

IN THE SUPREME COURT OF BELIZE A.D., 2006

Claim No. 364 of 2006

BETWEEN

(MELFORD RAMSEY	APPLICANT
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AND (
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(CARLA YOUNG	RESPONDENT

BEFORE: The Honourable Madam Justice Minnet Hafiz

Appearances: Mr. Darrel Bradley for the Applicant
Mr. Godfrey Smith for the Respondent

DECISION

Introduction

1. The Applicant, Mr. Melford Ramsey claims by Fixed Dated Claim Form dated 12th December, 2007 for a Declaration of Title of property situated at No 141 New Road, Belize City, Belize. The Claim Form is supported by an affidavit of Mr. Ramsey dated 12th December, 2007. The Respondent who is in possession of the property oppose the application by affidavit evidence on the ground that she has been living on the property continuously and undisturbed for twenty four years.

Brief Factual Background

2. This case concerns property situated at 131 New Road, Belize City Belize. The Applicant in his Fixed Date Claim and in his affidavit evidence referred to the property as 'No. 141 New Road, Belize City'. The Respondent however referred to the property as 'No. 131 New Road, Belize City'. The Applicant did not have any exhibits to his affidavit evidence in support of his claim. The Respondent on the other hand filed affidavits together with exhibits in support of her claim. It is from the exhibits that the court ascertained the property which is in dispute. The Exhibits show that it is Lot No. 1920, House No. 131. Lot No. 1920 has been passed from one family member to another, though from the evidence it does not seem as though there was any transfer of title. There is no documentary evidence of any title to the said property by either of the parties. The evidence before the Court shows who had management and control of the property dated back from 1939.

3. **Declarations sought**

1. A declaration that the claimant is the rightful legal owner of property situate at No. 141 New Road, Belize City.
2. A declaration that the claimant is by way of prescription or long possession entitled to an equitable interest in the property described as 'All that piece or parcel of land described by Governor's Fiat Grant No. 6 of 1932 and displayed at Plan No. 6 of 1932 which is a Plan of Lot No. 1920 situate at New Road, Belize, and granted to Maria Brown and signed by the surveyor General 26th May 1932 and by the Governor on 27th May 1932 and filed at the Belize Archives Department.'
3. A declaration that legal title be granted to the claimant by virtue of the aforementioned claim to prescription or long possession and or in satisfaction of his equitable interest derived from the aforementioned land by virtue of his being in possession of the land in excess of eighty years without interruption.
4. A declaration that the defendant was let into possession by the claimant as a tenant-at-will who has destroyed the property of the

claimant, that being the edifice into which the claimant first moved into and lived.

5. A declaration that defendant is to compensate the claimant for his property and remove the chattel edifice she has placed on the premises.

Evidence of the Applicant

4. The Applicant in support of his claim filed one affidavit. He also filed affidavits from Clinton Ewing dated 31st October, 2007, Ronald Ramsey dated 31st October, 2007, Faye Cattouse dated 31st October, 2007 and the affidavit of Noreen Jackson dated 30th October, 2007 in support of his application.
5. Mr. Ramsey deposed that at the time of his birth his grand-aunt Maria Brown lived at the property situate at 141 New Road Belize City, Belize and that she was the owner of the said property. He said that Maria Brown was the half sister of Elizabeth Bailey Hall, his grandmother.
6. He said that he was informed by his attorney that a search at the Land Title's Unit shows that Maria Brown was granted under Chapter 88 of the Consolidated Laws, 1924 a Governor's Fiat Grant which is dated 27th May 1932 and is Grant No. 6 of 1932 and which was described as Lot No. 1920 situate on New Road and shown at Plan No. 6 of 1932.
7. Mr. Ramsey then deposed as to his relationship with the said Maria Brown and how he became the owner of the property. He said Maria Brown had one son Fredrick Adolphus, who was not married and had no children and who died in the United States of America. That her son Fredrick Adolphus, prior to his death sent him various letters from the U.S.A. stating that he, Mr. Ramsey is now owner of the property which is his mother's last wishes.

