of  
the said agreement and in consideration of the  
aforesaid sum paid by the Purchasers to the Vendor  
(the receipt whereof the Vendor hereby acknowledges)  
the Vendor as Administratrix hereby conveys unto the  
Purchaser ALL the rights title and interest in over  
and upon the said property TO HOLD the same UNTO and  
to the use of the Purchasers in fee simple as Joint  
Tenants.

EXHIBITS

THE SCHEDULE HEREINBEFORE REFERRED TO

Exhibit 6  
Conveyance  
Emmie Grant  
to Stanley  
and Catherine  
Rolle - 19th  
November 1976  
(cont'd)

ALL THAT piece parcel or lot of land coloured Pink on the attached plan being a portion of land belonging to the estate of Rufus Grant, deceased, and bounded as follows:

On the North and running thereon 80 feet by land the property of the said estate on the East and running thereon 70 feet by land the property of the said estate on the South and running thereon 80 feet by the main Eight Mile Rock Road leading to Freeport on the West and running thereon 70 feet by a 25 foot wide path way also situate on land the property of the said estate.

10

IN WITNESS WHEREOF the Vendor has set her hand and seal the day and year first hereinbefore written

Sgd. Emmie Grant

Signed Sealed and Delivered by the said Emmie Grant in the presence of:-

Sgd. Adrienne Wilchcombe

IN WITNESS WHEREOF the Purchasers have set their respective hands and seals the nineteenth day of November, A.D., 1976

20

Sgd. Stanley Rolle  
Sgd. C. Rolle

Signed Sealed and Delivered by the said Stanley A. Rolle and Muthel Catherine Rolle in the presence of:-

Sgd. Adrienne Wilchcombe

PUBLIC TREASURY  
FREEPORT, GRAND BAHAMA  
STAMP DUTY PAID  
Thirty-three Dollars                      illegible                      Cents

30

COMMONWEALTH OF THE BAHAMAS  
GRAND BAHAMA  
FREEPORT.

I, Adrienne Wilchcombe of the City of on the Island of Grand Bahama one of the Islands of the Commonwealth of the Bahamas, make Oath and say that I was present and saw Emmie Grant of the Settlement of Eight Mile Rock on the Island of Grand Bahama and Stanley A. Rolle and Muthel Catherine Rolle also of the Settlement of Eight Mile Rock, sign seal and as and for their Act and Deed

40

execute and deliver the annexed Indenture of Conveyance dated the 19th day of November, A.D., 1976 for the purposes therein mentioned; and that I subscribed my name as the witness to the due execution thereof.

SWORN to this 19th day of )  
November, A.D., 1976 ) Sd. Adrienne  
Wilchcombe

EXHIBITS  
Exhibit 6  
Conveyance  
Emmie Grant to  
Stanley and  
Catherine Rolle  
19th November  
1976  
(cont'd)

Before me,

Sgd. Illegible  
NOTARY PUBLIC

10

EXHIBITS

Exhibit 5  
Letter from  
Kendall  
Nottage & Co.  
To Stanley  
Rolle - 17th  
February 1978

Exhibit 5 - Letter from Kendal  
Nottage & Co. to Stanley Rolle  
17th February, 1978

KENDAL NOTTAGE & CO.

COUNSEL & ATTORNEYS AT LAW

Mercantile Bank Building ,  
P.O. Box F2420  
Freeport , Grand Bahama ,  
Bahamas.

Telephone: Freeport (809) 352-2371

10

Jethro L. Miller  
Paulett R. Miller

17th February, 1978

Mr. Stanley Rolle  
Eight Mile Rock  
Grand Bahama  
Bahamas.

Dear Mr. Rolle ,

Re: Land Owned by Mr. Wallace  
Eight Mile Rock - Grand Bahama

20

We are informed that you in occupation of a plot of land bought by our client, Bill Wallace through Bill Wallace Enterprises Limited, a company beneficially owned by him in September, 1964 from Mr. Rufus Grant.

Please accept this as your instruction to cease operation on the said property and vacate the same out of deference to our client's prior legal right to the same.

Yours faithfully ,  
KENDAL NOTTAGE & CO.

