

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF SAINT CHRISTOPHER AND NEVIS
NEVIS CIRCUIT
CIVIL
A.D. 2026
Claim NEVHCV2025/0023

IN THE MATTER of a 1989 Certificate of Title in Register Book 27 Folio 59 of the Register of Titles, Nevis Circuit, Island of Nevis in favour of Frederick Roy Windsor Clarke.

And

IN THE MATTER of a 2020 Certificate of Title in Register Book 58 Folio 116 of the Register of Titles, Nevis Circuit, Island of Nevis in favour of Keith Claudius Paul Lawrence, Robin Robert Lawrence and David Gordon Lawrence.

And

IN THE MATTER of application of Section 141 of the Title by Registration Act, Cap.10.19 of the laws of the Federation of St. Christopher And Nevis to cancel one certificate as they both claim the same land.

BETWEEN

NICOLE JOHNSON AND SHAUN CLARKE

(Executors of the Estate of Frederick Roy Windsor Clarke, deceased)

Claimants

And

KEITH CLAUDIUS PAUL LAWRENCE

1st Defendant

ROBIN ROBERT LAWRENCE

2nd Defendant

DAVID GORDON LAWRENCE

3rd Defendant

THE ATTORNEY GENERAL OF ST KITTS & NEVIS

4th Defendant

Appearances

Mr Ricaldo Caines counsel for the Claimants
Nicole Johnson in person and Shaun Clarke in person
Ms Kimberly Hanley-Bello counsel for the Defendants
Keith Lawrence in person and Robin and David Lawrence on zoom.
Ms Kenetra Ramchan and Ms Kiwana Browne for the AG.

2026: JULY 27

JUDGMENT**Where there are two certificates of title for separate families for the same land**

- 1 **Morley J:** In this case, the Clarke and Lawrence families claim the same piece of land, each having a certificate of title to it, respectively from 1989 and 2020, which cannot be right, and I have to decide whose certificate will be cancelled and with what result.
- 2 Concerning Clarke siblings Nicole and Shaun, the claimants' late father Frederick Roy Windsor Clarke (yod 2009) became owner of 75 acres by conveyance on 30.08.69 and then on 17.03.89 obtained a Certificate of Title for that land in Register Book 27 Folio 59. Concerning Lawrence brothers Keith, Robin and David, the defendants are registered as proprietors of 9.375 acres in Register Book 58 Folio 116, derived from a First Certificate of Title issued to their late father Paul Theophilus Lawrence (yod 2022) on 21.05.08, following application commencing in 2004, which 2008 certificate was later transferred to them for EC\$1 on 04.10.19 and registered on 27.05.20, where the invoice of their attorney Myrna Walwyn records the value of the land on 03.10.19 as EC\$306281.25 (306k).
- 3 Owing on Nevis to the proposed Destiny development in the area, the 9.37 acres is said now worth up to US\$400000.

- 4 It is an odd feature of the case the same surveyor helped secure the title for Frederick by survey on 16.06.88 and then 15 years later for Paul by survey on 05.03.03, being surveyor Steele Douglas, now elderly in Toronto, where the Lawrence land is wholly within the Clarke land, as agreed proved by surveyor Jamal Daniel by report on 05.01.26.
- 5 The existence of the two certificates was discovered by the Clarkes in 2024 when they conducted a survey in light of the Destiny project, and their surveyor Simeon Hill stumbled onto the problem, giving rise to this litigation, where the Clarkes are seeking the Lawrence 2020 title cancelled. However, in reply, the Lawrences, who claim they did not have notice of the Clarke 1989 certificate, argue the transfer in 2020 of Paul's 2008 certificate makes them bona fide purchasers without notice, so that if Paul's certificate is bad, nevertheless their title remains good, and it is the Clarke certificate which should be cancelled, who should then recover compensation from the consolidated fund under **s19(3) Title by Registration Act (TBRA)**, being why the AG is the 4th defendant.
- 6 As to **s19 TBRA**, it reads:
- Provisions where certificate of title has been wrongly issued.**
- 19.** (1) Any person aggrieved by the issue of a certificate of title under this Act may, institute a suit as plaintiff against the Attorney-General as defendant, claiming damages for the injury he or she may have sustained.
- (2) Every such suit shall be governed by the provisions of the Crown Proceedings Act, Cap. 5.06 and if the plaintiff shall recover any damages, the same shall be paid out of the Consolidated Fund.
- (3) Where any person has, by wilful misrepresentation or otherwise, obtained a certificate of title to any land to be wrongfully issued, the Registrar of Titles shall call in the same to be cancelled in any case in which the rights of a transferee or encumbrancee who has taken *bonâ fide* for value without notice, will not be prejudiced thereby, and where damages have been recovered against the Attorney-General in such suit as in this section is mentioned, the Attorney-General, on behalf of the Government of the State, shall sue the person who has obtained the certificate of title for the issuing of which such damages have been recovered, for damages to be paid into the Consolidated Fund:
- Provided that if the person so sued has not obtained the certificate by fraud, and can show that he or she has not been benefited by the issue of such certificate to the whole amount of the damages recovered against the Crown, he or she shall not be liable to a greater amount than that by which he or she has been so benefited:

Provided also, that no transferee or encumbrancee who has taken *bonâ fide* for value, without notice, subsequent to the issue of the first certificate of title, shall be liable in any action for damages.

[Underlining added]

- 7 How could this have happened, there being two titles for the same land, and what is to be done?
- 8 There was a short trial during 20.07.26, where the claimant witness statements and exhibits were agreed and placed into evidence, and the defendant evidence and exhibits also agreed, but with Keith, Robin and David giving brief testimony about the 2020 transfer of the 9.37 acres worth \$EC\$306k by Paul to them jointly for EC\$1, about which I make the following findings:
- a. I am wholly satisfied the 2020 transfer was not on notice of the Clarke certificate, the brothers having no idea of it, but instead was on advice from a UK lawyer, with Paul's health declining, to transfer land if possible rather than leave it to the complications of probate, which to the court may be prudent.
 - b. Although there is some query whether there was ever formal record made of EC\$1 being paid to Paul, Keith and Robin thinking likely not, David wondering if it was, nevertheless I infer it must have been, as a matter of common sense, lest the transfer be declared void for lack of consideration, which would be most unfair, given here it is a formality, meaning I infer as finding there was a valid transfer of the 2008 certificate.
 - c. However, to attract the protection of **19(3) TBRA**, the transfer to a bona fide purchaser must be 'for value', which for the sum of EC\$1 it was not, when the value of the land was at least EC\$306k.
 - d. In consequence I find as a legal fact the transfer was not as a '*bona fide purchaser for value without notice*', failing for want of 'value', meaning the 2020 title cannot succeed separately from the 2008 title, and therefore cannot survive unless the 2008 Paul title can trump the 1989 Frederick title.
- 9 As to trumping the 1989 certificate of title obtained by Frederick:
- a. A first argument is the 2008 certificate was validly issued, having gone through the relevant procedure unchallenged, and so should stand as indefeasible: however the answer to this point is the 2008 procedure was demonstrably flawed as an undeniable legal fact, as it pleaded through various supporter affidavits no one had interest in the land other than Paul,

which is legally and factually wrong, as the Clarkes had an interest, by virtue of their 1989 title.

- b. A second argument, allied to the first, has been the Clarkes, even though not served personally with notice of Paul's application for title, which the rules require they should have been, were nevertheless on constructive notice of it as it was advertised in the newspapers in May 2004, and so had time to object, did not, and are now statute barred as more than 12 years has run since its issue in 2008: however the answer to this point is the Clarkes were not specifically put on notice as required in the rules, making Paul's title application fundamentally flawed, as above, and cannot have been expected to monitor newspaper applications for land they already owned; and even if they should monitor newspapers, from the description of the land claimed by Paul, in surveyor language, it is not easily apparent the land advertised is inside their 75 acres so that they cannot be said to have failed due diligence if it applied, which in any event I find due diligence does not.
- c. A third argument is the Clarke title should be cancelled as relying on a 1969 conveyance where Paul's aunt Marion appears to have sold the interest in land of Paul's father George, Marion being George's sister, so that the conveyance should be declared void, and therefore the 1989 title deriving from it: but the answer to this point is there is no formal evidence on which to justify the challenge to Marion's sale, merely suspicion, as a puzzling curiosity, where as matters stand the title granted in 1989 following the 1969 conveyance, being the first title to the land in time, is indefeasible under **s8 TBRA**, meaning the title has to be presumed unchallengeable unless there has been fraud or some other exceptional reason unambiguously established raising the attention of the High Court, per **ss140 and 141 TBRA**, but neither fraud nor exceptional reason arise here for lack of formal evidence, being instead merely puzzlement at the sale by Marion.