8. Mr. Ramsey further deposed that Elizabeth Bailey Hall had a daughter named Ruth Eunice Young who married Alfred Ramsey and that he is the son of Ruth and Alfred. He said that Ruth, his mother took care of Elizabeth Bailey Hall and Maria Brown until they both died.
9. He said that Maria Brown had two properties, one on the Barracks and the other on New Road and that she sold the property that was at the Barracks and gave the New Road property to Ruth.
10. Mr. Ramsey further deposed that after Ruth received the property she rented it to a carpenter by the name of Arguelles. Then later Ruth gave temporary permission for the property to be used by a member of the family until such time as the property was required.
11. Mr. Ramsey then went on to show that his grandmother, Elizabeth Bailey Hall had six other children apart from his mother. They are John Hall, Matthew Hall, Edith Hall, Sarah Hall, Ella Hall, and Jane Hall.
12. He said that all the siblings were well aware that the land had been passed to Ruth Eunice Young who had taken care of Maria Brown until her death.
13. Mr. Ramsey thereafter deposed that he had a son Glenford Ramsey whom he gave permission to build a house on the premises but Glenford died in 1990 before he began construction.
14. Mr. Ramsey then went on to say that a relative, Jane Hall occupied the premises with the permission of Ruth Eunice Young until her death and following the death of Jane Hall, her daughter Marion Humes was given permission by Ruth Eunice Young to live on the premises temporarily. Thereafter, Marion Humes remained in the house until the time of her death at which time the house became vacant and was locked up.

15. Mr. Ramsey further deposed that in or around 1982 he had discussed with his mother Ruth Eunice Young for him and his mother to give permission for the Respondent, Carla Young to stay on the premises temporarily until her living conditions improved. He said out of compassion for the Respondent he allowed her to remain on the premises with the condition that she was to pay the taxes on the property in lieu of rent for the remainder of the time she stayed on the property.
16. Mr. Ramsey deposed that the original home of Maria Brown that was on the property had been destroyed in a hurricane and a new house had been built on the property by him. That in or around January 2006, he realized that the defendant had torn down the house which had been built on the property and by letter dated January 26th, 2006, he asked the Respondent why she broke down his house without his permission and he asked her to vacate the premises.
17. He further deposed that the Respondent refused and so he commenced action in the magistrate court by summons dated 6th February 2006 under suit no. 154 of 2006. At the hearing in the magistrate's court on March 21st, 2006, the Respondent was represented by attorney Merlene Moody who produced the Will of Jane Hall and stipulated that the Will was being probated. The magistrate therefore ruled that he had no jurisdiction to hear the matter. As a result, he said that he immediately filed a caveat in the estate of Jane Hall and Probate of Estate did not proceed.
18. Mr. Ramsey deposed that Jane Hall has no authority to the property and has no right to leave something in a Will which was not hers in the first place.

19. In the alternative, Mr. Ramsey deposed that he has had control of the property undisturbed and have derived rights by prescription. He said that he has managed the property since the time of his mother's death and now seeks an order of the court that he has an equitable interest in that property.

20. The affidavit of Ronald Ramsey in support of the Applicant's case sworn to on 31st October, 2007 states that he is the son of the Applicant. He deposed that to his knowledge, Ruth Young who was his grandmother owned the property. He supported the evidence of his father by deposing that his grandmother and father gave permission to the Defendant to live on the property out of compassion. He also said that his father built a house on the property after the original house was destroyed in a hurricane. He further deposed that his father and grandmother always owned the property and enjoyed quiet possession and they managed and maintained the property prior to the 1970's.

21. The affidavit of Clinton Ewing sworn to on 31st October, 2007, also in support of the Applicant's case states that he is a retired businessman who lives on 78 King Street, Belize City. He said he grew up around the New Road area and he knows the Applicant and his family for a significant period of his life. He said that he knew Ruth Eunice Young as the mother of the Applicant and that since 1940 he knew her as the owner of property situated at 131 New Road, Belize City. He further deposed that he knew Ruth owned the property because she told him so and that he also knew that she managed and maintained the property from around 1940 until her death in 1984. He also said that the Applicant took care of the property for his mother, Ruth. He further deposed that the Applicant and Ruth gave permission to the Respondent to live on the property around 1982.