30

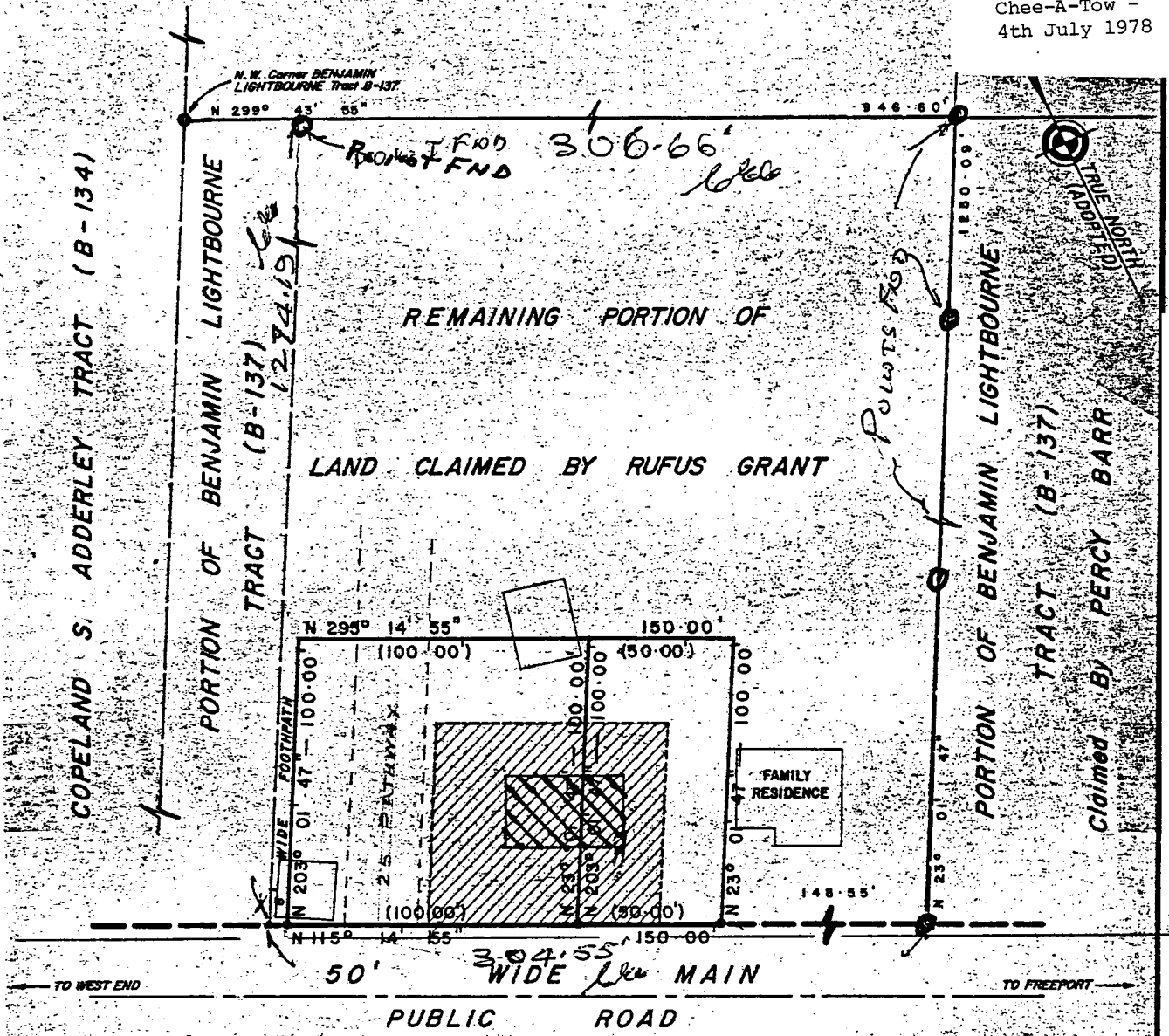
Sgd. Jethro Miller  
Jethro L. Miller

JLM/bcc

Received  
Feb. 17, 1978.



Exhibit 1  
 Plan Drawn by  
 Chee-A-Tow -  
 4th July 1978



Recorded in The Department of Lands & Surveys in accordance with Section 3 of The Land Surveyors Act, 1975 as Plan No. GRAND BAHAMA, This Day of 1978.

