

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA

CLAIM NO. ANUCHV^{HCV}2009/0432

BETWEEN:

ELIZA PAUL
as Executrix of Helen Isabella Paul

Claimant

and

(1) DONALD DAVIS
(2) EDITH HARRIS

Defendants

Appearances:

Ms. Laurie Freeland-Roberts for the Claimant
Ms. Alicia Williams-Grant for the First Defendant
Ms. Leslie-Ann Brissett for the Second Defendant

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2011: June 8, 9, 20
September 29
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JUDGMENT

[1] **MICHEL, J.:** By Fixed Date Claim (with accompanying Statement of Claim) filed herein on 30th July 2009 the Claimant, Eliza Paul as Executrix of Helen Isabella Paul, claimed against the Defendants, Donald Davis and Edith Harris, a rectification of the registers for the lands comprised in Parcels 327 and 328 of Block 55 1184A and Parcels 287 and 288 of Block 55 1186A, all located at Mount

Prospect Estate in Bolans, Registration Section South West (hereafter referred to as "the disputed lands") by cancelling the present registration so that a fresh registration may proceed, pursuant to Section 140 (1) of the Registered Land Act, Cap. 374 of the Revised Laws of Antigua and Barbuda, or the equivalent in monetary compensation. The Claimant also claimed damages, costs and further or other relief.

[2] By Defence filed on 23rd February 2010, the First Defendant (Donald Davis) joined issue with the Claimant on most of the allegations made in her Statement of Claim, specifically denied the allegation of fraud made against him and put the Claimant to the strictest proof thereof, alleged that the Claimant's action was statute barred or, alternatively, that the rights claimed by the Claimant as executrix of the estate of her mother were waived by the prolonged, inordinate and inexcusable delay in bringing this action and seeking the reliefs claimed, that the Claimant was not a proper party to the action, and that she was not entitled to the relief claimed. The First Defendant also counterclaimed against the Claimant for a declaration of his absolute ownership of two of the four parcels of the disputed lands and an injunction to restrain the Claimant from interfering with his use and enjoyment of the land, damages, interest, costs and such further or other relief as the Court deems fit.

[3] By Defence and Counterclaim filed on 21st May 2010, the Second Defendant (Edith Harris) joined issue with the Claimant on most of the allegations made in her Statement of Claim, specifically denied the allegation of fraud made against her,

averred that fraud was not properly pleaded and that the Claimant had failed to particularize the means and manner in which the fraud was perpetrated by the Defendants, and alleged that the Claimant's action was statute barred and was vitiated by laches. The Second Defendant also counterclaimed against the Claimant for a declaration of the Second Defendant's absolute ownership of two of the four parcels of the disputed lands, damages, interest, costs and such further or other relief as the Court deems fit.

- [4] By Defence to the Counterclaims of the Defendants filed on 2nd July 2010, the Claimant joined issue with the Defendants on their defences and their counterclaims.
- [5] By Replies to the Claimant's Defence to the Counterclaims of the Defendants filed on 30th September and 1st October 2010, the First and Second Defendants respectively rejoined issue with the Claimant on her joinder of issue with the Defendants' defences and counterclaims.
- [6] The trial of this case took place on 8th, 9th and 20th June 2011, whereupon the Claimant gave evidence on her own behalf and called four other witnesses, the First Defendant gave evidence on his own behalf and called no other witnesses, while two witnesses were called on behalf of the Second Defendant, who had died before the trial of the matter.

[7] In her witness statement, the Claimant stated that she lives in New York and is the daughter and executor of the estate of Helen Jacobs Paul, who was the daughter of Gershon Jacobs. Gershon Jacobs - who was the original owner of the disputed lands - migrated to Cuba in the 1930s and resided there until his death in 1983. In 2006 Helen Jacobs Paul had attempted to obtain letters of administration for the estate of her father (Gershon Jacobs) and to sort out the outstanding issue of the lands owned by him, but she was never able to complete this; she died in 2008 at the age of 87 years. The Claimant and her siblings had found among their mother's personal property copies of letters written to their mother by her father from the 1960s and right up to his death and copies of receipts for taxes she had paid on the property. The letters revealed that Gershon Jacobs had intended for the lands which he owned to be divided between his two brothers (Alexander and Leslie Jacobs), his sister (Gena Jacobs David) and his daughter (Helen Jacobs Paul). She knew that her mother used to work the land with her Uncle Leslie and other family members and that Uncle Leslie was the caretaker of the family lands. After the death of Uncle Leslie in the late 1950s, her mother wrote to her father about using part of the land to grow produce. Her mother sold fruits and vegetables at the market that were grown on the land. The lands were deemed to be the Jacob family lands and this was a known fact throughout the community. In January 2009, after her mother's funeral, the Claimant and her siblings conducted a search in the Land Registry for the registers of the lands owned by Gershon Jacobs, whereupon they obtained copies of the registers of the original parcels of land and of the parcels into which they were subdivided, which parcels were registered in the name of the Defendants. The Claimant obtained from the

