

THE REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY SAN-FERNANDO**

CLAIM NO: CV2017-03650

BETWEEN

**SOORUJHDEO MOONSAR
CHANDROUTIE MOONSAR**

CLAIMANTS

AND

NICHOLAS CHARLES DAVID

DEFENDANT

Before the Honourable Madame Justice Quinlan-Williams

Date: 13th September, 2019

Appearances: Mr. Shivan V. Seunarine instructed by Christoff Bissoon
for the Claimants
Ms. Soraya Nanan instructed by Ms. Renelle Ramdial for
the Defendant

JUDGMENT

Introduction

1. The first named claimant and the defendant are brothers sharing a maternal but not a paternal kinship. The evidence adduced by the brothers is as diametrically opposed as it gets. The resolution of the

issues, must of necessity, involve matters of credibility and believability aligned with any available independent evidence, all leading to fact finding. The law, when applied to the facts as the court finds it, will bring legal resolve. Whether that brings therapeutic resolution to this fractured family is another matter. The court is hopeful, that following the delivery of this judgment, the parties will take advantage of the opportunities afforded by the freedom from carrying the load of this dispute. It is hoped that hence forth they can move on with their individual lives and have a cordial familial relationship.

2. The issue for the court's determination is whether the claimants or the defendant have a superior right to the property or any distinct part thereof, situated at No. 46 La Brea Trace, Siparia and therefore entitled to possession to the exclusion of the other.
3. The claimants' case is premised on them being in undisturbed possession of the subject premises from 1976. The defendant relies on a number of alternative grounds to support his claim that he is entitled to possession of the wooden part of the house.

The Claimants' Case

4. The claimants claim that they have occupied the land situate at No. 46 La Brea Road, Siparia since 1976 by virtue of the first claimant entering into possession as a farmer and planting a variety of crops. Eventually the first claimant built a shed which was later enclosed to make a wooden home. While living in the wooden home and before the first claimant married the second claimant, the first claimant claims he asked his mother, to bring her children and to come live with him. This invitation was extended so that his mother would no longer have to pay rent. This invitation, the first claimant says his mother accepted. The first claimant's mother later gave birth to the defendant and another child.

5. The first claimant's evidence is that he knew the defendant's father and that he visited the premises and spent time there. The first defendant denied that the defendant's father ever lived at La Brea Road, Siparia with him and his mother.
6. In 1984, the first claimant married the second claimant and they occupied the wooden home together with the first claimant's mother and her children. Later, the claimants extended that home by completing a two storey concrete addition. They were able to finance the addition from monies the first claimant earned as well as from a loan he sourced. The first and second claimants later occupied the concrete addition in 1987 after it was completed.
7. The first claimant says his mother continued to live in the wooden home with her children, until one by one they moved out and on with their lives. The defendant's mother continued to live by herself and at some point, in or around 2005, it is alleged that the defendant's mother asked one or both claimants for their permission to have the defendant stay with her to keep her company.
8. It was in those circumstances that the first and second claimants claimed to have given the defendant permission to reside in the wooden portion of the home, with the first claimant's and the defendant's mother. Having been given permission, the defendant moved back into the wooden part of the home at La Brea Road Siparia. Late in her life, their mother vacated the wooden part of the home. In or about 2014, the first defendant's mother and one of her daughters moved into a HDC home. She later returned to the wooden home in 2015 and sometime shortly after, moved to another son's home. The claimant's mother died in 2016. It appears that at the time of her death, she was a resident of a senior citizens home. The defendant remained in the wooden portion of the home after his mother died. The

defendant's presence has led to the filing of this claim. The permission given to the defendant, the claimants assert has been revoked by them. The revocation occurred orally, by a notice to quit as well as by this claim. They therefore seek possession of the wooden part of the premises which the defendant occupies.

9. The first claimant claims that by virtue of his entering into possession of the state's land in 1976 and remaining thereon, undisturbed by the state he is entitled to possession. The claimants assert that by cultivating the land and constructing the wooden shed followed by the home and later adding the concrete home, he and his wife are entitled to the possession of the entire premises at 46 La Brea Trace, Siparia from the defendant. They specifically seek possession of the wooden part of the home which the defendant occupies by virtue of permission given to him by the claimants.