**CERTIFICATE:—**  
 I, LEONARD V. CHEE-A-TOW OF NASSAU, A SURVEYOR REGISTERED AND LICENSED IN THE BAHAMAS, HEREBY CERTIFY THAT THIS PLAN HAS BEEN MADE FROM SURVEYS EXECUTED BY ME, OR UNDER MY PERSONAL SUPERVISION, THAT BOTH THE PLAN AND THE SURVEY ARE CORRECT, AND HAVE BEEN MADE IN ACCORDANCE WITH THE LAND SURVEYORS ACT, 1975, AND THE LAND SURVEYORS REGULATIONS, 1975, MADE THEREUNDER.

Surveyor General

*L.V. Chee-a-tow*  
 REGISTRATION No 011  
**H.R. WASON**  
 DEPUTY DIRECTOR  
 SURVEYING & MAPPING SECTION

- SURVEYOR'S NOTES:—**  
 Reference - R. Warren & Associates Ltd. - Plan Job 18/65
- Denotes survey executed for Emmie Dorothy Grant
  - Denotes a steel rod or galvanized pipe in concrete base set
  - ⊙ Denotes a steel rod or galvanized pipe in concrete base found.

**PLAN SHOWING**  
 TWO LOTS OF LAND CONTAINING A TOTAL OF 14,988.75 SQ. FT. BEING A PORTION OF THE TRACT OF LAND ORIGINALLY GRANTED TO BENJAMIN LIGHTBOURNE B-137.  
 SITUATE  
 NORTHWARD OF THE MAIN PUBLIC ROAD AT 'HANNA HILL' ON THE ISLAND OF GRAND BAHAMA ISLAND, WEALTH OF THE BAHAMAS.  
 SURVEYED AT THE INSTANCE OF  
**BILL WALLACE ENTERPRISES LTD.**

<b>CHEE-A-TOW &amp; CO. LTD.</b> Land Planners & Surveyors, P.O. Box F-108 Freeport, Grand Bahama Island.	
DATE -	JULY 4th, 1978
SURVEYED BY -	CHEE-A-TOW
DRAWN BY -	K.M.C.A.T.
SCALE -	1 INCH TO 50 FEET
JOB No -	183/78
PLAN No -	S-1517/78

EXHIBITS

Exhibit 1F  
Abstract of  
Title - 6th  
June 1979

Exhibit 1F - Abstract of Title - 6th  
June 1979

---

ABSTRACT OF TITLE to legal estate in  
Fee Simple in Two (2) lots of land  
situate on the North Side of the Public  
Road leading to West End from Freeport,  
Grand Bahama. The title commences before  
A.D., 1904

7th November, 1904

1. On this date Rufus Grant was born on the land hereinafter described in the Schedule hereto to his parents James Grant and Ralla Grant (nee McPherson).

10

26th October, 1959

2. Affidavit of Howard Bartlett, Sr., annexed hereto as Ex.1. Recorded in the Registry of Records in Volume 242 at Pages 39 to 41.

26th October, 1959

3. Affidavit of William P. Pinder annexed hereto as Ex.2. Recorded in Volume 242 at Pages 45 to 47.

26th October, 1959

4. Affidavit of James Grant annexed hereto as Ex.2. Recorded in Volume 242 at Pages 42 to 44.

20

5. The Affidavits of Howard Bartlett, Sr., William P. Pinder and James Grant all disclose that Rufus Grant was born on the said land and lived thereon all of his life and at the time of his death was seised in fee simple free from encumbrances of the said land.

13th June, 1964

6. On this date Rufus Grant granted and conveyed unto Bill Wallace Enterprises Limited a portion of the land described in the Schedule hereto measuring 100' x 100'. The document relating to the sale is recorded in Volume 772 at Pages 142 to 144.

30

7. Rufus Grant conveyed the legal estate in fee simple in a lot of land measuring 50' x 100' to Bill Wallace Enterprises Limited. This Conveyance is recorded in the Registry of Records in Volume 802 at Pages 408 to 410. This lot forms a portion of the land described in the Schedule hereto.

40

26th April, 1965

8. By an Indenture of Conveyance made between Bill Wallace Enterprises Limited of the one part and

Arnold Flowers of the other part the two lots of land were conveyed to the said Arnold Flowers in fee simple. This document has either been mislaid or lost and cannot be found.

6th June 1979

Confirmatory deed executed.

6th May, 1967

10 9. On this date Arnold Flowers conveyed the said two lots of land to Bill Wallace Enterprises Limited. Conveyance has not been recorded.

