

IN THE GRAND COURT OF THE CAYMAN ISLANDS

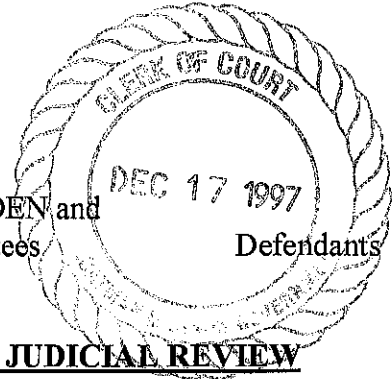
CAUSE NO. 839 OF 1997

BETWEEN: KEMPTON M. WEBSTER Plaintiff



AND (1) THE REGISTRAR OF LANDS

(2) AUDREY THOMPSON-EBANKS,
ROBERT EBANKS, ROXIE BODDEN and
ARAUNAH POWERY as joint trustees



Defendants

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of applicant	Kempton M. Webster P.O. Box 977 GT Grand Cayman B.W.I. Security Officer
Proceeding in respect of which relief is sought	The alleged rectification of the register with respect to the land described as Registration Section Breakers, Block 52C, Parcel 18 under sec. 139 of The Registered Land Law (1995 Revision)
Relief Sought	
Extension of time within which to apply for judicial review, certiorari, declaration and rectification of a land register	
Name and address of applicant's attorneys	Brooks & Brooks Harbour Centre P.O. Box 1355 Grand Cayman B.W.I.
Signed <i>Brooks & Brooks</i>	Dated 17 th December, 1997

GROUND ON WHICH RELIEF IS SOUGHT

The grounds on which the relief is sought are the following:

1. By a deed of gift made on 12th June, 1950 ("the deed of gift"), the plaintiff gave land "to the Church of God in trust unto the office-bearers (sic) of the said Church in the names of Elder Fortesque E. Arch, Elder Ezra Sheets, Elder Raib Arch, Elder Will T. Bodden, Elder Charles Glidden, Elder Luke Forbes. Or in trust unto who-so-ever may from time to time succeed in the said office as officebearers (sic) in the said Church of God in the Cayman Islands, to be used for the erection of a building for the preaching of the Gospel and the teaching of Jesus Christ as preached and taught by the Church of God. The said piece or parcel of land being given in trust to the hereinamed (sic) persons, and to their successors, the said parties as office bearers (sic) in the said Church are to have power to hold and use the same in and unto the use as herein described." Elders Fortesque E. Arch, Ezra Sheets, Raib Arch, Will T. Bodden, Charles Glidden and Luke Forbes are now deceased.

2. The land which the plaintiff so gave to the Church of God by the deed of gift is now officially described as Registration Section Breakers, Block 52C, Parcel 18 ("the land"). It was adjudicated to The Church of God as the proprietor thereof, as a result of the adjudication process, on 2nd July, 1975.

3. The register with respect to the land was opened on 28th August, 1976. "THE CHURCH OF GOD" was the first registered proprietor thereof. The address of such first registered proprietor was stated, in the register, to be c/o P.O. Box 829, George Town, Grand Cayman.
4. The plaintiff applied for the rectification of the register with respect to the land on 14th February, 1997 in order to change the address of the registered proprietor thereof from the one set out in paragraph 3 hereof to "P.O. Box 1495 GT".
5. By a letter of 20th February, 1997, the first defendant advised my attorney-at-law that, before processing the application referred to in paragraph 4 hereof, he required a correction to the entry in the proprietorship section of the register as it then stood in order "to have the land properly recorded in the name of the church trustees". He claimed, in the said letter, that "the property was casually registered at the time of adjudication". Neither the plaintiff nor his attorney-at-law took any further action with respect to the said application.
6. On 21st July, 1997, the second defendants applied for a rectification of the register with respect to the land in order to change the name of the first registered proprietor thereof from "THE CHURCH OF GOD" to their names and address.
7. The plaintiff, his attorneys and the members of The Church of God at Breakers knew nothing about the application referred to in paragraph 6 hereof until 19th November, 1997.

8. The application for rectification referred to in paragraph 6 hereof was apparently granted by the first defendant between 21st and 31st July, 1997. It was registered on that last date and the second defendants are now shown as the registered proprietors of the land in edition 1 of the register with respect thereto. That alleged rectification was not in keeping with the plaintiff's original intent as donor of the land.

9. Neither the plaintiff nor his attorneys nor those connected with The Church of God at Breakers were aware of the alleged decision of the first defendant referred to in paragraph 8 hereof or that the names of new registered proprietors of the land had been entered into the register with respect thereto until 19th November, 1997.

10. P.O. Box 829 is not the address of anyone connected with The Church of God at Breakers. It was the postal address of Will T. Bodden.

11. The plaintiff avers that:
 - (a) The first defendant did not have jurisdiction, under sec. 139 of The Registered Land Law (1995 Revision), to rectify the register with respect to the land as he allegedly did between 21st and 31st July, 1997.

- (b) Further and in the alternative, the first defendant exceeded his jurisdiction under that provision in purporting to rectify the register with respect to the land as he allegedly did between 21st and 31st July, 1997.

- (c) The alleged decision of the first defendant to rectify the register with respect to the land between 21st and 31st July, 1997 is void and of no effect because, in the process of taking such a decision, the first defendant failed in his duty to act fairly towards the members of The Church of God at Breakers, including the plaintiff, in that:
 - (i) He did not give the plaintiff or any of the other members of The Church of God at Breakers prior notice of his intention to rectify the register with respect to the land.

 - (ii) He did not give the plaintiff or any of the other members of The Church of God at Breakers an opportunity of being heard prior to allegedly taking such step.

- (d) The alleged decision of the first defendant to rectify the register with respect to the land is void and of no effect on the additional ground that he

acted without jurisdiction, or exceeded his jurisdiction, in allegedly so doing in that:

- (i) He purported or intended to rectify, in effect, the adjudication record with respect to the land.
 - (ii) His alleged decision had the effect of rectifying the adjudication record with respect to the land.
 - (iii) He had regard, in arriving at his alleged decision to rectify the register, to a consideration which is outside the scope of his functions under The Registered Land Law (1995 Revision), i.e. his belief that the registration of the first proprietor of the land was casual at the time of the adjudication of the land.
- (e) By reason of the matters aforesaid, the alleged rectification of the register with respect to the land is null and void.

Dated this 17th day of December, 1997

Brooks & Brooks
Brooks & Brooks
Attorneys-at-law for the plaintiff

TO: The Clerk of the Court

REQUEST FOR A HEARING

The plaintiff respectfully requests a hearing of his above application.

TIME ESTIMATE: The estimated time of the hearing of this application is one (1) hour.

THIS APPLICATION was filed by Brooks & Brooks, the attorneys-at-law for the plaintiff, whose address for service is Harbour Centre, P.O. Box 1355, George Town, Grand Cayman, Cayman Islands, B.W.I.