22. In further support of the Applicant's case, Faye Cathouse, in her affidavit sworn to on 31 st October, 2007 deposed that around 1982 the Applicant and Ruth gave permission for the Respondent to stay and occupy the property and that they did that out of compassion. She also deposed that the original house on the property was destroyed by a hurricane and the Applicant built a house on the property and that in 2006 the Respondent tore down the property. She further deposed that to her knowledge, Ruth has always owned the property and enjoyed quiet possession and that she and the Applicant managed and maintained the property prior to 1970.
23. Lastly, in support of the Applicant's case is the evidence of Noreen Jackson who deposed that she knew Maria Brown who lived on the property at 141 New Road, Belize City to be the owner of the said property. She deposed as to the relationship of the Applicant to Maria Brown, Elizabeth Bailey Hall, Frederick Adolphus, Ruth and Alfred Ramsey.
24. She further deposed that Maria Brown gave the property to Ruth sixty years ago and that Ruth has retained continuous and undisturbed possession of the property for a period in excess of sixty years.
25. Ms. Jackson further deposed that Ruth maintained and up-kept the property and paid off a loan on the said property. She stated that Ruth subsequently gave permission to Jane Hall to occupy the premises. That when Jane Hall died, Ruth gave Marion Humes permission to live on the property temporarily. She deposed that Marion Humes remained on the property until her death and then it became vacant and was locked up.
26. She further deposed that around 1982, the Applicant and Ruth gave permission to the Respondent to stay on the premises temporarily until her

living conditions improved. She also said that after Ruth died the Applicant has always managed the property and has done so absolutely since his mother's death.

Evidence of the Respondent

27. The Respondent, Carla Young, Labourer, of 131 New Road, Belize City, deposed that she was born on 7th February 1963 in Belize City to Myrtle Young and Winston Humes. See **Exhibit "C.Y.1"** for a copy of her birth certificate.
28. She deposed that from her earliest recollection as a child, the property described as 131 New Road, where she currently resides was lived in and occupied by her grandmother, Ms. Jane Hall and her daughter, Marion Humes and her son, Winston Humes, who is her father. She said that Marion Humes is the sister of her father Winston Humes.
29. She further deposed that when she was about four years of age, her father, Winston Humes, left the home at 131 New Road and went to live in the United States of America. She deposed that the Applicant's mother, Ruth, never lived nor occupied nor exercised any control whatsoever of the property at 131 New Road nor at any time was rent ever paid over to her or any agent of hers by her grandmother, Ms. Jane Hall. She said that she therefore takes issue with the Applicant's assertion in paragraph 18 of his affidavit that Jane Hall occupied the premises with the permission of Ruth Eunice Young.
30. Ms. Carla Young deposed that as a child she can recall spending weekends with Ruth Eunice Young at her home in Sandhill. She said that Jane Hall in her last Will and Testament left all her real and personal property to her daughter, Marion Humes and her son Winston Humes, in equal shares. She said that she attempted to get the Will probated but the

Applicant filed a caveat against the estate. See **Exhibit “C.Y.2”** for a copy of the said Will.

31. She went on to say that after the death of Jane Hall, her daughter, Marion Humes, who is the Respondent’s aunt, did indeed live at the premises known as 131 New Road until her death on 27th August 1984. See **Exhibit “C.Y.3”** for a copy of the death certificate of Marion Humes. She said that at least five years before the death of Marion Humes, she became very ill and she, Carla Young used to take care of her. She further said that after Marion Humes’ death in 1984, her mother Myrtle Young, and herself took over occupation of the house at 131 New Road.
32. The Respondent further deposed that at no time did she seek permission of the Applicant, or his mother, Ruth Eunice Young to live in the house. Nor was there any discussion with the Applicant over anything concerning the property. She said that she read the affidavit of the Applicant and categorically reject his statement at paragraph 21 thereof that she was allowed to remain on the premises on condition that she pay the taxes on the property in lieu of rent. The Respondent deposed that there was never any such discussion, except on one occasion the Applicant asked her who was paying the property taxes and she advised him that she was paying it, but that was the extent of the discussion. She also deposed that she has been paying property taxes on the property since 1984. See paragraphs 11 to 13 of her affidavit.
33. At paragraph 14 of her affidavit she deposed that she note that in paragraph 22 of the Applicant’s affidavit he asserts that he had built a new house on the premises at 131 New Road but she doubt whether this is true since in 1965, her grandmother, Jane Hall obtained a loan to reconstruct her house from Reconstruction and Development Corporation. See **Exhibit**

“C.Y.4” for a copy of a letter written from RECONDEV to Jane Hall in 1965 advising on the approval of the loan.

