

**EASTERN CARIBBEAN SUPREME COURT
GRENADA**

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. GDAHCV2026/0217

BETWEEN:

CARRIACOU DEVCOR LTD

Claimant

and

[1] MARGARET CORION

[2] NELLIE ADAMS

(The Personal Representatives of the Estate of Samuel Corion, deceased)

Defendants

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Mr. Fyard Hosein S.C. with Ms. Luana Boyack for the Claimant

Ms. Naeisha John for the Defendants

2026: May 26th;
June 17.

RULING

[1] **ACTIE, J.:** The claimant (hereinafter referred to as “CDC”) seeks an interim injunction restraining the defendants (hereinafter referred to as “the Corion Estate”) from erecting a fence and otherwise interfering with its use and occupation of a parcel of land measuring approximately Seven Acres, forming part of a marina in Carriacou. The application is refused for the reasons outlined below.

[2] A brief background to the proceedings is necessary to place the present application for injunctive relief in context.

Case History

- [3] By lease agreement dated 14th September 2018, the Government of Grenada leased several contiguous parcels of land to CDC for the construction of a marina in Carriacou.

- [4] By fixed date claim form No. GDAHCV2014/0334, now claim GDAHCV2025/0012 filed on 15th July 2014, the Corion Estate commenced proceedings against CDC and the Attorney General of Grenada, alleging that they were the owners of a 7-acre lot forming part of the leased premises.

- [5] The Corion Estate applied for an injunction restraining CDC from using the land. Mohammed J. by order dated 5th August 2014 dismissed the application holding that the claimants had failed to produce sufficient evidence of ownership of the disputed land and was of the view that damages would be an adequate remedy.

- [6] By judgment dated 16th October 2018, Adrien Roberts J. determined, as a preliminary issue, that the Corion Estate is the owner of the disputed 7-acre lot forming part of the contiguous parcels leased by the Government of Grenada to CDC. That decision was upheld by the Court of Appeal on 31st October 2019 and by the Privy Council on 17th January 2023. There is no evidence that the matter was relisted to determine the remaining issues and reliefs in the claim. The exhibits indicate that, up to 2024, the parties were engaged in discussions aimed at an amicable resolution of those outstanding matters.

- [7] By notice of application filed on 21st February 2025 in Claim No. GDAHCV2014/0334, now renumbered GDAHCV2025/0012, CDC applied to have the matter listed for a case management conference so that the claim could proceed. One of the principal issues raised by Senior Counsel for CDC was whether the Corion Estate was entitled to possession of the parcel under the existing statutory framework or equitable principles. CDC also sought the assessment of damages and mesne profits.

- [8] The application came on for hearing on 9th October 2025, when newly instructed counsel was directed to file submissions and authorities in response. The matter

was then adjourned to 20th November 2025 and was further adjourned on that date to allow for settlement discussions.

- [9] On 12th February 2026, the court also granted directions for the filing of witness statements for the assessment of damages, and to appoint a referee pursuant to Part 40 of the CPR to determine quantum of damages.
- [10] On 4th May 2026, CDC filed this new extant claim, and an ex parte application for an interim injunction along with a certificate of urgency.
- [11] The court directed that the ex parte application be served on the Corion Estate. The Corion Estate opposed the application by notice of opposition filed on 18th May 2026.

Application for Interim Relief

- [12] Both the claim form and the application seek injunctive reliefs restricting the Corion Estate's dealings with the said 7-acre lot. The application for the interim injunction seeks, among other reliefs, the following orders:
 - (1) A declaration that the Corion Estate is not entitled to construct any fence or other barrier upon or along the boundary of the parcel in possession of the CDC.
 - (2) An injunction restraining the Corion Estate from entering the property and from interfering with the business operations of the CDC.
 - (3) A mandatory injunction requiring the Corion Estate to demolish and remove the fence or any other structures erected on the parcel of land.

Grounds of the Application

- [13] CDC alleges that on 22nd April 2026, the Corion Estate trespassed on the property by planting iron stakes into the ground within the operational area of the marina and erecting a complete fence along the boundary lines of the parcel, cutting off access by the CDC to the parcel and adjoining lands.
- [14] The application is supported by the affidavit of Jerome McQuilkin, sworn on 30th April 2026 and filed on 4th May 2026, affidavit of Luana Antonia Maria Boyack,

sworn and filed on 12th May 2026, and further supplemental affidavit of Jerome McQuilkin sworn and filed on 21st May 2026, referencing the affidavit of Luana Antonia Maria Boyack who is the instructing counsel for CDC.