The Defendant's Case

10. The defendant claims that he is entitled to the wooden portion of the home. The defendant asserts that the property at No. 46 La Brea Road, Siparia was first occupied by his father (the first claimant's stepfather) who entered into state land in 1973. The defendant claims his father built a wooden home thereon. The defendant claims that in the year 1973, his father, together with his common law wife (the first claimant's and defendant's mother) together with some of her biological children occupied the home. The defence asserts, when the house was first occupied, the first claimant lived with his grandmother, that the defendant's brother Peter Charles-David was born in 1977 and the defendant was born in 1980. All this time, according to the defence, Peter "Kelvin" Charles-David, the defendant's father lived with the family. The defendant claims that he has lived at that address continuously from the time of his birth in 1980 to today. It is alleged that the defendant's father brought the first claimant from his

grandparents' home to live with the family in the wooden home at La Brea Trace, Siparia. Mr. Charles-David (the father), asserts that the first claimant never wanted to have anything to do with him yet he still allowed the first claimant to live with him as there was discord between the first claimant and his uncle.

11. Later, the defendant's parents separated in 1981 and his father vacated the premises. The defendant's mother, the defendant and some of his siblings continued to reside at the premises. The defendant claims that the first claimant commenced living at the subject premises when he was 18 or 19 years old.
12. The defendant's claim is that the wooden part of the home was owned by his mother and not by the claimants. The defendant also claims that his right to the wooden part of the premises is evidenced by the bequest of the said wooden house to him in his mother's last Will and Testament. That last Will and Testament was executed by the defendant's mother on the 20th September, 2012.
13. The defendant claims in the alternative, that he, independent of the bequest in his mother's Will, is entitled to possession of the wooden home as a result of his continuous occupation in excess of 15 years and with the intention to occupy those premises to the exclusion of all others.
14. The defendant further asserts, again in the alternative, that he is entitled to the wooden part of the premises as a result of proprietary estoppel.
15. The defendant's opinion, therefore, is that on any one or more of a number of legal bases, he has a superior right to possession of the wooden part of the home over the first and second claimants.

16. The defendant also asserts that the claimants fraudulently executed the Deed of Gift dated 26th November 2007. The fraud is particularized and is reliant on the fact that the claimants were not in occupation of the wooden premises and knew that they did not own it when the Deed of Gift was executed.
17. The different bases on which the parties rely to prove that their respective cases for possession will now be considered.

Possession

18. The claimants assert that they have a superior right to possession by virtue of the circumstances by which they came into possession and their occupation thereof. Meanwhile, the defendant claims that he has been in possession of the subject premises since his birth. There is agreement between the parties on the law of adverse possession. Section 3 of Real Property Limitation Act Chapter 56:03 provides:

“3. No person shall make an entry or distress, or bring an action to recover any land or rent, but within sixteen years next after the time at which the right to make such entry or distress, or to bring such action, shall have first accrued to some person through whom he claims, or if such right shall not have accrued to any person through whom he claims, then within sixteen years next after the time at which the right to make such entry or distress, or to bring such action, shall have first accrued to the person making or bringing the same.”

19. Lord Brown-Wilkinson explained in the case of *J.A. Pye (Oxford) Ltd. & Anor. V Graham & Anor.* [2002] 3 WLR 221 that to be in possession, the squatter must demonstrate not only factual possession through physical control and custody, but also the intention to possess the land at paragraph 40:

“... there are two elements necessary for legal possession: (1) a sufficient degree of physical custody and control (“factual possession”); (2) an intention to exercise such custody and control on one's own behalf and for one's own benefit (“intention to

possess"). What is crucial is to understand that, without the requisite intention, in law there can be no possession.

Remarks made by Clarke LJ in *Lambeth London Borough Council v Blackburn* (2001) 82 P & CR 494, 499 ("It is not perhaps immediately obvious why the authorities have required a trespasser to establish an intention to possess as well as actual possession in order to prove the relevant adverse possession") provided the starting point for a submission by Mr Lewison for the Grahams that there was no need, in order to show possession in law, to show separately an intention to possess. I do not think that Clarke LJ was under any misapprehension. But in any event there has always, both in Roman law and in common law, been a requirement to show an intention to possess in addition to objective acts of physical possession. Such intention may be, and frequently is, deduced from the physical acts themselves. But there is no doubt in my judgment that there are two separate elements in legal possession. So far as English law is concerned intention as a separate element is obviously necessary. Suppose a case where A is found to be in occupation of a locked house. He may be there as a squatter, as an overnight trespasser, or as a friend looking after the house of the paper owner during his absence on holiday. The acts done by A in any given period do not tell you whether there is legal possession. If A is there as a squatter he intends to stay as long as he can for his own benefit: his intention is an intention to possess. But if he only intends to trespass for the night or has expressly agreed to look after the house for his friend he does not have possession. It is not the nature of the acts which A does but the intention with which he does them which determines whether or not he is in possession."