34. The Respondent, Carla Young further deposed that by letter dated January 26th 2006 the Applicant indeed asked her to vacate the premises and that was the first time she became aware that the Applicant was claiming an interest in the property. She deposed that she was surprised by this since she knew that Jane Hall and her daughter Marion Humes had always lived, occupied and exercised control over the property at 131 New Road, paid the taxes on the said property and never paid rent to anyone nor ever spoke of anyone else being the owner of the premises.
35. In answer to paragraphs 30 and 31 of the Applicant’s affidavit about his undisturbed control and management of the property, the Respondent said that this is untrue. She deposed that neither the Applicant nor his mother have ever lived at the property, have ever paid property taxes, have ever collected rent or done anything in relation to the property to support the Applicant’s claim to the property. The Respondent deposed that Jane Hall, her grandmother, has been paying property taxes on the property since 1939. See **Exhibit “C.Y.5”** for copies of her property tax receipts.
36. Ms. Carla Young further deposed that Jane Hall’s management and control over the property is further evidenced by a 1939 Notice to ‘Erect Tank’ sent to her by the Belize Town Board. See **Exhibit “C.Y.6”** for a copy of the said notice.
37. The Respondent deposed that in 1950 the City Council also sent a notice to Jane Hall for the payment of Site Tax. The notice was addressed “to the estate of Mary Brown now Jane Hall”. See **Exhibit “C.Y. 7”** for a copy of the said notice.

38. At paragraph 20, the Respondent deposed that in 1956 the General Registry sent out a notice to adjoining proprietors that Jane Hall intended to apply for a first certificate of title to the property she occupied at 131 New Road. See **Exhibit "C.Y. 8"** for a copy of the said notice. This evidence is incorrectly stated as it was not Jane Hall who was applying for the Certificate of Title. It was her neighbour, Hadie who was applying and Jane Hall was sent a notice.
39. The Respondent further deposed that following the death of Jane Hall on 17th June 1971, her daughter, Marion Humes, wrote to the Belize City Council on 29th June 1971 advising of Jane Hall's death and informing them that she, Marion Humes would be paying all taxes in the future. See **Exhibit "C.Y.9"** for a copy of the said letter.
40. Further, following the death of Marion Humes, the Respondent said that she has been paying property taxes on the said property. See **Exhibit "C.Y.10"** for copies of, firstly, a property tax assessment dated March 2008 addressed to Marion Humes and secondly, a receipt for property tax paid by Carla Young, the Respondent.
41. Ms. Carla Young further deposed that she has been living in continuous and undisturbed possession of the property for twenty four years since 1984 and has not been requested to pay rent to anyone and also, she has never paid rent to anyone. She stated that sometime in December 2006 she placed a pre-constructed two bedroom house at a cost of \$30,000.00 on the property since the original house had broken down and had become a fire hazard.
42. The Respondent deposed that while she has been in actual, continuous and undisturbed possession of the property since 1984 and paying property taxes thereon and has been able to produce evidence that her grandmother

Jane Hall exercised control over the property, the Applicant, Mr. Ramsey has not produced any evidence to buttress his assertion that his mother became owner of the property or that he exercised any control whatever over the property in question. That in the circumstances, she pray that the court will not grant the declarations and relief prayed for by the Applicant.

43. In the Respondent's second affidavit she deposed that in the Belize Gazette for 17th January 2009, she saw that the area where she live is in the Pickstock Registration Section and that it has been declared by the Minister of Natural Resources to be a compulsory registration section and therefore is now governed by the **Registered Land Act** of Belize.
44. The Respondent also deposed that since she has been living on the property in continuous, undisturbed, and unbroken possession for the past twenty-four years she believes she has acquired, under the Registered Land Act, prescriptive rights to the property. That in the circumstances, she pray that the court will not grant the declarations and relief prayed for by the claimant and will instead declare and order that she be registered as owner of the said property under the Registered Land Act.
45. There is also the affidavit evidence of Baxter Matthews, retired Auditor General of 92 New Road sworn to on 3rd March, 2009 in support of the Respondent's application. He deposed that he recollects that the Respondent has been in continuous, undisturbed, unbroken possession of the property at 131 New Road since about 1984. He further deposed that he is not aware that she pays rent to anyone and that he considered and believed that the Respondent was the owner of the property and exercised control and possession over it. Further, that he has never heard or known anyone else to be the owner of the property at 131 New Road, nor claiming

to be the owner and neither has he seen anyone coming around the property to check or otherwise exercise any control over it.

