

IN THE SUPREME COURT OF BELIZE A.D., 2019

CLAIM NO. 358 OF 2019

(LUCILA THOMPSON

CLAIMANT

BETWEEN (AND

(REGINAL WILLIAMS

DEFENDANT

BETWEEN THE HONOURABLE MADAM JUSTICE MICHELLE ARANA

Natasha Espat of Legal Advice & Services Center for the Claimant

Anthony Sylvester of Musa & Balderamos for the Defendant

1. This is an Application by both parties for the court to determine a preliminary point arising from this Claim for possession of property.

Ms. Lucila Thompson, the Claimant, filed a Fixed Date Claim Form on 6th June 2019 seeking an order for possession against the Defendant, Mr. Reginal Williams. The property which is the subject of this dispute is Parcel No. 2041 Block 16 located in the Vista Del Mar Registration Section. Ms. Thompson was granted title to this property on 29th January 2007. Mr. Reginal Williams opposes the claim on the basis that he has been occupying this property in

open, peaceful, undisturbed and uninterrupted manner since 2003 and that he has acquired prescriptive title over this property pursuant to the Registered Land Act. The parties have therefore asked the court to determine a preliminary question prior to the hearing of the substantive claim:

“When does the twelve year period start to run, for purposes of prescriptive title under Section 138(1) of the Registered Land Act where as in the particular facts of this case, the Defendant has been in possession since 2003, but the title of the subject property was transferred from the Government to the Claimant in 2007.”

The parties have filed written submissions on this issue, and the court now proceeds to determine this preliminary question on the basis of those submissions.

2. Legal Submissions of the Claimant

The Claimants say that the Defendant’s submissions filed 27th January 2020 is twofold: firstly, it is submitted that the time should start to run from the date the Defendant went into possession of the property and; secondly, that there had to be a positive act on the part of the Defendant, acknowledging the title of the Claimant, in order to extinguish or stop the time acquired by the Defendant. The Claimant submits that firstly, time should be calculated from 2007 when Ms. Thompson acquired title to the property and not from

2003 when Mr. Williams purports to have gone into possession of the property. This issue will be dealt with in detail below.

3. In relation to the second part of the Defendant's submissions, being that there had to be a positive act on the part of the Defendant, acknowledging the title of the Claimant, it is submitted that the issue of interruption of possession is a factual issue which is apt for trial and is premature to consider at this preliminary stage.
4. The preliminary issue that concerns this Court is a legal one which is: when did the twelve-year period *for the purposes of prescription* commence.

Possession

5. The Defence has submitted and it is accepted that there is no distinction made between private or crown land in section 139 of the Registered Land Act ("RLA") where the "*principles of possession*" are to be applied. The Claimant concurs with the Defence that there is nothing in section 139 of the RLA which states that time for computing prescriptive title stops and starts to run anew if the land changes ownership from Crown (other than foreshore land)

to private or from one private owner to another. The Claimant further concurs with the Defence that the concept of “possession” for the purposes of section 139 of the RLA is given an expansive meaning and that the adverse possessor’s occupation of a land is not so easily extinguished. Section 139 reads:

139.—(1) Where it is shown that a person has been in possession of land, or in receipt of the rents or profits thereof, at a certain date and is still in possession or receipt thereof, it shall be presumed that he has, from that date been in uninterrupted possession of the land or in uninterrupted receipt of the rents or profits until the contrary be shown.

(2) Possession of land or receipt of the rents or profits thereof by any person through whom a claimant derives his possession shall be deemed to have the possession or receipt of the rents or profits by the claimant.

(3) Where, from the relationship of the parties or from other special cause, it appears that the person in possession of land is or was in possession on behalf of another, his possession shall be deemed to

be or to have been the possession of that other.

(4) If a person whose possession of land is subject to conditions imposed by or on behalf of the proprietor continues in such possession after the expiry of the term during which such conditions subsist, without fulfilment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent possession shall be deemed to be peaceful, open and uninterrupted possession within the meaning of section 138 of this Act.

(5) For the purposes of subsection (4) of this section,

(a) a tenancy at will shall be deemed to have terminated at the expiration of a period of one year from the commencement thereof unless it has previously been determined;

(b) a periodic tenancy shall be deemed to have terminated at the expiration of the period:

Provided that where any rent has subsequently been paid in respect of the tenancy it shall be deemed to have terminated at the expiration of the period for which the rent has been paid.