[15] As a preliminary point, the court notes the affidavit sworn by instructing counsel Luana Antonia Maria Boyack filed on 12th May 2025 on behalf of CDC in these proceedings. It is a well-established legal principle that counsel on record is precluded from filing an affidavit upon which the court is to rely. The court is guided by the Court of Appeal's ruling in **Gennilyn Ettienne v Elizabeth Cameron**, delivered on 26th January 2026. In that decision, the court reaffirmed the principle stated in **Casimir v Shillingford** and repeated in **Richard Frederick et al v Comptroller of Customs et al** and **Flying Dutchman v The Port Authority**, that it is wholly inappropriate for counsel appearing in a matter to swear an affidavit for the court's consideration, as this amounts to giving evidence from the bar table. Accordingly, the court places no reliance on any evidence in the said affidavit neither the reference made to it by Jerome McQuilkin.

[16] Senior Counsel, Fyard Hosein, appearing for CDC, submits that there is a serious issue to be tried as to whether the Corion Estate is entitled to resort to self-help to recover possession of the 7-acre parcel in the absence of an order for possession. CDC asserts there remains triable issues as to whether the Corion Estate may take steps to recover possession. He further contends that the balance of convenience favours the grant of an injunction and that such relief is necessary to preserve the status quo.

Response by the Corion Estate

[17] The court directed the ex parte application be served on the Corion Estate. By notice of opposition filed on 18th May 2026, the Corion Estate opposed the application on the following grounds, among others:

- (1) The claimant's application discloses no good prospect of succeeding.
- (2) The claim was fully adjudicated in Claim No. GDAHCV2014/0334 where the defendants were adjudged the owners of the parcel.

- (3) The application seeks to circumvent the ruling of the Judicial Committee of the Privy Council.
- (4) The application is an abuse of process of the court.

Legal Analysis

- [18] The principal issue is whether the injunction should be granted. The governing principle, as stated in the locus classicus **American Cyanamid Co v Ethicon Ltd**, is that the court must first be satisfied that there is a serious issue to be tried. If that threshold is met, the court must then consider whether damages would be an adequate remedy for the applicant.
- [19] CDC's case is grounded on trespass and seeks declaratory and permanent injunctive relief arising from erection of a fence upon the parcel, notwithstanding the determination of ownership in favour of the Corion Estate.
- [20] Ms. Naeisha John, counsel for the Corion Estate, submits that there is no serious issue to be tried because the Estate has been adjudged the legal owner of the lot, leaving only the assessment of compensation for CDC's occupation of the parcel. Counsel contends that, as legal owner, the Corion Estate is entitled to possession and that CDC seeks to relitigate matters already determined by the Privy Council. The Corion Estate therefore submits that the application is an abuse of process.
- [21] The court takes judicial notice of CDC's application for case management in the ongoing 2014 proceedings, which raises the issue whether, in law or equity, the Corion Estate is entitled to possession of the land despite CDC's occupation and substantial investment in developing the marina. The court directed the parties to file submissions with authorities on that point.
- [22] At the hearing of the injunction application, Senior Counsel for CDC argued strongly that the Corion Estate's 2014 claim did not seek vacant possession. That submission by Senior Counsel is misleading and is not borne out by the filed claim, in which the Corion Estate sought, among other relief, orders requiring CDC to cease its unlawful activities, restore the land to its original condition, and deliver

up possession. The claim also sought damages for trespass and mesne profits from May 2013 until vacant possession was delivered. The High Court's 2018 decision, affirmed by the Court of Appeal in 2019 and the Privy Council in 2023, declared the Corion Estate to be the owner of the 7-acre lot.

- [23] CDC's principal submission in the 2014 claim is that, in law and equity, the Corion Estate is not entitled to occupy the land despite being declared its owner.
- [24] Senior Counsel relies on the Privy Council's decision in **Horsford v Bird & Ors (Antigua and Barbuda)**¹, which approved **Wrotham Park Estate Co Ltd v Parkside Homes Ltd**². Counsel argues that, given CDC's significant investment in excess of USD 48 million, the appropriate remedy is damages and the Corion Estate is not entitled to exercise acts of ownership over the 7-acre plot.
- [25] In his speaking notes, Senior Counsel states that CDC has not filed a counterclaim in the ongoing proceedings. He states that to pursue that relief at this late stage, CDC would have had to seek permission to add a counterclaim after the close of pleadings and bringing a fresh claim to raise a point that could have been advanced in the existing proceedings would amount to an abuse of process.
- [26] The court disagrees with Senior Counsel's contention that the claim was near completion. Justice Adrien Roberts utilising her case management powers under Part 26.1 directed that the matter proceed to determine a preliminary point to decide the ownership of the 7-acre lot forming part of the lease granted by the Government of Grenada to CDC. Ownership of the parcel was conclusively determined ultimately by the Judicial Committee of the Privy Council in 2023.
- [27] The determination of the preliminary issue did not dispose of the claim. The issues of vacant possession, damages, and mesne profits remain live and must be resolved on the pleadings in the ongoing 2014 proceedings.