13th May, 1967

10. On this date Gloria the wife of Arnold Flowers renounced dower. This document has not been lodged for record.

THE SCHEDULE HEREINBEFORE REFERRED TO

20 ALL THAT piece parcel or tract of land situate in the Settlement of Eight Mile Rock in the Island of Grand Bahama aforesaid being bounded on the SOUTH by The Sea and running thereon Two hundred and Fifty (250) feet on the NORTH by the Main Public Road (West End - Hawksbill Creek) and running thereon Two hundred and Fifty (250) Feet on the EAST by land the property of Henry Grant and running thereon One thousand and Seventy-six (1,076) Feet and on the WEST by land the properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One thousand and Seventy-six (1,076) Feet AND ALSO ALL THAT piece parcel or tract of land immediately adjacent to and  
30 North of the piece parcel or tract of land hereinbefore described and separated therefrom by the main public road being bounded as follows on the SOUTH by the said Main Public Road and running thereon Two hundred and Fifty (250) Feet on the NORTH by Crown Land and running thereon Two hundred and Fifty (250) Feet on the EAST by land the property of Henry Grant and running thereon One thousand Five hundred (1,500) Feet and on the WEST by the  
40 properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One thousand Five hundred (1,500) Feet.

OBSERVATION ON TITLE

Rufus Grant was born on the land in question on 7th November, 1904 and had been in uninterrupted possession from birth together with his parents until he died on the 4th day of February, A.D., 1966. That is for a period in excess of 60 years.

EXHIBITS

Exhibit 1F  
Abstract of  
Title -  
6th June  
1979  
(Contd.)

It is my opinion that it is not absolutely necessary that the title should begin with a document since in this case the title to the land is based wholly on possession. In Cottrell vs. Walkins which is reported in (1839) 1 Beav. 361 at Page 365 it is stated:-

"There are good titles in which the origin cannot be shown by any deed or will; but then you must show that there has been such a long uninterrupted possession enjoyment and dealing with the property as to afford a reasonable presumption that there is an absolute title in fee simple."

10

In these circumstances it is my opinion that Bill Wallace Enterprises Limited has a perfectly good title to the said land.

Dated the 6th day of June A.D., 1979.

Sgd. M.J. Thompson  
M.J. Thompson  
Attorney-at-Law

20

---

Ex.1.

BAHAMA ISLANDS,  
GRAND BAHAMA.

NS VOL 242 PAGE 40

I, Howard Bartlett, Sr., of the settlement of Eight-Mile-Rock, in the Island of Grand Bahama, one of the Bahama Islands, make Oath and say as follows:-

1. That I am Sixty-nine years of age and I have lived all of my life at the Island of Grand Bahama aforesaid.

2. That I know and am well acquainted with Rufus Leon Grant of the settlement of Eight-Mile-Rock in the aforesaid Island of Grand Bahama and that I have known him since his birth at the said settlement of Eight -Mile-Rock.

30

3. That I know and am well acquainted with the piece parcel or tract of land set out and more particularly described in the Schedule hereto.

4. That the said Rufus Leon Grant was born to his parents on the 7th day of November, A.D.1904, who at the time were living on and occupying the piece parcel or tract of land described in the Schedule hereto.

Exhibit 1F  
Abstract of  
Title -  
6th June  
1979  
(Contd.)

10

5. That in the year 1924, the said Rufus Leon Grant built his home on the piece parcel or tract of land described in the Schedule hereto, which was destroyed some years later by a Hurricane. That in the year 1938 he built his present home on the said property.

6. That since the year 1924 ,or for a period of Thirty-five (35) years, the said Rufus Leon Grant has been in full, free, continuous, undisturbed and uninterrupted possession and control of the said piece parcel or tract of land described in the Schedule hereto.

20

7. That during all of his life-time on this property I have never known the said Rufus Leon Grant to pay any rent or lease of any kind to any person or persons whatsoever in respect of the said piece parcel or tract of land described in the Schedule hereto.

8. That I know of no adverse claim or claims made by any person or persons whatsoever against the said Rufus Leon Grant relative to the said piece parcel or tract of land.

30

9. That I do verily and truly believe that the said piece parcel or tract of land described in the Schedule hereto is the property of the said Rufus Leon Grant.