(6) Possession shall be interrupted,

(a) by dispossession by a person claiming the land in opposition to the person in possession;

(b) by the institution of legal proceedings by the proprietor of the land to assert his right thereto; or

(c) by any acknowledgement made by the person in possession of the land to any person claiming to be the proprietor thereof that such claim is admitted.

(7) No person possessing land in a judiciary capacity on behalf of another may acquire by prescription the ownership of the land as against such other.

6. However, it is submitted that “*possession*” pursuant to section 139 of the RLA should be read in conjunction with section 138 of the RLA which reads:

“**138.**—(1) Subject to subsection (2) of this section, the ownership of land may be acquired by open, peaceful and uninterrupted possession for a period of twelve years and without the permission of any person lawfully entitled to such possession.”

(2) In the case of national land other than the foreshore, the period of such possession shall be thirty years. Prescription shall not lie with regard to the foreshore.”

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

7. From the wording of section 138 of the RLA, it can be deduced that section 138 (1) applies to private land and section 138 (2) specifically applies to national land or otherwise crown/government land. The wording of the section makes a significant distinction between possession of private land and possession of national land. This distinction is crucial as possession of the type of land, either private or national, determines the requisite period of possession required by an adverse possessor to be able to acquire ownership of land. The required period of possession for private and national land is twelve and thirty years, respectively.

8. It has been accepted by both parties that the Claimant’s land is private land for the purposes of section 138 of the RLA and as such the required period of possession is twelve years. The issue lies in the computation of the start of the

twelve years as the Defendant deposes in his First Affidavit dated 7th October 2019 that he has been residing on the property since 2003 and has been occupying the property in an open, peaceful and undisturbed and uninterrupted manner.

9. Note that it is submitted that the issue of whether the Defendant was in open, peaceful and uninterrupted possession for twelve years is an issue of fact that should not be determined at this early stage of the proceedings as the burden lies on the Defendant to prove to the Court by providing clear and convincing evidence to support his claim for prescription.

10. Subsequently, it was not until 2007 that the Claimant purchased and obtained title to the property from the Government of Belize as was deposed in the Claimant's Second Affidavit dated 22nd October 2019. Evidently, there was a change of ownership in 2007. As such, it is important to examine the wording of section 138.

Statutory Interpretation

11. The statutory interpretation of section 138 (1) and (2) of the RLA, if given its literal meaning would be that the adverse possessor must be in possession of **private land** for a period of twelve years and in possession of **national land** for a period of thirty years. By this interpretation, which it is submitted is not an absurd one, the Defendant would not have been in possession of private land until 2007 when the Claimant obtained title and would only have been in possession of national land for three years if calculated from the period in which the Defendant purports to have been in possession of the land.

12. If the golden rule of interpretation is applied, the intention of Parliament is taken into account and given the wording of section 138, it is submitted that the intention was to treat the two types of possession differently which would produce different results by ultimately affecting the adverse possessor's period of possession. It would be illogical to think that the purported years of possession of national land (thirty years) would count towards possession of private land which is a mere twelve years without proving to the Court that they have been in open, peaceful and uninterrupted possession of **private** land.

Case Law

13. As the legislation is silent on the issue of possession for the purposes of prescription where the change of ownership is from crown to private or vice versa, we are forced to refer to case law for a determination. It is admitted that there are court judgments which support that change of ownership does not stop the computation of time for prescription or in other words, time continues to run. However, it is submitted that that is only applicable to the same type of ownership of land i.e. private to private or national to national.

14. The Defendant in his submissions relied on the Caribbean Court of Justice appeal case of *Daniel Ramlagan v Narine Singh [2015] CCJ 7 (AJ)* where the Court at paragraph 29 of the judgment agreed with the view of the Guyana courts that the transfer of title, through vesting full and absolute title in the title holder, did not have the effect of overriding any title or rights acquired [by the adverse possessor].

15. Admittedly, there is limited if not, no judgments found which addressed the issue where the change of ownership is for crown to private land or for private to crown land.

16. The case of *Ramlagan* must be distinguished from the case at bar as the former deals with change of ownership from private to private and concerns the Limitation Act which was not raised by the Defence and as such is not an issue for consideration by this Court but which can assist in making a determination of the preliminary issue that faces this court.