Archives the original records pertaining to the lands, which revealed that in 1968 a certificate of title was issued in the name of Gershon Jacobs. It became apparent to the Claimant that in 1973 a memorandum of partial transfer was issued in the name of the Defendants and certificates of titles in both of their names were issued on 24th November 1973. The Claimant was of the view that the purported transfer of the lands to the Defendants was done without the consent of Gershon Jacobs, that Gershon Jacobs gave the First Defendant the permission to divide the lands between the family members and that instead of doing so the First Defendant, along with the Second Defendant, caused the same to be transferred to themselves. The Claimant was also of the view that Gershon Jacobs was not aware that the lands were transferred to the Defendants, because he continued to reassure her mother that the First Defendant would divide the lands among family in accordance with his instructions. The letter that was purported to have been signed by Gershon Jacobs authorizing an attorney to transfer land to others was not signed before a notary public, as it should have been. She had no knowledge of newspaper articles published on behalf of the Jacob and Paul families, nor did she give any authorization to anyone to publish the same on behalf of the estate of Helen Paul or anyone else. The Claimant submitted that Alexander Jacobs, Leslie Jacobs, Gina Jacobs and Helen Jacobs Paul are entitled to the lands that were owned by Gershon Jacobs and that the lands should be allocated accordingly.

[8] Under cross examination, the Claimant essentially affirmed her evidence as per her witness statement.

[9] The second witness for the Claimant was Aggrey Jacobs. In his witness statement, he stated that he lives in New York and is the son of Romig Jacobs, who was himself the son of Gershon Jacobs. He stated too that he was familiar with the Defendants. In 2007 he had a conversation with the First Defendant on the Mount Prospect Estate discussing his retirement, in the course of which conversation he asked the First Defendant about the lands, since he was told that the First Defendant was the administrator for the lands. He told the First Defendant that he needed a piece of the land to settle on, whereupon the First Defendant indicated that he (the First Defendant) had to speak to the others and get back to him. He asked the First Defendant for the contact numbers for the persons he had to consult on the matter and the First Defendant indicated to him that even though he had to talk to the others, he (the First Defendant) still had the final say. He asked the First Defendant if he (the witness) could contact the others, but the First Defendant indicated that he would contact them. He believes that the First Defendant was put in charge of the lands.

[10] Under cross examination, Aggrey Jacobs testified that he did not know that the First Defendant was the registered owner of the disputed lands, but he knows now.

[11] The third witness for the Claimant was Robert Paul. In his witness statement, he stated that he lives in New York and is the son of Helen Jacobs Paul, who was the daughter of Gershon Jacobs. In 2009, after his mother's funeral, he decided to look further into the land and he discovered a certificate of title in the names of the

Defendants, so he decided to have a man-to-man talk with the First Defendant. He went to Mount Prospect and called the First Defendant and said to him that he would like to talk to him. The First Defendant came to talk to him accompanied by a young man and words were exchanged among the three of them after which he (the witness) left.

[12] Under cross examination, Robert Paul testified that he migrated to the United States of America in 1978; he knew that Mount Prospect Estate was family land but did not know that it was his grandfather's land; he does not know that the Defendants are the owners of the land at Mount Prospect; in 2009 he discovered the certificate of title that he mentioned in his witness statement and went to speak to the First Defendant, after which he went to a lawyer and asked her to put a caution on the estate; the caution was put on the land and ,as far as he knows, it is still in place.

[13] The fourth witness for the Claimant was Sam Joseph. In his witness statement, he stated that he is 84 years old, he lives in Bolans Village, he is very familiar with the Jacobs family of Mount Prospect and he visited the family regularly as a boy and as a young man. He stated that in all his years living in Bolans Village, he never knew that the Defendants owned the lands at Mount Prospect until last year when he was so informed by the Claimant and her siblings.

[14] The cross examination of Sam Joseph did not result in any new and significant evidence being given by him.