20. The claimants, directed the court to the decision of Dean-Armorer J in *The Matter of an Application by Colin Ragoo* CV 2009-02993, to counter the defendant's claim that he was entitled to benefit from the years of adverse possession acquired by his mother. This case is immediately distinguishable from the facts at bar. In *Ragoo* [supra], the testator was adjudged to have acquired possessory title such that he had a right to bequeath the property to his children. The testator, in *Ragoo* [supra] bequeathed the property to his children including the claimant, therefore claimant could only amass time against the other beneficiaries to ground a claim for adverse possession against them, upon the death of the testator.

21. There was also no disagreement from the defendant on the claimants' submission, supported by *Guy v Baptiste PCC APP #12 of 2001* that a party has to prove paper title in order to sustain a claim for possession.

22. Applying the law on adverse possession to the evidence in the instant proceedings, the court finds favour with the claimants claim. The court is satisfied, on a balance of probabilities, that the first claimant took possession of the two acre parcel of land in 1976. The first claimant's evidence, in particular the details provided by him, has satisfied the court of his account. The court is satisfied that when he was fifteen, the first claimant was invited to join the Thick Village Agriculture Society and as a member of that society he was advised to look for and identify a parcel of land. The first claimant took the society's advice and entered into possession by cultivating the parcel of land with a variety of crops. The defendant took issue with the first claimant saying that he cultivated the entire two acres at one time and at another time saying one acre or so was farmed. The court did not find any contradiction with that evidence. The first claimant was saying that he cultivated the entire two acres, with the exception of the front part which was cleared or remained clear for the erection of the shed. The spot where the shed was erected is the same spot where the house stands.

23. The first claimant has also provided cogent evidence describing his interaction with agents of the state that resulted in the decisions to build a shed first, then enclose it into a home and later, add on to that home. The first claimant's interaction with the state agents also resulted in the size of the house and the fact that he maintained one building. The first claimant provided details of the state agents visiting and exercising control over the persons who were in occupation of state lands. While the details did not have specificity of dates and times, the information provided and the behavior of the claimants over

the years in response to what the agents of the state advised, satisfied the court that the claimants did not fabricate their evidence.

24. The first claimant did not provide documentary evidence. However, the situations he detailed appears to the court to limit the opportunity for historical documentary evidence being available to him. Further, at the time the first claimant entered into possession of the lands he was fifteen and one can imagine that he was inexperienced in life and the ways of the world. He said that Thick Village Agricultural Society did not initially have membership cards nor did they provide any other documents to their members. The agricultural society provided information and encouragement to members of the community interested in agriculture, to identify and occupy state lands for that purpose. The first claimant was interested in agriculture, he searched for a parcel of land and he entered into occupation. Eventually, Thick Village Agricultural Society did have membership cards for their members and the first claimant exhibited his.

25. The defendant, on the other hand, was not alive when the subject property was first occupied. He relies on his father's evidence to fill in those details. The defendant's father, Peter "Kelvin" Charles-David, an adult in the 1970s, was vague about the circumstances leading him to enter into possession of the property at 46 La Brea Trace. He said that he decided to squat on state lands to avoid paying rent. According to Mr. "Kelvin" Charles-David, he moved into the premises in 1973 and his first son with the first claimant's mother, Peter, was born in 1977. Given the first claimant's version that he occupied from 1976 and built a shed which he enclosed into his first home, it is possible that Peter was born at La Brea Trace. The defendant made heavy weather of this evidence but the court did not apply any weight to it as it was consistent with both accounts.