17. It is important to distinguish between Prescription and Limitation. According to *Megarry & Wade* in *The Law of Real Property (6th Ed) at paragraph 21-002 [TAB3]*:

“Limitation must be distinguished from prescription, for although similar in result they are different in principle. Prescription is primarily a common law doctrine, though extended by statute, by which certain rights (easements and profits) can be acquired over the land of others. Fundamentally it is a rule of evidence, leading to a presumption of a grant from the owner of the land and therefore of a title derived through him. Limitation is the antithesis of prescription and rests on wrongful possession rather than on any presumption of right. It is wholly statutory, and it is concerned with the title to the land itself.”

In cases where the title is registered, such as the case at bar, it is found that:

“The registered proprietor, whose title has been extinguished, is deemed to hold the property on a bare trust for the adverse possessor until the latter is registered as a proprietor instead. It is now clear that, unlike the position where title is unregistered, the effect of adverse possession is to give the squatter the right to be substituted by registered proprietor.”

18. It is submitted that the elements of Prescription and Limitation are similar and that the doctrines work together in that in both the required period of time is twelve years for private land and thirty years for national land.

19. It is further submitted that the commencement of the period of time for limitation is the same as that for prescription purposes. The running of time for the purposes of the English Limitation Act 1980, where there was a change of ownership from private to crown and from crown to private, was discussed in *Megarry & Wade in The Law of Real Property (6th Ed)* at paragraph 21-037.

“9. Claims through Crown or corporation sole. It has been seen that the Crown is entitled to a period of thirty years instead of the usual twelve. If a person against whom time has started to run conveys his land to the Crown, the only change is that the limitation period becomes thirty years **from the dispossession** instead of twelve. But in the converse case where time has started to run against the Crown and the Crown then conveys the land to X, the rule is that X is barred at the expiration of thirty years **from the original dispossession** or **twelve years from the conveyance to him**, whichever is the shorter. Thus X is entitled to twelve years **from the date of the conveyance** unless at that time there were less than twelve years of the Crown period unexpired, in which case X merely has the residue of that period.”

20. This position is the similar as in the Laws of Belize, particularly at section 12 of the Limitation Act (“LA”), Chapter 170 Revised Edition 2011 of the Substantive Laws of Belize (“the LA”) which deals with recovering of land reads:

“12.–(1) No action shall be brought by the State to recover any

land after the expiration of thirty years from the date on which the right of action accrued to the State or, if it first accrued to some person through whom the State claims, to that person, provided that an action to recover foreshore may be brought by the State at any time before the expiration of sixty years from the date on which the right of action accrued to the State, and where any right of action to recover land, which has ceased to be foreshore but remains in the ownership of the State, accrued when the land was foreshore, the action may be brought at any time before the expiration of sixty years from the date of the accrual of the right of action, or of thirty years from the date when the land ceased to be foreshore, whichever period first expires.

(2) No action shall be brought by any other person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person, provided that, if the right of action first accrued to the State through whom the person bringing the action claims, the action may be brought at any time before the expiration of the period during which the action could have been brought by the State or of twelve years from the

date on which the right of action accrued to some person other than the State, whichever period first expires.”

21. In the case of private land, after twelve years, the right of action to recover land would be barred by virtue of section 12(2) of the LA and the adverse possessor may then acquire registered title to the land by Prescription by virtue of section 138(3) of the RLA.

22. It is submitted that both section 12 of the LA and section 138 of RLA were drafted to work hand in hand so that where the registered proprietor’s title for private land would have extinguished after the twelve years by virtue of the LA then, as a result the adverse possessor would be able to apply to the Registrar after the twelve years to assert his rights to be the registered proprietor.

23. Section 12(2) of the LA specifically makes provision for cases where the State (Crown/Government) was the original owner of property of which title was then transferred to a private owner. The section clearly states that where the crown was the original owner, an action should be brought before the expiration of the thirty years when the action could have been brought by the

state which is at the point in time the adverse possessor (Defendant) took possession or before the expiration of twelve years from the point the new owner (Claimant) could have brought the action, whichever period expires first.

24. In this case, the twelve-year period expires first and as such the period should be calculated from the point in time that the Claimant obtained title which was in 2007 and not from 2003 when the Defendant purportedly went into possession.