[15] The fifth and final witness for the Claimant was Raynard Paul. In his witness statement, he stated that he lived in New York and is one of the children of Helen Jacobs Paul, who was the daughter of Gershon Jacobs. He stated that when he was growing up he and his siblings used to go to Mount Prospect Estate with their parents where they worked the ground, cut wood and burnt coals. He stated that his Uncle Leslie looked after the land and that the Second Defendant lived with his Uncle Leslie and had some children with him. He stated that after Uncle Leslie died in the late 1950s he and his older brother, Philmore, would miss school because they had to go with their mother to chop wood for sale. He stated that on more than one occasion he heard his mother telling the Second Defendant that the land is not for sale.

[16] Under cross examination, Raynard Paul testified that he moved to the United States of America in 1979 and that he is seeing for the first time the documents showing the Defendants to be the registered owners of the disputed lands. He also testified that in 2009 he caused to be published in the newspaper a notice that the lands forming part of the Mount Prospect Estate belonged to the family and were not for sale.

[17] The Claimant's case having been closed, the First Defendant then took the stand in his own defence. In his witness statement, he stated that he is the registered owner of Parcels: 327 and 328, Block: 55 1184A, Registration Section: South West forming part of the Mount Prospect Estate. He has been in uninterrupted

possession of the lands since 1969 and was first registered as the owner under the Title by Registration Act on 4th May 1973. The lands were transferred to him by his uncle, Gershon Jacobs, who was his mother's brother. He knows the Second Defendant, who was the common law wife of his deceased uncle, Leslie Jacobs, with whom she had lived at Mount Prospect Estate together with their children since around 1949. He and the Second Defendant had a close relationship. Gershon Jacobs, who had migrated to Cuba, gave instructions to a lawyer, Louis Lockhart, that the land should be transferred to the First and Second Defendants unconditionally. He received no instructions from Gershon Jacobs to divide up the lands at Mount Prospect. The instructions from Gershon Jacobs to his lawyer were clear and did not impose any trust obligations on him or the Second Defendant, nor were any trust obligations communicated to him. He had no reason to believe that the lands were being transferred to him and the Second Defendant otherwise than unconditionally. He had never seen the letters relied on by the Claimant before they were filed with this claim.

[18] The First Defendant stated that after some delay by the lawyer in carrying out the instructions, the services of another lawyer, Gerald Watt, were engaged to ensure that the transfer was completed in accordance with the instructions of Gershon Jacobs. The documents were prepared by the office of Gerald Watt and sent to Gershon Jacobs in Cuba through the appropriate channels and were executed by him there as required under the laws of Antigua and Barbuda and returned to Antigua for registration. Although the memorandums of transfer cannot now be located, they were (to the best of his knowledge) duly registered in accordance

with the provisions and procedure of the applicable laws. As shown by the certificates of title, in 1973 he and the Second Defendant were registered with unconditional, unqualified, absolute title to the disputed lands.

[19] The First Defendant's witness statement then addressed the cautions entered against the property and the notices placed in the newspaper by various family members, which he considers constitute unfair and wrongful interference with his enjoyment and use of his property and have caused significant delay in his development plans and projects for the property. He then states that he verily believes that if the Court does not grant the reliefs which he prayed for, the Claimant and her family members will continue and persist in interrupting his rights to peacefully and lawfully enjoy and use the property.

[20] Under cross examination by Counsel for the Claimant, the First Defendant testified that he did not know and never met Gershon Jacobs, but he communicated with him by letter. The basis of the transfer of the land to the Second Defendant and him was Gershon Jacobs' relationship with them and his knowledge of their occupancy of the lands and also of the expenses that were incurred by the Second Defendant and him pertaining to the lands. He was introduced to Gershon Jacobs by letters through the Second Defendant who told him to write to Gershon Jacobs. When he wrote to Gershon Jacobs the latter replied through several communications. Gershon Jacobs never asked him or mentioned in his letters about taking over the responsibility for the property. He would not dispute that the letters put into evidence by the Claimant were from Gershon Jacobs. He told

Gershon Jacobs about the land not being separated and offered to help him straighten out the land. Gershon Jacobs did not discuss with him about the family members getting their share in the land. He never mentioned his daughter Helen or Daisy Jacobs or her children in correspondence to him. He learnt from the Second Defendant that Gershon Jacobs had mentioned to her (presumably by letter) that there was a sale of some lands to Jolly Beach and that the proceeds of the sale were received and used by Daisy Jacobs and Helen Jacobs Paul. He volunteered to help Gershon Jacobs with the sorting out of the land, which was a continuation of what was started by Uncle Leslie up to his death in 1958. The matter of the partition was finished in 1968 and soon after the transfer of land to the Second Defendant and him took place. Between the partition and the transfer there was communication through the Second Defendant which resulted in her receiving the document to which he referred. (The Court notes that the document to which he referred was a memorandum disclosed by both Defendants, which is dated September 26th 1969 and purportedly signed by Gershon Jacobs, in which he states inter alia that he consents and authorizes lawyer Lockhart to convey to the two Defendants in two portions, as drafted by a registered surveyor, the lands known as Mount Prospect owned by him and in the occupation of the Defendants.)