Determination

46. The Applicant has based his claim for Declaration of Title of the property situated at No. 131 New Road on two limbs, one that he is the rightful legal owner and secondly that he is entitled by way of prescription or long possession to an equitable interest in the property.
47. The Applicant has not produced any documentary evidence in support of his case, only bare assertions. The affidavits filed in support of the Applicant's case all repeat the evidence of the Applicant without any details or documentary evidence. I find the Applicant's affidavit evidence helpful only with respect to the family ties. The Respondent however has several documents exhibited to her affidavits which I find extremely helpful. Further, the affidavit evidence in this case were not challenged in cross-examination.
48. Firstly, I will look at whether Mr. Ramsey is the rightful legal owner of the property. He has based his claim on the alleged title of Maria Brown but as rightly submitted by Mr. Godfrey Smith, the Applicant has not produced any evidence evincing this alleged title. At paragraph 5 of his affidavit he deposed that a search at the Land Title's Unit revealed that Maria Brown was granted a Governor's Fiat Grant No 6. of 1932 which was described as Lot. No. 1920 situated on New Road but there is no evidence before the court of any such title or at the least as submitted by Mr. Smith an affidavit of the researcher exhibiting the actual title investigation done.

49. A further weakness in this case is that there is no evidence to show a nexus between Grant 6 of 1932 and No. 131 New Road where the Respondent resides. As rightly submitted by Mr. Smith the onus is on the claimant to prove that Grant No. 6 is the same as 131 New Road where the Defendant lives. The Claimant has failed to establish this fundamental link. The evidence from the Respondent however shows that Lot No. 1920 is where House No. 131 is situated. From the evidence as a whole the Court can safely proceed on the basis that Lot No. 1920 is the same as House No. 131 New Road. See **Exhibit "C.Y. 10"**.
50. Mr. Ramsey at paragraph 7 of his affidavit showed how he allegedly obtained the property from Maria Brown. Mr. Ramsey said that Maria Brown's son, Frederick Adolphus, prior to his death sent him various letters from the USA stating that he, Mr. Ramsey is now the owner of the property because that was his mother's last wishes. I am not convinced by this bare assertion as the Applicant has not produced any one of these 'various letters' to the court or even a date as to when these letters were written. Further, there is no evidence as to whether Mr. Ramsey has been appointed Administrator of the estate of Maria Brown or whether the estate was wound up and the property on which the Respondent, Carla Young resides has been transferred to Mr. Ramsey. Even further, he has not claimed in a representative capacity as administrator of the estate of Maria Brown.
51. Strangely, Mr. Ramsey at paragraph 13 of his evidence stated that Maria Brown gave the New Road property to Ruth Eunice Young who took care of her until she died. This is the same property he said that Maria Brown's son told him by letters that he is now the owner. It is strange the applicant's mother Ruth was given the property and yet Maria Brown's son, Frederick Adolphus told Mr. Ramsey by letters that he is now the owner. Mr. Ramsey is Ruth's son and the property could have been

passed from Ruth to her son if she was the owner. I say 'if she was the owner', because Elizabeth Bailey Hall, who is Maria Brown's half sister had six other children apart from Ruth. There is no evidence before the Court of Maria Brown's title, nor that the property was transferred from Maria Brown to Ruth Eunice Young or from Maria Brown to Melford Ramsey. So, what the Court has so far is bare assertions. I find this evidence that the property was passed to Mr. Ramsey lacks credibility. It is totally unconvincing. Mr. Ramsey has failed to prove to the court that he is the rightful legal owner of the property situated at No. 131 New Road, Belize City.