26. The defendant was born in 1980 and his father Mr. “Kelvin” Charles-David said he vacated the premises in 1981. Mr. “Kelvin” Charles-David’s evidence, that he gave his former common law wife a sum of \$15,000.00 was totally discredited when he was interrogated. Under cross-examination what emerged was that Mr. “Kelvin” Charles-David was speaking about monies that he provided for the support of his children over the years. This evidence was contrary to the impression given in his witness statement and by the defendant, that he provided those monies specifically for the purpose of home renovation and improvement.
27. The first claimant, on the other hand, gave cogent evidence explaining how he managed himself and his financial affairs. He also provided evidence that he obtained loans, over the years, from his credit union to do the renovation and addition to the property. According to him, he obtained loans from the M.T.S. Employees Credit Union at different periods to assist him with the construction.
28. The evidence demonstrating control over the subject property by the claimants was cogent and determinative in the court’s fact finding exercise. In 1987, the first claimant wired the wooden and concrete parts of the house and received an inspection certification of approval from the Chief Electrical Inspector on 30th November 1987. The first claimant was also responsible for arranging a water connection for the concrete home in which the claimants lived. Contrarily, neither the defendant, his father nor any of his witnesses gave any evidence about taking specific steps to obtain a water or electricity connection to the house the defendant claims. The defendant complained in his statement that at some point the claimant reported to WASA an illegal water connection that their mother had secured.

29. The fact that neither the defendant nor his mother, took any action to obtain an independent electricity connection or water supply from the relevant authorities to the wooden house, suggests that neither he nor his mother believed that they were authorized to take such steps. Had they believed that they were the owners of the property or the wooden house, the court is of the view they would have behaved differently on those two critical and basic issues of lights and water.

30. The court is satisfied, on a balance of probabilities, that the claimants have a superior right of possession over the defendant on the issue of proof of adverse possession. The claimants entered into possession of the entire parcel of land and have remained in possession. The evidence of how they conducted themselves, has satisfied the court that their possession was more than actual. They also had the intention to be in possession against all others, including the defendant and the first claimant's and defendant's mother. The court is not satisfied that the defendant or his mother, were in possession within the meaning of section 3 of Real Property Limitation Act Chapter 56:03.

31. The court is also satisfied on a balance of probabilities that the claimants gave the defendant permission to enter and reside in the wooden part of the premises. They have since withdrawn their permission.

Proprietary Estoppel

32. The parties did not disagree on the law relating to proprietary estoppel, nor did the claimants take issue with any of the authorities relied on by the defendant. The authorities relied on by the defendant, include *Ralph et al v Bernard* CIV APP no 131 of 2011 as to the definition of proprietary estoppel. The parties also agreed with the support given by Kokaram J in *Faran and ors v White* CV2016-03644 that the essence of

the doctrine of proprietary estoppel is to do what is necessary to avoid an unconscionable result.

33. However, the claimants' submission is that those authorities do not apply to the facts of this case nor do they provide support for the claimant.

34. The claimant referred the court and relied on the learnings in the book, *The Law of Real Property*¹. The claimants submitted that even if the court is of the view that estoppel applies, the restriction relating to the revocation of a licence by virtue that estoppel, should extend only to the time already lived on the subject premises:

“If A has a licence over B's land, and B encourages him to act to his detriment in the belief that he will acquire certain rights over B's property, an equity may arise in A's favour. One way in which the court may satisfy the equity arising by estoppel is by declaring A's licence to be irrevocable, either in perpetuity or only on the occurrence of certain events or only by giving an extended period of notice”

35. The defendant asserts, that the claimants have by their conduct, allowed or permitted the defendant to treat the said property as his own and to carry out expenditure, renovations and/or improvements to the subject lands, without any objection and/or protest. Therefore, the defendant has acquired an equitable interest in the property and it would be inequitable to for him to vacate the property.

36. The defendant has not provided any evidence to support his assertion that he has expended any monies, carried out any renovations or improvements. The defendant has pointed to one occasion where he was attempting to prop up a sheet of galvanize with a piece of wood and he was prevented from doing so. The defendant's evidence is that

¹ Harpum, Bridge and Dixon. (2010) Eight Edition at paragraph 34-013

there were other occasions where the claimants interfered with the enjoyment of the property, but he has not provided specifics. On the contrary to what the defendant asserts, this evidence shows that the claimants were not prepared to have the defendant do any repairs, however minor, to their property and that they did not allow him to act as if he owned the property.