¹ [2006] UKPC 3

² [1974] 1 WLR 798

- [28] Senior Counsel referenced **American Cyanamid v Ethicon Ltd** quoted by Mohammed J in **Christmas et al v Nicholas**³:

“...So unless the material available to the court at the hearing of the application for an interlocutory injunction fails to disclose that the plaintiff has any real prospect of succeeding in his claim for a permanent injunction at the trial, the court should go on to consider whether the balance of convenience lies in favour of granting or refusing the interlocutory relief that is sought. ...

... he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable at the common law would be adequate remedy and the defendant would be in a financial position to pay them, no interlocutory application should be granted, however strong the plaintiff's claim appeared to be at that stage.”

- [29] Senior Counsel submits that CDC has suffered, and will continue to suffer, irreparable harm, including reputational damage, because the fencing of the 7-acre parcel has prevented the marina from operating by blocking access to its travel lift.
- [30] In the court's view, that prejudice is to be weighed against the hardship and inconvenience to the Corion Estate, which has been deprived of the use of its property without compensation since 2013. The Corion Estate asserted ownership in written correspondence to CDC even before the filing of its claim in 2014, which in effect interrupted possession. That asserted ownership was not accepted as sufficient at the interlocutory stage as Mohammed J. refused the injunctive relief sought in 2014 on the ground that the Estate had not been sufficiently established ownership of the said lot. The High Court's 2018 decision, affirmed by the Court of Appeal in 2019 and by the Privy Council in 2023, ultimately confirmed the Corion Estate as the lawful owner of the 7-acre lot. In that light, the hardship to be weighed is that the Estate has, for more than a decade, been deprived of the use and enjoyment of property to which it was ultimately adjudged entitled.

³ Dale Christmas and Karen Christmas v Marva Nicholas, Republic of Trinidad and Tobago Claim No. CV2021-00065

- [31] Senior Council argues that CDC at the time of the application for injunction before Mohammed J. had already spent approximately USD 15 million and has by now spent in excess of USD 48 million. As previously indicated, the Estate on the same pleadings proved its ownership on a preliminary determination in 2018, a decision confirmed by the highest court, the Privy Council in 2023. Despite that determination, the Estate has still not been compensated, and CDC, with full knowledge of the court's decision, continued and expanded its operations.
- [32] The relief now sought by the claimant, if granted, would have the practical effect of restraining the Corion Estate from exercising rights attendant upon its ownership of the parcel while preserving CDC's continued occupation and control of the land without compensation. In substance, the application seeks to obtain interlocutory relief based on its pleaded defence which is inconsistent with the final determination of the Privy Council. In such an instance, the posture of CDC that it cannot be removed from occupation both in equity and statute is an issue for determination in the 2014 proceedings. Indeed, the court has already directed the parties to file submissions with authorities on that very issue in the ongoing proceedings. The court is of the view that any application for injunctive relief ought therefore to have been filed in the ongoing proceedings and not by way of a fresh claim.
- [33] Commencing a second claim in respect of the same cause of action and to litigate an issue that ought properly to be determined in the ongoing proceedings constitutes an abuse of process. It is a fundamental legal principle that parties are bound by their pleadings. In the court's view, once ownership had been determined, CDC ought to have sought leave to amend its defence to address the Corion Estate's claim for vacant possession, given that its pleaded defence was that the Estate did not own the disputed lot. CDC could also have sought leave to join the Government of Grenada, already a defendant in the proceedings, as an ancillary defendant in respect of any indemnity arising from the lease of property to which the Government had no title. Instead, the parties appear to have pursued settlement discussions, while CDC continued its operations unabated

notwithstanding court decisions up to the Privy Council affirming the Corion Estate's ownership.

- [34] Accordingly, the court finds that the applicant has failed to satisfy that there is any serious issue to be tried in the extant pleaded claim. Even if the court is wrong on the existence of a serious issue to be tried, the balance of convenience does not favour granting the injunction. In the circumstances, the application for an injunctive relief stands dismissed, with costs.

ORDER

- [35] It is ordered and directed as follows:

- (1) The application for interim relief is dismissed.
- (2) Costs agreed in the sum of \$3000.00 to be paid by the claimant to the defendants within twenty-one (21) days of today's date.

Agnes Actie
High Court Judge

By the Court

Registrar