25. Therefore, it would be logical for the twelve years to commence from the time the Claimant obtained title to the property in 2007 so that it mirrors the commencement of the time period for the purposes of the LA. Any other interpretation would defeat the purpose of the sections.

D. Conclusion

26. In conclusion, though section 139 of the RLA does not specifically makes a distinction between possession of private land and possession of crown land

and no mention of break in the period of possession when there is a change of ownership, the legislation at section 138 provides for such distinction which should be read together with section 139.

27. Moreover, on examining the interpretation of section 138, it would **NOT** be absurd to treat private and national land differently in calculating the years of possession of an adverse possessor where there is a change of ownership.

28. In any case, given that the elements of section 138 of the RLA and section 12 of the LA are similar in acquiring title from the registered proprietor by the adverse possessor and barring any claim by the registered proprietor for recovery of land, respectively, the LA can be used as guidance for determining the start of the requisite twelve years of possession for the purposes of prescription.

29. Therefore, it is submitted that given the aforementioned the twelve-year period of possession for the purposes of prescription in this case should be calculated from 2007 when the Claimant obtained title and further that any

other interpretation would defeat the purposes of the sections working hand in hand.

30. Legal Submissions of the Defendant

Prescriptive title under RLA

31. Part IX of the *Registered Land Act (RLA)* [Tab 1], sets out the regime of land ownership under the RLA styled “prescription”. Section 138, with the marginal notes “*Acquisition of land by prescription*”, provides at subsection (1)that:

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

32. Subsection (2) then provides that:

“138.- ...

(2) In the case of national land other than the foreshore, the period of such possession shall be thirty years. Prescription shall not lie with regard to the foreshore.”

33. The first thing to highlight is that the Claimant accepts that the period for acquiring ownership by prescription of the property, which is the subject of the herein proceedings, is twelve years. This is to be gleaned from para 6 of the affidavit in reply of the Claimant dated 22nd October 2019. This is to be gleaned as well from the consented framed preliminary issue, “*when does the twelve year period start to run, for purposes of prescriptive title under section 138(1) of the Registered Land Act ...*” It is an inescapable fact as well, that the Defendant has been in actual possession of the property since 2003.

34. The vexed question therefore is when would time start to run for purposes of calculating this twelve year period. It is our respectful submissions, for reasons which follow, that the time starts to run from the date of possession (actual or constructive) of the property, and that in order to extinguish or stop the time acquired by the Defendant, there had to be a positive act on the part of the Defendant, acknowledging the title of the Claimant.

Principles of possession

35. The starting point is to look at the “*principles of possession*” which is set out at section 139 of the *RLA* [Tab1]. A review of section 139 reveals no distinction is made by the Legislature in respect of private or Crown land, where the “*principles of possession*” are to be applied. Indeed, there is nothing in section 139 which states, for instance, that time for computing prescriptive title stops and starts to run anew if the land changes ownership from Crown to private, or from one private land owner to another. To the contrary, the legislature has given the concept of “possession” an expansive meaning wherein a person can rely on the “actual possession” of one person in computing his twelve years or thirty years time period. This is to be seen when a review of subsection (2) and (3) of section 139 of the *RLA* are done.

36. Subsection (2) of section 139, for instance, provides that:

“139:-(2) Possession of land or receipt of the rents or profits thereof

by

any person through whom a claimant derives his possession shall be deemed to have the possession or receipt of the rents or profits by the claimant.”

37. Subsection (2), then, operates to provide title by way of constructive² possession as well. Thus, by operation of subsection (2) of section 139, a person claiming acquisition of land by prescription can tack on to his time that he has been in in possession, the time of another person who was in possession prior to him and through whom he derives his possession. A classic example of this, it is submitted, is where a father enters into possession of a property which belongs to someone and constructs his family home there. He and his family remain in possession of the property for 10 years. The father dies in year ten and the son continues to remain in possession for the next four years. In the fourteenth year, the owner seeks to interrupt possession and invokes section 139(b); that is, by institution of legal proceedings by the proprietor of the land and to assert his right thereto. However by operation of section 139(2).

² *Osborn's Concise Law Dictionary, 8th Ed*, explain that “constructive” is a legal concept whereby the “law infers or implies (construes) a right, liability or status ...”

on a party examined above, the son would be able to successfully claim title because the period of possession would include his father's ten years and his four years, which is two years above the required twelve year period mandated by *section 138(1) of the RLA*.