- 10 The consequence of this analysis sadly is Paul's 2008 title was wrongly issued, and therefore so too the 2020 title to the Lawrence brothers which flows from it, and so under **s141 TBRA** I order the 2020 title cancelled, where the section reads:

Court may order cancellation or amendment of certificate of title.

141. At the request of a Registrar of Titles upon petition or case stated, or in any proceeding respecting any land, or in respect of any contract or transaction relating thereto, or in respect of any instrument, caveat, or dealing with land, the Court may

by decree or order direct the Registrar of Titles to cancel, correct, substitute, or issue any certificate of title, or make any noting or entry thereon, and to do such acts as may be necessary to carry into effect any judgment of the Court.

[Underlining added]

- 11 In the circumstances, I grant the relief sought by the claimants, as:
1. A declaration that the 9.375 acres registered in Book 58 Folio 116 form part of the 75 acres registered in Book 27 Folio 59 in favour of Frederick Roy Windsor Clarke.
 2. A declaration that the 2008 First Certificate of Title issued to Paul Theophilus Lawrence in Book 46 Folio 199 was wrongly issued within the meaning and purpose of **section 19 of the Title by Registration Act**.
 3. A declaration that the First to Third Defendants are not bona fide purchasers for value without notice for the purpose of **section 19(3) of the Title by Registration Act**.
 4. An order under **section 141 of the Title by Registration Act** directing the Registrar of Titles to cancel the record of the 2008 first certificate of title obtained by Paul Theophilus Lawrence on 21.05.08 and the 2020 certificate of title obtained by the 1st to 3rd defendants on 27.05.20, so that the 9.375 acres in effect are restored to the Clarke title in Book 27 Folio 59, as therefore owned exclusively by the Clarke family.
- 12 Turning to how did this happen, discussion in court has revealed a fundamental flaw in keeping land records on Nevis, namely there is no mechanism for a person, usually a lawyer instructed to make application to get certificate of title, to marry the description of the land by the surveyor to existing certificates of title at the Land Registry.
- a. The Torrens method of land logging applies on Nevis, meaning there is a record kept of deeds and titles, not a cadastral method, which would map out the geography of where titles lie, so to know where land being claimed sits and who owns it requires either the vagaries of local knowledge, or a licensed surveyor to know it is already claimed from memory and records personally kept, which will then vary from surveyor to surveyor.
 - b. Here the same surveyor, Steele Douglas, processed both certificates, with surveys of the same land, being of the 75 acres in 1988 and the 9.37 acres in 2003, not remembering the 9.37 acres were within the 75 acres.

- c. The whole point of the Land Registry should be that claims ought to be easily reviewable against existing certificates, but on Nevis the certificates are logged against family names, in various books and folios, not focusing enough on geography, with each certificate showing a small survey plan, the plans not being joined up to create a knitted wider picture, requiring therefore an applicant knows who the families are, to know who to ask if there is an existing title.
- d. Moreover, a great font of knowledge was reported to this court to be the court bailiff, who haphazardly lawyers regularly consult as to who owns what, which is hardly a reliable method of checking, as it relies on the bailiff knowing everything, which is silly.
- e. Here, in 2004 Paul applied for title, as case NEVHCV2004/0044, on the basis the land, being scrub, had been occupied for animal husbandry by him and his father for many years, believing the land to be owned by the Crown, so that Paul in 2004 made an application for a first certificate of title. His enquiries did not reveal the Clarke interest, because the boundaries of the claim were to the north and south the Simmonds estate, which was put on notice, and to the east a road, and west a ghaut, where for a road or ghaut in Crown land the local procedure is to alert the government, not knowing the ghaut boundary was part of, and was included inside, the larger 75 acres owned by the Clarkes, who should have been alerted, but were not, as Paul did not know to do so, and so only the Crown was alerted.
- f. What needs to happen is when a survey is done, it ought to be possible at the Land Registry to superimpose the survey onto a regional map where all the certificates of title are laid out to see if the survey trespasses onto any, which is commonsense, but it seems not how the registry functions on Nevis.
- g. The language of the notice as to where the land is located is written in a dense surveyor language, and advertised in the local paper, without also a plan, and in Paul's case was a claim to:

...all that lot piece or parcel of land situate at Webbe Estate in the parish of St George in the island of Nevis, bounded and measuring as follows – On or towards

the North East by an estate road 625.53 feet; on or towards the South East by Simmonds estate 334.12 feet and 380.65 feet; on or toward the South West by Bank of Ghaut 17.34 feet, 34.97 feet, 55.46 feet, 78.62 feet, 41.21 feet, 83.29 feet, 168.58 feet, 96.33 feet, and 149.53 feet; and on or towards the North West by Simmonds estate 791.56 feet; and containing by admeasurement 9.375 acres.

- h. This language as description of where land lies is self-evidently difficult to visualize, and to place on a larger map, which is what needs to happen, meaning there needs to be a larger map with the existing titles set out with the plot claimed identifiable within it.
- 13 This litigation is the fault of neither the Clarkes nor Lawrences, incurring expense, who in good faith each had a title issued to them, but instead has been caused inadvertently, though also in good faith, by the government, whose method of land registration is inadequate as it does not allow easily reliable search of existing title as conflicting with claim. For this reason, I order the costs of both the Clarke and Lawrence families paid by the government as represented in these proceedings by the AG, to be assessed if not agreed.
- 14 *Obiter*, this court has considerable sympathy for the Lawrence brothers, noting Keith and his wife came to live on Nevis in 2019 to look after his parents, his elderly mother still living in Ramsbury, while there has been evidence offered of intermittent farming association with the land cultivated through as many as 82 years, by George, then Paul, (though Paul spent some years in England), with Paul walking the brothers through the land as boys, and paying attention to the location of a sheep pen and water point. It is a curious feature the Clarke and Lawrence families had laid claim to the same land, though did not know it, when Nicole and Paul were for a time on Nevis teachers at the same school.
- 15 Until now, the Lawrence family had a certificate issued to them proving ownership of land said in 2019 worth at least ES\$306k, the certificate arguably raising legitimate expectation of ownership, and by this court action have lost it, meaning they have lost the ability to sell the land they legitimately expected they owned for its considerable value. In theory, and as explored with counsel in court, though it would require careful legal advice, it may be mediation or suit might follow by them for this loss, allied as above to **s19(1) TBRA**:

- a. Against the government, for judicial review of the system of land record, and by mandamus compelling improvement and seeking compensation;
 - b. Against the government, for the tort of negligence in overseeing a flawed system of land record, seeking damages for loss of the land;
 - c. Against attorneys Daniel Brantley, for damages for negligence, who processed Paul's claim for failing to find it conflicted with the Clarkes;
 - d. Against attorney Myrna Walwyn, for damages for negligence, who processed the transfer to the brothers, for failing to construct it as for value and so protect them if Paul's title was flawed, and/or for failing like Daniel Brantley to find conflict with the Clarke title; and/or
 - e. Against surveyor Steele Douglas, for damages for negligence in not telling Paul he had already surveyed the land in 1988 for title to be given to Frederick.
- 16 As to what would be the prospects for success or cost of such action, this court cannot comment, wary there may be contrary argument the Lawrence family ought never to have had expectation of ownership of the land as Marion had sold it and so have lost nought.
- 17 I would like to thank all counsel for their great assistance in this unfortunate case.

The Hon. Mr. Justice Iain Morley KC
High Court Judge
27 July 2026