[21] The First Defendant testified (still under cross examination by Counsel for the Claimant) that the document referred to was eventually taken to lawyer Watt and that the term administrator which Gershon Jacobs used to describe him in the aforesaid document is the same term he used in his letters. Gershon Jacobs explained in his letters that he wanted him (the First Defendant) to have the title to

the land sorted out after the separation of the land between Gershon Jacobs and Theresa Jacobs. The draft from the surveyor referred to in the document was sent to Gershon Jacobs through lawyer Watt. Gershon Jacobs had never mentioned to him in his letters anything about the land being divided among various family members. He wrote a letter to Gershon Jacobs dated 29th July 1976 reminding him of his signing the transfer to him and the Second Defendant unconditionally. He never gave any undertaking about dividing the land. It was his understanding that when he was appointed administrator it was to clear up the partition of the land between Gershon Jacobs, Leslie Jacobs and Theresa Jacobs. The issue of administrator was not a legal title but it was conveying that he had to do something for Gershon Jacobs in relation to the land. The basis on which Gershon Jacobs transferred the lands was love and affection. To his knowledge, Gershon Jacobs did not transfer any land to his children or to his other nephews and nieces but, out of love and affection for him and the Second Defendant, Gershon Jacobs transferred 67 acres of land to them. There might be other considerations why Gershon Jacobs acted so. He assumes that Gershon Jacobs might have said things in his letters which he did not actually intend to comply with. He cannot say that Gershon Jacobs misled his daughter and the Second Defendant in his letters to them.

[22] Under further cross examination by Counsel for the Claimant, the First Defendant insisted that it is not correct that he received instructions in writing from Gershon Jacobs that the land was to be divided among family members and that it is not correct that this was a condition upon which he was given control over the lands.

[23] Under questioning by the Court, the First Defendant testified that Gershon Jacobs had two brothers and one sister. Gershon Jacobs' sister Alexandrina was his (the First Defendant's) mother, his brother Leslie was the common law husband of the Second Defendant and his brother Alexander was the husband of Daisy Jacobs with whom he had children. Gershon Jacobs himself had children. As far as he knew, Gershon Jacobs had three sons and one daughter. Gershon Jacobs was the owner of 67 acres of land at Mount Prospect which he disposed of to him (who was his nephew) and the Second Defendant (who was the common law wife of his deceased brother). Gershon Jacobs made no provision for his children or his nephews and nieces through his brother Alexander. Gershon Jacobs was someone he never met or spoke to. To the best of his knowledge, Gershon Jacobs made the conveyance to him and the Second Defendant out of love and affection.

[24] Under questioning by his Counsel arising from the questions asked by the Court, the First Defendant testified that to his knowledge Gershon Jacobs was aware that within the family there were rivalries that were going on and that there was not total harmony among family members. Gershon Jacobs considered his (the First Defendant's) conduct in dealing with the property under the occupation of the Second Defendant at the demise of Leslie Jacobs. To his belief, Gershon Jacobs was quite aware of the various responsibilities that he (the First Defendant) took in handling the matters pertaining to the acquisition of the title on his behalf. These are some of the things that Gershon Jacobs took into consideration. It is correct

that he never met or spoke to Gerson Jacobs, but it is the same with the other persons involved in this case; none of them would have known him.

[25] The First Defendant having closed his case, Mary Christian was called as the first witness for the Second Defendant. In her witness statement, she stated that she resides in Florida in the United States of America and is daughter of the Second Defendant and Leslie Jacobs who passed away in June 1958. The Second Defendant was the common law wife of Leslie Jacobs until his death and they had nine children together. Her father lived at the Mount Prospect Estate all his life in a house that he built, while the Second Defendant lived in the same house from 1946 until 1998 when she migrated to the United States to seek medical care. After the death of her father (Leslie Jacobs) the Second Defendant asked Gershon Jacobs to give her the area which she and Leslie Jacobs had occupied so that she could continue to live there with her children. She has seen a letter dated September 26th 1969 from Gershon Jacobs to lawyer Lockhart indicating that he desired to convey one portion of the land to the Second Defendant and the other portion to the First Defendant and she is aware that he subsequently signed the relevant conveyance before a British Consulate in Cuba.