52. The second question for the Court is whether the Applicant is entitled by way of prescription or long possession to the property situated at 131 New Road. By his evidence he has shown the family ties to Maria Brown. He said that Maria Brown half sister Elizabeth Bailey Hall was his grandmother. That Elizabeth Hall daughter Ruth Eunice Young was his mother. He stated that after his mother received the property she rented it to a Carpenter whose name is Arguelles. There is no evidence as to the date when Arguelles rented the property or the amount of rent paid, or receipts of rent or how long the property was rented. Apart from the lack of documentary evidence, there is also a lack of particulars. In my view, this evidence lacks probative value.
53. Mr. Ramsey further deposed at paragraphs 18 and 19 of his affidavit that Jane Hall who is his mother's sister occupied the property until her death with the permission of Ruth Young. That following the death of Jane Hall, her daughter, Marion Humes was given permission by Ruth Young to occupy the property. But this evidence is contradicted by the evidence of the Respondent, Carla Young, which shows that Jane Hall exercised management and control of the property and was recognized as the owner. I will deal with this point later in more details.

54. The evidence by Carla Young is that she is Jane Hall's grand daughter. Jane Hall had two children, Marion Humes and Winston Humes. Winston Humes is her father and Marion is her aunt. See paragraphs 3 and 4 of her first affidavit. Exhibit "C.Y. 1" which is the Birth Certificate of Carla Young shows that Winston Humes is her father. This evidence confirms that the Applicant and the Respondent has family ties to Maria Brown. The question is who has the better claim.
55. Carla Young has shown that Jane Hall obtained assistance from Reconstruction and Development Corporation to reconstruct or repair her house on the property in question. See **Exhibit "C.Y. 4"** for letter which is dated 24th February, 1965. It was addressed to "*Miss Jane Hall, 131 New Road, Belize City.*" It states that, "*I am pleased to inform you that your application for assistance to repair or reconstruct your house at Belize City has been approved on the following basis:- Grant \$350.00...*". This is documentary evidence that Jane Hall had management and control of the property.
56. There is also further evidence that Jane Hall paid Land and Property Tax in 1939 and 1940 to the Belize Town Board. See **Exhibit "C.Y. 5"** The receipts does not show for which property. But I have no difficulty believing it is the property in question as both the Applicant and the Respondent said that Jane Hall lived on the property until her death. Further, there is the Notice from City Council which was sent to Jane Hall in 1950 for the payment of Site Tax. See **Exhibit "C.Y. 7"** which shows it was addressed to: "*Estate of Mary Brown now Jane Hall.*"
57. In 1956, Jane Hall also received a notice from the General Registry as the proprietor of lands on the Western boundary of lands belonging to Hadie who had intended to apply for a First Certificate of Title for land numbered

1921. This shows that in 1956 Jane Hall was recognized as the owner of the land she occupied. Even further, in 1939 Jane Hall was given a notice by the Belize Town Board to erect a tank, maintain the tank and provide a proper faucet failure of which she would have been liable on summary conviction to pay a fine.

58. These documentary evidence shows that since 1939 up until 1965 Jane Hall had management and control of the property situated at 131 New Road.
59. Carla Young has also put into evidence the Will of Jane Hall. Jane Hall bequeath all her property, real and personal to Marion Humes and Winston Humes in equal shares. See **Exhibit "C.Y.2"** for a copy of the said Will which shows that Marion Humes was the executrix of the said Will. Winston Humes as shown above is the father of the Respondent and Marion Humes is her aunt. Carla Young has attempted to probate this Will but the Applicant has filed a caveat against the estate. To be clear, whether Carla Young is entitled under this Will is not an issue for determination by this Court.
60. The said Will did not describe any property but it can be inferred from the other documentary evidence that the property where Jane Hall resided, that is Lot No. 131 is included in her Will. The evidence shows that Jane Hall died in 1971 and Marion Humes took management and control of the property. See **Exhibit "C.Y. 9"** for letter dated 29th June, 1971 addressed to the Mayor, Belize City Council. In this letter Marion Humes informed the City Council that her mother Jane Hall died on 17th June 1971 and that she is now the owner of the property at No. 131 New Road and that she would be responsible for paying the taxes. She also requested that the property be transferred into her name.