THE SCHEDULE HEREINBEFORE REFERRED TO

40

ALL THAT piece parcel or tract of land situate in the settlement of Eight-Mile-Rock in the Island of Grand Bahama aforesaid being bounded on the South by The Sea and running thereon Two Hundred and Fifty (250) feet; on the North by the main Public Road (West End - Hawksbill Creek) and running thereon Two Hundred and Fifty (250) feet; on East by land the property of Henry Grant and running thereon One Thousand and Seventy-six (1,076) feet and on the West by land the properties of Allen Hanna , Ural Smith and Reginald Grant and running thereon One thousand and seventy-six (1,076) feet AND ALSO ALL THAT piece parcel or tract of land immediately adjacent to and North of the piece parcel or tract of land hereinbefore described and separated therefrom by the main Public Road being bounded as follows: On the South

EXHIBITS

Exhibit 1F  
Abstract of Title -  
6th June 1979  
(Contd.)

by the said Main Public Road and running thereon Two Hundred and Fifty (250) Feet; On the North by Crown Land and running thereon Two Hundred and Fifty (250) feet; On the East by land the property of Henry Grant and running thereon One thousand Five Hundred (1,500) feet and on the West by the properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One thousand five hundred (1,500) feet.

Sgd. Howard Bartlett

10

Sworn to this 26th day of  
October, A.D. 1959,  
Before me,

Sgd. Illegible  
Notary Public

---

Ex.2

BAHAMA ISLANDS,  
GRAND BAHAMA.

NS VOL 242 PAGE 46

I, William P. Pinder, of the settlement of Pinder's Point in the Island of Grand Bahama, one of the Bahama Islands, make Oath and say as follows:-

20

1. That I am Seventy-one years of age and I have lived all of my life at the Island of Grand Bahama aforesaid.

2. That I know and am well acquainted with Rufus Leon Grant of the settlement of Eight-Mile-Rock in the aforesaid Island of Grand Bahama and that I have known him since his birth at the said settlement of Eight -Mile-Rock.

3. That I know and am well acquainted with the piece parcel or tract of land set out and more particularly described in the Schedule hereto.

30

4. That the said Rufus Leon Grant was born to his parents on the 7th day of November, A.D.1904, who at the time were living on and occupying the piece parcel or tract of land described in the Schedule hereto.

5. That in the year 1924, the said Rufus Leon Grant built his home on the piece parcel or tract of land described in the Schedule hereto, which was destroyed some years later by a Hurricane. That in the year 1938 he built his present home on the said property.

40

6. That since the year 1924, or for a period of Thirty-five (35) years, the said Rufus Leon Grant has been in full, free, continuous, undisturbed and uninterrupted possession and control of the said piece parcel or tract of land described in the Schedule hereto.

Abstract of Title-  
6th June  
1979  
(Contd.)

10 7. That during all of his life-time on this property I have never known the said Rufus Leon Grant to pay any rent or lease of any kind to any person or persons whatsoever in respect of the said piece parcel or tract of land described in the Schedule hereto.

8. That I know of no adverse claim or claims made by any person or persons whatsoever against the said Rufus Leon Grant relative to the said piece parcel or tract of land.

20 9. That I do verily and truly believe that the said piece parcel or tract of land described in the Schedule hereto is the property of the said Rufus Leon Grant.

THE SCHEDULE HEREINBEFORE REFERRED TO

30 ALL THAT piece parcel or tract of land situate in the settlement of Eight-Mile-Rock in the Island of Grand Bahama aforesaid being bounded on the South by The Sea and running thereon Two Hundred and Fifty (250) feet; on the North by the main Public Road (West End - Hawksbill Creek) and running thereon Two Hundred and Fifty (250) feet; on East by land the property of Henry Grant and running thereon One thousand and seventy-six (1,076) feet and on the West by land the properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One Thousand and seventy-six (1,076) feet AND ALSO ALL THAT piece parcel or tract of land immediately adjacent to and North of the piece parcel or tract of land hereinbefore described and separated therefrom by the main Public Road being bounded as follows: On the South by the said Main Public Road and running thereon Two hundred and fifty (250) feet; on the North by Crown Land and running thereon two Hundred and fifty (250) feet; on the East by land the property of Henry Grant and running thereon One thousand five hundred (1,500) feet and on the West by the properties of Allen Hanna, Ural Smith and Reginald Grant and running thereon One thousand five hundred (1,500) feet.