[26] The cross examination of Mary Christian did not result in any new and significant evidence being given by her.

[27] The second and final witness for the Second Defendant was Helena Jacobs. In her witness statement, she stated that she resides at Mount Prospect Estate and

is the last child of Leslie Jacobs and the Second Defendant. She stated that she was born at Mount Prospect in 1958 and has lived there ever since.

[28] In her witness statement, this witness proceeded to give a history of her family's occupation and transformation of the land over several years and their relationship with the First Defendant and then addressed the present status of the land, up to and including a caution lodged on the land by Robert Paul, which she said is still registered on her mother's property.

[29] The cross examination of Helen Jacobs did not result in any new and significant evidence being given by her.

[30] This ended the case for the Second Defendant and concluded the trial. All three parties were then ordered to file written closing submissions (with authorities) by 3 pm on Monday 11th July 2011.

[31] Closing submissions were filed on behalf of the First Defendant on 11th July 2011, which was the last date stipulated for filing the submissions, while closing submissions were filed on behalf of the Claimant on 20th July 2011 and on behalf of the Second Defendant on 19th August 2011. The Court, however, accepts the submissions filed late and hereby deems them to have been properly filed.

[32] The facts of this case are quite interesting and tell a not unfamiliar tale of persons in the Caribbean owning significant tracts of land (up to the first six to seven

decades of the last century), having no appreciation of its real value and its true nature, and dealing with it with a level of informality wholly unsuited to both its value and its nature. How often have those of us who practiced law in one of the Caribbean islands been confronted with situations where a person (let's say a man) is absolutely convinced of his entitlement to a portion of land on the basis that his father, grandfather or some other relative had assured him that the land would be his after the death of that relative, or that he is entitled to the land because the relative concerned had given him the land paper to hold, or some other such situation on which his claim to land is founded. In some instances one may well be convinced about the truthfulness of the claimant of the land but equally convinced about the helplessness of his situation when some other person has been duly registered as the legal owner of the land.

[33] In this case, it may well be that Gershon Jacobs had every intention and expectation that the lands which he became entitled to by succession from his parents, would remain within his family and be shared between his children and the children of his deceased brothers and sister. It appears though that, in so far as he so intended and expected, he did not do what was legally required to realize his intentions and expectations.

[34] When one disentangles the emotional chords of possible intentions and expectations of a previous land owner from the legal realities of the rights of current holders of registered title to land when these appear to be knotted together, then this case comes down to a claim founded primarily on an allegation

of fraud on the part of the Defendants in causing to be registered in their names the titles to various parcels of land forming part of the Mount Prospect Estate in the Bolans Village in the parish of St. Mary's in the island of Antigua.

[35] It has been established by a long line of judicial authorities stretching back to the nineteenth century that – and I am here attempting to condense well over a century of case law into a single simple sentence by the use of metaphor – for an allegation of fraud to be even entertained (far less embraced) by a court of law, it must be sufficiently clothed in the garments of specificity (both as to the particularization of the fraud and as to its execution) instead of being sparsely attired in the garments of generality.

[36] In the present case, the Claimant has presented her allegation of fraud in virtual nudity, by making a general allegation of lands being fraudulently registered, but with no specifics outlining the particulars of the fraud or the execution thereof. Even after the Second Defendant averred in her Defence that the issue of fraud was not properly pleaded and that the Claimant had failed to particularize the means and manner in which the fraud was perpetrated by the Defendants, this still did not result in the particularization by the Claimant – whether in her reply or otherwise - of the alleged fraud. The Court is therefore unable - by virtue of the application of the principle just enunciated - to entertain or embrace the Claimant's allegation of fraud.

[37] I can continue from here on citing, analyzing, distinguishing and applying a plethora of cases which have in the last two centuries addressed the issue of the treatment of allegations of fraud in civil cases and I can also dissect and discuss at length the written submissions of Learned Counsel for all three parties to this case, but in the end, it will still come around to the fact that the allegation of fraud upon which this case is founded was neither particularized in the statements of case of the Claimant nor proved in the evidence of the witnesses for the Claimant.