37. The defendant says he was not served with a notice to quit personally, rather on the 2nd September, 2014 he came home and found a Notice to Quit stuck on the front door. This date is noteworthy because it was in 2014. The evidence has established that the defendant's mother moved out of the wooden, structure in 2014. This evidence supports the claimant's version that the defendant's mother sought permission for him to stay with her. It appears that when the defendant's mother moved, the claimants revoked the defendant's permission as he was no longer staying with his mother. He was served therefore with the notice to quit. This evidence supports the claimants' account that the defendant was given permission to stay with his mother.

38. In fact the defendant's evidence is inconsistent with his pleadings for proprietary estoppel. The defendant asserts that the claimants "from as early as 1984, engaged in a campaign of threats and harassment towards the Defendant in an effort to make him move away from the said property".² The defendant supports his pleadings with evidence that the first claimant never tried to have a brotherly relationship with him. According to the defendant, it was so bad that he and his brother have had "limited interaction with each other".³ If the defendant's evidence is to be believed, the claimants have been threatening the defendant from the time he was four (4) years of age. Further, they

² Paragraph 18 of defendant's defence.

³ Paragraph 6 of defendant's witness statement.

have a bad relationship and barely interact. When then, on the defendant's account, did the claimants allow the defendant to threaten the property as his own, since the claimants always made efforts to have him moved from the subject premises.

39. The defendant's brother, Mr. Peter Charles-David, also testified that the claimants tried to get him out of the property.

40. The court is not satisfied on a balance of probabilities, that the claimants behaved in any way towards the defendant or his mother where it would now be unconscionable for the claimants to have possession of the subject premises.

Statutory Declaration and Will and Testament

41. The claimant relied on the judgment of Pemberton J, as she then was, in *Khan v La Crete* CV 2007-00311, that an unproven Will is of no effect, a beneficiary under a Will cannot seek that benefit until the Will is proved, cannot claim anything in law or equity nor commence or maintain an action in trespass. The defendant agreed with the submission and insisted that reliance was placed on the Will as circumstantial evidence to show what his mother believed she owned at the time of her death.

42. The defendant exhibited a Statutory Declaration sworn by his mother on 21st day of June 2011 as well as her last Will and Testament made by the defendant's mother on 20th September 2012 as proof that his mother was of the belief that she was the owner of the subject premises. The Statutory Declaration stated that she had:

“a free undisturbed possession and occupation of a acre and two rods of land situated at the above address belonging to the STATE, and where I have my own DWELLING HOUSE made of wood and concrete comprising Two Bedroom, Living Room and

Kitchen and where I live on the said land for the past 40 or more years”.

43. The description of the property does not align with any evidence presented in this claim by the defendant: the size nor description of the dwelling house. Further, on the defendant’s account the period of occupation is also incorrect. The declarant swore that she was in occupation for at least 40 years which would put the year of occupation to 1971 and not 1973 as Mr. “Kelvin” Charles-David swore to. Not forgetting the evidence of the defendant’s witness, his sister Angela Richards. Her evidence puts the year of occupation at around 1976.

44. With respect the last Will and Testament of the defendant’s mother, the bequest to the defendant described a property entirely different from the description she gave a few months before in the statutory declaration sworn by her. In the Will the defendant’s mother stated:

“I am the owner of that vertical half portion of a wooden dwelling house (upstairs and downstairs) situate at my herein above address. The upstairs half comprising two bedrooms and living room covered with galvanize iron sheets and the downstairs part is open. My son SURUJDEO MOONSAR lives on the next half portion of the house that was already given to him for his use and benefit. The house is situated on STATE LAND. That I hereby devise and bequeath MY PORTION of dwelling house to my son NICHOLAS MICHAEL CHARLES DAVID”

45. In the Will, the defendant’s mother claimed ownership of a vertical half portion of a wooden dwelling house only. The description also says that the downstairs part is open. The impression given in the Statutory Declaration was that the defendant’s mother was laying claim to the entire subject property, including that part lived in by the claimants.

46. The defendant’s brother Mr. Peter Charles-David, gave evidence that he lived with his father during the week and at La Brea Trace, Siparia on the weekends. This evidence from the defendant’s brother

contradicted that of the defendant and his father. The witness tried backtracking, but eventually accepted that the version in his witness statement, living with his father during the week, was the truth. Mr. “Kelvin” Charles-David, the defendant and his sister all gave contrary evidence.