Sgd. William Perryman Pinder

Sworn to this 26th day of  
October, A.D., 1959  
Before me,

50 Sgd. Illegible  
Notary Public

EXHIBITS

Exhibit 1F  
Abstract  
of Title -  
6th June  
1979  
(Contd.)

Ex.3.

BAHAMA ISLANDS,  
GRAND BAHAMA.

NS VOL 242 PAGE 43

I, James Grant of the Settlement of Eight-Mile-Rock, in the Island of Grand Bahama, one of the Bahama Islands, make Oath and say as follows:-

1. That I am 78 years of age and I have lived all of my life at the Island of Grand Bahama aforesaid.

2. That I know and am well acquainted with Rufus Leon Grant of the settlement of Eight-Mile-Rock in the aforesaid Island of Grand Bahama and that I have known him since his birth at the said settlement of Eight-Mile-Rock. 10

3. That I know and am well acquainted with the piece parcel or tract of land set out and more particularly described in the Schedule hereto.

4. That the said Rufus Leon Grant was born to his parents on the 7th day of November, A.D. 1904, who at the time were living on and occupying the piece parcel or tract of land described in the Schedule hereto. 20

5. That in the year 1924, the said Rufus Leon Grant built his home on the piece parcel or tract of land described in the Schedule hereto, which was destroyed some years later by a Hurricane. That in the year 1938 he built his present home on the said property.

6. That since the year 1924, or for a period of Thirty-five (35) years the said Rufus Leon Grant has been on full, free, continuous, undisturbed and uninterrupted possession and control of the said piece parcel or tract of land described in the Schedule hereto. 30

7. That during all of his life-time on this property I have never known the said Rufus Leon Grant to pay any rent or lease of any kind to any person or persons whatsoever in respect of the said piece parcel or tract of land described in the Schedule hereto.

8. That I know of no adverse claim or claims made by any person or persons whatsoever against the said Rufus Leon Grant relative to the said piece parcel or tract of land. 40

9. That I do verily and truly believe that the said piece parcel or tract of land described in the Schedule hereto is the property of the said Rufus Leon Grant.



THE SCHEDULE HEREINBEFORE REFERRED TO

EXHIBITS

Exhibit 1F  
Abstract  
of Title -  
6th June  
1979  
(Contd.)

10 ALL THAT piece parcel or tract of land situate  
in the settlement of Eight-Mile-Rock in the Island  
of Grand Bahama aforesaid being bounded on the South  
by the Sea and running thereon Two Hundred and Fifty  
(250) feet; on the North by the main Public Road  
(West End-Hawksbill Creek) and running thereon Two  
Hundred and Fifty (250) Feet; on East by land the  
property of Henry Grant and running thereon One  
20 Thousand and seventy-six (1,076) feet; and on the  
West by land the properties of Allen Hanna, Ural  
Smith and Reginald Grant and running thereon One  
Thousand and seventy-six (1,076) feet AND ALSO ALL  
THAT piece parcel or tract of land immediately  
adjacent to and North of the piece parcel or tract  
of land hereinbefore described and separated  
therefrom by the main Public Road being bounded as  
follows: On the South by the said Main Public Road  
and running thereon Two hundred and fifty (250)  
feet: On the north by Crown Land and running thereon  
Two hundred and fifty (250) feet; On the East by  
land the property of Henry Grant and running thereon  
One thousand five hundred (1,500) feet and on the  
West by the properties of Allen Hanna, Ural Smith  
and Reginald Grant and running thereon One thousand  
five hundred (1,500) feet.