61. There is no evidence that Marion Humes got title to the property but Belize City Council did recognize her as the owner, maybe on the basis that she is entitled to the estate of her mother, Jane Hall. See **Exhibit "C.Y. 10"** which shows two things: (1) A Bill from the Belize City Council printed 1st March, 2008 for property tax owing for 2008/2009. This Bill states that Marion Humes is the owner of Dwelling situated at Lot. No. 1920, House No. 131. (2) A receipt from the Belize City Council dated 30th January, 2008 for Property Tax. The receipt shows that \$50.00 was received from Carla Young for Marion Humes. It can be seen therefore that Marion Humes had control of the said premises until her death in 1984. See **Exhibit "C.Y. 3"** for death certificate which shows date of her death.
62. From the evidence of Carla Young which includes documentary evidence, I am satisfied that Jane Hall had management and control of the property since about 1939 and thereafter her daughter, Marion Humes had management and control of the property at 131 New Road. On a balance of probability, I find the evidence of the Respondent, Carla Young credible. I do not find the evidence of the Applicant credible that Jane Hall occupied the premises with the permission of Ruth Eunice Young until her death and thereafter Marion Humes was given permission by Ruth to live on the premises temporarily.
63. Further, I do not find the evidence of the Applicant truthful that he and Ruth Eunice Young "out of compassion" allowed the Respondent to remain on the premises with the condition that she was to pay property taxes in lieu of rent. There is no proof of this agreement and further there is no proof that he and his mother had management and control of the property in question, just bare assertions. Therefore, they could not have given the Respondent permission to remain on the property with the conditions specified above. I therefore, find that the Respondent was not let into possession by the Applicant as a Tenant-at-Will.

64. I agree with Mr. Smith that the affidavits of Noreen Jackson, Clinton Ewing, Faye Cattouse, Ronald Ramsey filed in support of Mr. Ramsey's claim merely repeat the bare assertions contained in the affidavit of the Applicant. Noreen Jackson at paragraph 10 of her affidavit said that Ruth Eunice Young maintained and up-kept the property and paid off a loan on the said property. This is just a bald statement. There is no evidence as to the amount of loan, who took the loan, from whom it was borrowed or why Ruth had to pay the loan or even when the loan was taken. I have great difficulty in accepting these bare assertions.
65. I find the Respondent's evidence credible that after the death of Marion Humes in 1984 she took over occupation of the house. This evidence is supported by Baxter Matthews. Also, the evidence that she is in actual possession of the property is not disputed by the Applicant. What is disputed is that she was given permission to be there which I find to be untruthful. Carla Young remained on the property since 1984 and the Applicant sent her a letter on 26th January 2006 asking her to vacate the premises. This is almost 22 years later. He said he did so because she broke down the house which he built on the property. There is no evidence before the Court that Mr. Ramsey built any house on the property, just bare assertions again, which I find to be untruthful. I am not satisfied that he has any equitable interest to the property. What is before the Court is evidence that Jane Hall made application for assistance to repair or renovate the house that was on the property.
66. Further, I find that the Applicant, Mr. Ramsey has failed to prove to the Court that he is entitled to a declaration that he is by way of prescription or long possession entitled to an equitable interest in the property described as 'All that piece or parcel of land described by Governor's Fiat Grant No. 6 of 1932 and displayed at Plan No. 6 of 1932 which is a Plan of Lot No. 1920

situate at New Road, Belize, and granted to Maria Brown and signed by the surveyor General 26th May 1932 and by the Governor on 27th May 1932 and filed at the Belize Archives Department.’ Mr. Ramsey has failed to prove that he is in possession of the land in excess of eighty years without interruption. Thus, Mr. Ramsey is not entitled to a Declaration that the Respondent compensate him for the property and remove the chattel she has placed on the premises.

67. This brings me to the question of the rights of the Respondent. She has put into evidence the Will of Jane Hall. But, the right of Carla Young in respect of the estate of Jane Hall is not an issue for determination by this Court and so the Court will refrain from doing so. Also, whether the property was included in the Will of Jane Hall is not an issue for this Court to determine. What is relevant is that Jane Hall had management and control of the property and not the Claimant and his mother so they could not have given the Respondent permission to live on the property.
68. In any event, there is sufficient evidence before this court to put this saga to an end. The question to be asked is whether Carla Young was in adverse possession of the land in question as stated in her evidence. What constitutes adverse possession? **Halsbury’s Laws of England, 4th Edition Vol 28 at paragraph 977 and 980** states:

977 ***Meaning and effect of ‘adverse possession’.***
*.....What constitutes adverse possession is a question of fact and degree and depends on all the circumstances of each case, in particular the nature of the land and the manner in which land of that nature is continually used; there is no general principle that, to establish possession of an area of land, the claimant must show that he made physical use of the whole of it. However, for the claimant’s possession of land to be adverse, so as to start time running against the owner, the factual possession should be **sufficiently exclusive** and the claimant should have **intended to take possession**. Where the occupier’s*

possession of land is by permission of the owner, the possession cannot be adverse and possession is never adverse if it is enjoyed under a lawful title.....