[38] The consequence of this finding is threefold – (1) the claim of fraud against the Defendants is dismissed; (2) the claim for recovery of the disputed lands becomes statute barred, because without fraud having been properly pleaded and thus capable of being established, the case falls to be determined like any other claim for recovery of land, which must be instituted within twelve years of the date on which the right of action accrued, which would (in the present case) be by May 1985, that is, twelve years after the Defendants were registered in May 1973 as the sole owners of the disputed lands; and (3) the issue of whether the Claimant was guilty of laches by delaying the institution of these proceedings until July 2009 becomes an irrelevant sideshow with no bearing on the main stage events and the Court will not therefore partake of it.

[39] The claim of fraud having been dismissed and the Claimant's action having been determined to be statute barred, the Claimant's claim for rectification of land registers and other kindred claims, along with the claims for damages, costs and further and/or other relief are hereby dismissed.

[40] In terms of the counterclaims by the Defendants, the Court takes the view that, notwithstanding its determination that the claim of fraud is dismissed because the allegation of fraud made by the Claimant lacked the specificity to render it justiciable, and its determination too that the Claimant's claim against the Defendant is statute barred, this does not translate into a determination that the Defendants are the absolute owners of the disputed lands and entitled to declarations, injunctions, damages, interest, costs and further or other relief. The Court has made no such determination and - based on the parties' statements of case and the entirety of the evidence presented to the Court (both documentary and viva voce) and having seen and heard and read the witness statements of all of the witnesses who gave evidence over the three days of this trial - the Court declines to make any such determination. In any event, any declaration or injunction issued by the Court in favour of the Defendants in this case can only avail the Defendants with respect to actions by or of the Claimant and any person acting as her servant or agent and would not avail the Defendants against any of the other several members of the Paul and Jacobs families. The Defendants' counterclaims are accordingly dismissed.

[41] Having regard to the dismissal of the claims and counterclaims of the Claimant and the Defendants, the Court also declines to make any order as to costs, so that the parties hereto shall each bear their own costs.

[42] The following authorities were cited by and provided to the Court (in whole or in part) by Counsel in their written closing submissions on behalf of the parties:

By Counsel for the Claimant –

1. Derry v Peek;¹
2. Beaman v A.R.T.S., Ltd;²
3. Rochefoucauld v Boustead;³
4. Cattley v Pollard.⁴

By Counsel for the First Defendant –

1. The Limitation Act 1939 of the United Kingdom;
2. Cartledge v E. Jopling & Sons Ltd;⁵
3. Irena Elcock v Darius Wiltshire;⁶
4. Sylvania Lousien v Joachim Rodney Jacobs;⁷
5. John Duggan v HMB Holdings Limited;⁸
6. Julius Carrierre v Jessie Bruney, Nee Paul;⁹
7. Thomas v Stoutt;¹⁰
8. Delcine Thomas v Victor Wilkins;¹¹
9. Derry v Peek;¹
10. Elements of Land Law (Second Edition);
11. Halsbury's Laws of England (Fourth Edition) Volume 16;
12. Halsbury's Laws of England (Fourth Edition Reissue) Volume 16 (2);
13. Halsbury's Laws of England (Fourth Edition) Volume 48;
14. Halsbury's Laws of England (Fourth Edition Reissue) Volume 24;
15. Phipson on Evidence (Sixteenth Edition).

By Counsel for Second Defendant –

1. Osborn's Concise Law Dictionary (Ninth Edition);
2. Derry v Peek;¹
3. Halsbury's Laws of England (Fourth Edition Reissue) Volume 31;
4. Delcine Thomas v Victor Wilkins;¹¹

¹(1889) 14 App. Cas. 337

²[1949] 1 ALL ER 465

³[1897] 1 Ch. 196

⁴[2007] 3 WLR 317

⁵[1963] A.C. 758

⁶DOMHCV 2009/292

⁷Saint Lucia Civil Appeal No. 17 of 2004

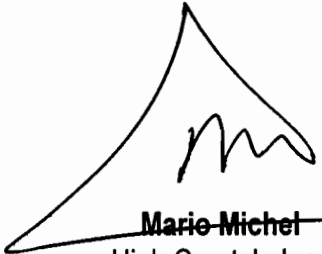
⁸ANUHCV 2002/0055

⁹DOMHCV 2008/0493

¹⁰(1997) 55 WIR 112

¹¹ANUCHV 2007/0530

5. Ecedro Thomas v Augustine Stout;¹⁰
6. Sylvania Louisien v Joachim Rodney Jacob.¹²



Mario Michel
High Court Judge

¹²Privy Council Appeal No. 93 of 2007