

*Privy Council Appeal No. 19 of 1991*

**John Goddard**

*Appellant*

*v.*

**National Development Corporation**

*Respondent*

FROM

THE COURT OF APPEAL OF THE EASTERN  
CARIBBEAN SUPREME COURT (ST. LUCIA)

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE  
1ST FEBRUARY 1993  
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*Present at the hearing:-*

LORD TEMPLEMAN  
LORD GRIFFITHS  
LORD MUSTILL  
LORD SLYNN OF HADLEY  
LORD WOOLF

*[Delivered by Lord Templeman]*

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This is a tale of conflicting titles. By a deed of sale dated 12th May 1858 the Petit Trou Estate in the district of Laborie in the island of St. Lucia comprising about 5 carres or 16 acres was conveyed to one Raymond. The Petit Trou Estate was described in the deed as being bounded on the north by lands of Heirs Budin, on the south by the sea, on the east by lands known as Anse Noires and on the west by lands of a widow, Duchaussoir.

By a deed of sale dated 25th January 1886 the Rusty Estate in the district of Laborie comprising about 13 acres was conveyed to one Pierre. The Rusty estate was described as bounded on the north by lands belonging to John Class, "from which it is separated by a small ravine, south and west by the sea and east by lands belonging to widow Arlain" as drawn on a plan of survey which unfortunately has not been available in these proceedings.

The appellant, John Goddard, produced a chain of documents which established his title to the Petit Trou and Rusty Estates comprising in all some 29 acres.

By a conveyance dated 28th May 1938 lands comprising over 3481 acres were vested in the Barbados Land Settlement Company Limited including the Anse Noire Estate. The lands were described by reference to a survey plan dated 15th November 1937 ("the McNamara survey"). The lands comprised in the conveyance dated 28th March 1938, are, so far as relevant, now vested in the respondent, the National Development Corporation. It is common ground that part of the western boundary of the land vested in the respondent is the eastern boundary of land vested in the appellant. The position of that boundary is in dispute.

The appellant caused a survey to be made on 30th October 1977. The plan to that survey ("the Monplaisir survey") which purported to define the Petit Trou and the Rusty estates embraces an area of 55 acres excluding the Queen's Chain. Most of the area shown on the plan consists of frontage to the sea and it is only that frontage which has any real value. The Monplaisir survey showed that the surveyor was aware of the McNamara survey but preferred to ignore it. The Monplaisir survey does not seek to reconcile the difference between the 29 acres to which the appellant was entitled and the 55 acres which purported to represent his entitlement.

The McNamara survey and the Monplaisir survey disclosed the conflict between the appellant and the respondent with regard to the boundary between their respective lands. The dispute came before the adjudication officer who decided that between the western boundary of the respondent's land and the sea there was an area which corresponded to the Petit Trou Estate. The McNamara survey did not include this area in the respondent's land. The adjudication officer awarded the undisputed area to the appellant and registered him with title absolute to the land designated parcel 0818B2 coloured pink on an extract from the index map. The adjudication officer decided that all the land to the east of parcel 0818B2 was vested in the respondent in accordance with the McNamara survey. The decision of the adjudication officer was upheld by the adjudication tribunal. In the Court of Appeal it was conceded that parcel 0818B2 could not have comprised the Petit Trou Estate but was the whole or part of the Rusty Estate; in the result the Court of Appeal upheld the decision of the adjudication officer. This meant that the appellant who was entitled to 29 acres comprising the Petit Trou and Rusty Estates and who had claimed 55 acres pursuant to the Monplaisir survey was, by the award of the adjudication officer as upheld by the adjudication tribunal and the Court of Appeal only entitled to an area of parcel 0818B2 which appears to be no more than about 13 acres. The Petit Trou Estate of 16 acres would appear to have disappeared. A careful and helpful examination by both counsel of all the information now available has satisfied their Lordships that the Petit Trou Estate was adjacent to and on the east side of the Rusty Estate, that the Rusty Estate is represented by the whole or part of parcel 0818B2

and that the Petit Trou Estate comprises land which was included in the McNamara survey by error. The error is not surprising because at the date of the McNamara survey the land involved consisted largely of unoccupied scrub land of little or no value.

The north-east corner of parcel 0818B2 is anchored by the junction between that land, the land of Edwin Nelson to the north-west and the land of the respondent to the east. The junction is numbered 25 on plan B, the working drawing of the adjudication officer in his investigation of the claims of the appellant and the respondent and of the claims of other persons which proved to be ill-founded.

It seems clear that the appellant is entitled to 29 acres including parcel 0818B2 and consisting of both the Rusty Estate and the Petit Trou Estate. The boundary line between the plaintiff's land and the respondent's land ought to run from point 25, the north-east corner of parcel 0818B2 in a direct line to the sea. The boundary line as accepted by the adjudication officer must be angled eastwards until there is included in the appellant's land an aggregate of 29 acres including parcel 0818B2. It seems probable that the boundary line beginning at point 25 will terminate at the sea about the point marked 33 on plan B.

Their Lordships consider that the appeal ought to be allowed in part, that the order of the adjudication officer ought to be set aside so far as it is inconsistent with the views which their Lordships have formed and that the adjudication officer should be asked to decide the exact boundary line between the appellant's land and the respondent's land. In the result the appellant will be entitled in all to 29 acres comprising the Rusty and Petit Trou Estates and no more.

Their Lordships will humbly advise Her Majesty accordingly.

The respondent relied on the McNamara survey which was prepared at a time when there was no dispute and when the lands were not fully occupied or valuable. The appellant relied on the Monplaisir survey which was manifestly inaccurate in that it comprised 55 acres instead of 29 acres and incorporated without any justification a large frontage to the sea. The fact that the McNamara survey was inaccurate to the extent of some 16 acres or thereabouts was only established by the careful investigation of counsel before the Board. The appellant never abandoned his claim to 55 acres in accordance with the Monplaisir survey. In these circumstances each party must bear his own costs of the whole proceedings beginning with the application to the adjudication officer and up to and including the proceedings before their Lordships' Board.