980. Intention to possess. *For there to be adverse possession the person claiming possession should have the necessary **animus possidendi**, that is, an intention to possess the land to the exclusion of all other persons including the owner with the paper title so far as is reasonable and so far as the process of the law will allow. ...*

69. As stated above, I find that Mr. Ramsey who has not proved that he is entitled to the property in question, did not give the Respondent permission to live on the property at 131 New Road. Also, I find the Respondent, Carla Young's evidence credible that Mr. Ramsey and his mother Ruth did not give her permission to live on the property. There was no such agreement and also there was no agreement to pay taxes in lieu of rent. The evidence before the Court is that Carla Young has been in actual, continuous and undisturbed possession of the property for over 12 years. She has paid the taxes for 2008/2009. There is no other documentary evidence that she paid taxes before that period although she deposed that she has been paying the taxes since 1984. But, there is no evidence also that taxes are owed for the said property. Further, there is no dispute that she is in actual possession of the said property. The Respondent has shown to the Court that by residing at No. 131 New Road for the past 22 years, putting a new house on the property in 2006 and paying the taxes that she intended exclusive possession of the property and that she exercised management and control of the said property. As said above, there is no evidence that she was given permission by anyone to live on the property. After Marion Humes died she continued to live there with her mother. Carla Young has shown by her evidence that she has been in adverse possession of the property in question for over 12 years.

70 I disagree with Mr. Bradley that if there is a claim by the Respondent for adverse possession, time would begin to run from 2006 when he said she received the letter from the Applicant to get off the property. I also disagree with Mr. Bradley's submission that time could not begin to run from 1982. There is no proof that Carla Young went on the property with the Applicant and his mother's permission or that she was living in a house that was constructed by the Applicant. There is no evidence that the Applicant or his mother has been in possession of the land, or in receipt of the rents or profits thereof.

71. Carla Young has been in occupation of the land situated at No. 131 New Road in peaceful and uninterrupted possession for over twelve years. She has in accordance with the **Registered Land Act, Chapter 194** of the Laws of Belize, Revised Edition 2000-2003 at section 138(1) acquired prescriptive title. Section 138(1) provides:

“Subject to subsection (2), the ownership of land may be acquired by open, peaceful and uninterrupted possession of twelve years and without the permission of any person lawfully entitled to such possession.”

72. Accordingly, I declare that the Respondent, Carla Young has acquired prescriptive rights to the property situated at No. 131 New Road, Belize City in accordance with section 138(1) of the **Registered Land Act**.

73. Further, the Land in question falls under the Compulsory Registered Section which is governed by the **Registered Land Act, Chapter 194** of the Laws of Belize. See the second affidavit of Carla Young at paragraph 2 where she deposed that in the Belize Gazette for 17th January, 2009 she saw that the area where she lives which is the Pickstock Registration Section has been declared by the Minister of Natural Resources to be a compulsory registration section. Since the said land in question is within

the registered area and the Court has declared that Carla Young is entitled to prescriptive rights of the property, the Register of Lands is ordered to issue to her a Certificate of Title based upon the said declaration in accordance with section **138(3) of the Registered Land Act** which provides that:

“Any person who claims to have acquired the ownership of land by virtue of subsection (1) may apply to the Registrar to be registered as proprietor thereof.”

74. Accordingly, the following orders are made:

Order

1. The Declarations sought by the Applicant, Mr. Melford Ramsey are refused.
2. A Declaration is granted that the Respondent, Carla Young is entitled to prescriptive title of property situated at No. 131 New Road, Belize City.
3. An order that the Registrar of Lands register Carla Young as the owner of property situated at No. 131 New Road in accordance with section **138(3) of the Registered Land Act**.
4. Cost for the Respondent to be agreed or taxed.

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MINNET HAFIZ
Judge
Supreme Court of Belize

DATED 15th May, 2009

