

Francis Chitolie and another (Appellants) v St Lucia National Housing Corporation (Respondent) (Saint Lucia)

Case ID: JCPC 2022/0064

Jurisdiction: Court of Appeal of the Eastern Caribbean Supreme Court (St Lucia)

Case summary

Issue

- (1) What is the legal effect of the Appellants' failure to claim the Surveyed Land during the Land Registration and Titling Project in Saint Lucia in mid-1987 on the Appellants' claim to overriding interests under sections 23 and 28 of the Land Registration Act 1984 (the "LRA")?
- (2) Is the period before first registration required to be ignored for the purposes of identifying an overriding interest under s.28(f) of the LRA?
- (3) Ought the Court of Appeal have held that the Respondent acquired Parcel 1020B 227 subject to the Appellants' right to defend a possession claim because the Appellants had an overriding interest under s.28(f) of the LRA because they had "rights acquired or in the process of being acquired by virtue of any law relating to the limitation of actions or by prescription" as at the date of first registration.
- (4) Are, on the basis of the Court of Appeal's findings of fact, the Appellants entitled to a declaration that they had a positive prescription right to the Surveyed Land based on at least 30 years' occupation?
- (5) Whether the Appellants' counterclaim should be remitted and the relief and costs ordered against them set aside?

Facts

This appeal arises out of a claim by the Respondent against the Appellants for ownership and possession of 229.05 acres of land (the "Surveyed Land").

In the 1980s, Saint Lucia adopted the Torrens system of registration of title to land. During the Land Registration and Titling Project in Saint Lucia in mid-1987, the Appellants did not claim title to the Surveyed Land. On 31 July 2008, the Respondent was registered in the Land Registry as owner of Block 1020B Parcel 227.

The Appellants argue, amongst other things, that at all material times they have been in occupation of the Surveyed Land, which forms the northern part of land known as Block 1020B Parcel 227, and have acquired a prescriptive title based on long occupation, use and possession which gave rise to an overriding interest under s28(f) and (g) of the Land Registration Act 1984.

Upon hearing the Respondent's claim for ownership and possession, the High Court upheld the claim and ordered that, inter alia, the Appellants pay nominal damages to the Respondent for trespass in the sum of $88,000 and give up vacant possession within nine months, unless they purchase the land at market value from the Respondent. The Court of Appeal dismissed the Appellants' appeal. The Appellants now appeal to His Majesty in Council.

Parties

Appellant(s)

- (1) Francis Chitolie

(2) Vance Chitolie

Respondent(s)

St Lucia National Housing Corporation

Appeal

Justices

Lord Briggs, Lord Sales, Lord Burrows, Lord Stephens, Lord Richards

Hearing start date

3 July 2023

Hearing finish date

3 July 2023

Watch hearing

3 July 2023 [Morning session](#) [Afternoon session](#)