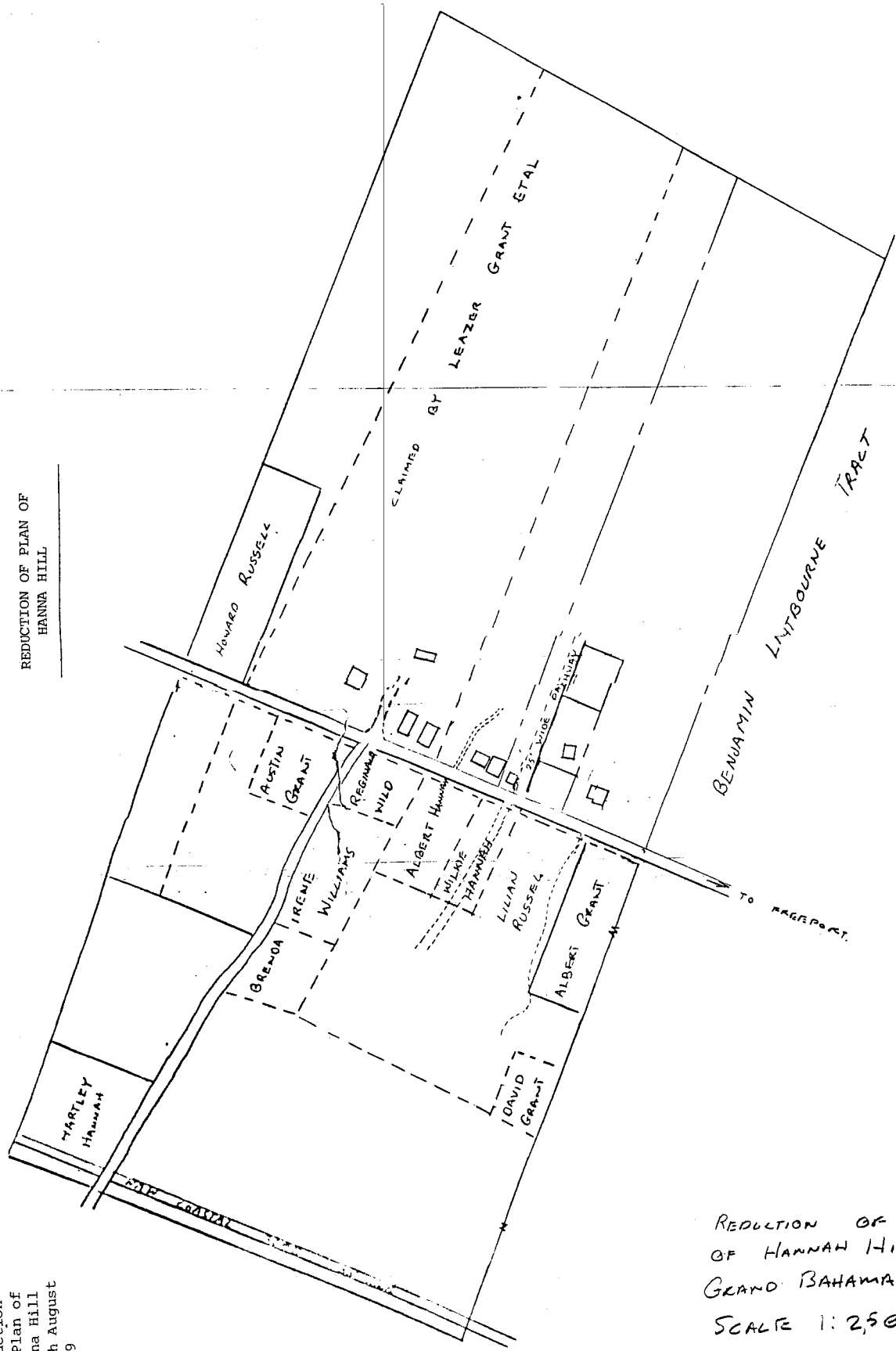
Sgd. JAMES GRANT

Sworn to this 26th day  
of October, A.D.1959

30 Before me,

Sgd. Illegible  
Notary Public

EXHIBIT '2'  
REDUCTION OF PLAN OF  
HANNA HILL



IN THE COURT  
OF APPEAL  
Exhibit '2'  
Reduction  
of Plan of  
Hanna Hill  
15th August  
1979

REDUCTION OF PLAN EX 2  
OF HANNAH HILL EIGHT MILE  
GRAND BAHAMA - BAHAMAS  
SCALE 1:2,500  
1 inch = 208.33'

13. 10. 1979  
110506

O N A P P E A L

FROM THE COURT OF APPEAL OF THE COMMONWEALTH  
OF THE BAHAMAS

---

---

B E T W E E N :

BILL WALLACE ENTERPRISES LTD.

Appellant

- and -

STANLEY ROLLE  
and  
CATHERINE ROLLE

Respondents

---

---

RECORD OF PROCEEDINGS

---

---

CHARLES RUSSELL & CO.  
Hale Court,  
Lincoln's Inn,  
London WC2A 3UL.

PHILIP CONWAY THOMAS & CO.  
61 Catherine Place ,  
London SW1E 6HB.

Solicitors for the Appellant

Solicitors for the Respondents