47. The court also noted that Mr. Charles-David testified that he built a one bedroom structure in the downstairs of the said property in which he started to stay with his wife and children. However Mr. Charles-David’s evidence was also distorted from the description given by his mother. In her Will, the description of the property is of a two bedroom structure upstairs and the downstairs being open.

48. The court is also satisfied that the first claimant farmed that land and was given permission to construct a shed and later a single home on the parcel of land. The court is also satisfied that the first claimant constructed a wooden home and later extended that home by adding a two storey concrete building hitched to the wooden home. This concrete structure was joined unto the wooden structure as the first claimant had been advised that he would only be permitted to build one home on the lands occupied by him. The evidence has satisfied the court, on a balance of probabilities, that the first claimant invited his mother and her children (his siblings) to live with him.

49. Over the years that followed, the first claimant’s younger siblings matured and moved out and on with their lives. Eventually, the first claimant’s mother was residing alone in the wooden portion of the home. She then sought the claimants’ permission for her son, the defendant to come live with her. The claimants agreed to allow the defendant to live with his mother in the wooden part of the home.

50. The court is satisfied, on a balance of probabilities, that the first claimant's and defendant's mother was never the owner of or entitled to possession, to the exclusion of the claimants, of the wooden portion of the home situate at No. 46 La Brea Road, Siparia. Consequently, their mother, not being the owner of or entitled to possession was not entitled to bequeath what she did not own. The fact that the Will contained what the defendant says is evidence of his mother's belief. That evidence does not advance his case. She could not therefore pass by her Will, the wooden portion of the home to the defendant. There is also, no other lawful circumstance, by which the defendant attained a superior right of possession, over the claimants, of the wooden part of the premises.

Fraud

51. The defendant's assertion that the claimants' Deed was executed fraudulently cannot be sustained. This decision is consequent upon the findings of facts pronounced earlier in this judgment. The defendant's claim is premised on the postulation that the claimants were not in possession or entitled to possession of the wooden part of the home. The defendant goes further; he asserts that they knew the defendant was the owner of the wooden part of the home when the deed was executed.

52. The court has already decided that the claimants have been in possession of the entire subject parcel of land and appurtenances at 46 La Brea Road, Siparia. The deed the defendant complains about is DE 200800012144 made on the 26th November 2007. The deed purports to protect the second claimant by giving her the same entitlement as her husband to the wooden and concrete home that they constructed on the state lands. It is noteworthy that the deed was made before the first claimant's mother's death on the 7th August 2016. The deed was made before the statutory declaration relied upon by the defendant

which was declared on the 21st June 2011. There is no evidence that the first claimant knew of his mother's Will, but the deed was also made before the date of the Will. The court is satisfied that the first claimant executed a deed in an effort to protect his wife who he had been married to for about twenty years. The court is satisfied on a balance of probabilities, that action taken by the claimants by making the deed, was not fraudulent.

Disposition

53. There shall be judgment for the claimants against the defendant on the claim. It is hereby ordered that:

- a. A declaration that the claimants have a superior right and interest over the defendant and are entitled to possession of All and Singular that certain two storey partly concrete and partly wooden dwelling house measuring Forty Feet by Thirty Feet with an attached shed at the back measuring Twenty Feet by Ten and a garage to the front measuring Twenty Feet by Ten Feet standing on lands of the state comprising Two Acres more or less known as Plot 8 situate at No. 46 La Brea Trace, Siparia, in the Ward of Siparia, in the island of Trinidad and bounded on the North by lands of the State and on the South by La Brea Trace and on the East and West by state lands;
- b. Possession of that two acre parcel of land together with the partly concrete and partly wooden structure standing thereon situate at No. 46 La Brea Trace, Siparia;
- c. An Order that the Defendant, his agents and/or servants vacate the said two acre parcel of land together with the partly concrete and partly wooden structure standing thereon within seven (7) days of the date of this Order;
- d. An injunction restraining the Defendant, from entering, using and remaining upon the partly concrete and partly wooden structure on the said two acre parcel of land;

- e. An injunction restraining the Defendant from committing any acts of assault and/or molestation on the First and Second Claimants;
- f. The defendant's counter-claim is dismissed; and
- g. The defendant being legally aided and by virtue of section 33(1) Legal Aid and Advice Act Chap. 7:07, the court makes no order as costs.

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Justice Avason Quinlan-William

JRC: Romela Ramberran