37. Similarly, subsection (3) provides for constructive possession by an adverse possessor, where someone else is deemed to be possessing/occupying the land on his behalf.

38. Thus, by operation of section 139(2) & (3), the principles of possession is more expansive, as opposed to being restrictive and in this respect, it is submitted, it is to be seen that the adverse possessor's occupation of a land is not so easily extinguished. We submit that this is so even if there is a transfer of the legal title from one owner to another during the period of occupation by the adverse possessor. And support for this proposition has been firmly pronounced by the Caribbean Court of Justice in the case of *Daniel Ramlagan v Narine Singh [2015] CCJ 7 (AJ) [Tab3]* and from an analysis of sections 26, 31, Part IX and X of the RLA.

39. As explained at para 1 of *Ramlagan's* case, that case concerned the determination of the "*relationship between a person who has acquired full*

and absolute title by [a transfer] under section 22(1) of the Deeds Registry Act (Guyana) ... on the one hand, and a claimant who claims that his adverse possession prevails over the title holder, on the other hand.” This, of course, is the precise legal determination that this Honourable Court is to make on this preliminary issue.

40. In the course of their judgment in the *Ramlagan* case, the CCJ considered at paras [19] to [29], a number of cases of the Guyana Court of Appeal in which the question of whether a transfer of the property during the period of occupation by the adverse possessor would have interrupted or cancelled the adverse possessor’s prescriptive title. The first case considered was *Kumar v Sukdeo*³, which in turn considered *Brandis v Craig*⁴: see Justice Rajnauth-Lee’s discussion and examination of the cases at paras [19] to [21] in *Ramlagan*’s case.

41. Justice Rajnauth-Lee significantly, at para [21], summarized Chang J.A.’s *ratio* in the *Sukdeo* case and endorsed this later at para [29] in the *Ramlagan* case. At para [21], this is what Justice Rajnauth-Lee stated in respect of Chang J.A.’s pronouncements in *Sukdeo*:

“[21] *Chang JA* made a further crucial observation. If a person acquired transport title to land which had been under adverse possession for less than twelve years, then he took that transport title subject to the duration of the adverse possession, that is, the possessory right of the adverse possessor, and was in no better position than his predecessor in title.” [Tab3]

³ [2003 – 2004] GLR 111

⁴ (1981) 30 WIR 136

42. And then at para [29] in *Ramlagan*, Rajnauth-Lee J stated that the Court was entirely in agreement with the proposition distilled in the Guyana line of cases that a transfer, though vesting “*full and absolute title in the title holder, did not have the effect of overriding any title or rights acquired [by an adverse possessor]*”. It is noted here as well, that a similar position obtains in relation to the *RLA* of Belize.

43. For while it is true that section 26 of the *RLA* vests a registered proprietor of a parcel of land with “*absolute ownership of that parcel together with all*

rights and privileges ...” in a registered proprietor, the legislature, by Part IX (Title by Prescription) of the RLA, clearly intended an adverse possessor who had been in possession/occupation for the requisite statutory twelve years period, could override that registered title. But critically, section 26(b) of the RLA itself expressly provides that the registered proprietor’s rights and interest in the land is “subject ... to such liabilities, rights and interests as affect the same and declared by section 31 not requiring noting on the register.”

44. Section 31(1) then provides that:

“... unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interest as may for the time being subsist and affect it, without their being noted on the register-

(f) rights acquired or in the process of being acquired by virtue of any law relating to limitation or prescription;

(g) the rights of a person in actual occupation of land or in receipt of the rents and profits thereof except where inquiry is made of such

person and the rights are not disclosed.”

45. By *section 31* of the *RLA* then, the rights of an adverse possessor in the process of being acquired in a land by virtue of prescription, (which would have been the position of the Defendant when the Claimant acquired title in 2007) overrides the rights of the registered proprietor. The statutory position in Belize then, it is to be seen, is similar to the common law position as distilled in the *Ramlagan* case at para 21 as highlighted above.

46. It is noted here too, that by Part X of the *RLA*, a registered title could also be defeated. Thus, it is clear beyond peradventure that, as Chang J.A. pointed out in the *Sukdeo* case and adopted by the CCJ in the *Ramlagan* case, a registered title is not indefeasible. This is a point as well, that was made plain by the Board in the *Quinto v Castillo* case.

47. The CCJ in *Ramlagan* had also accepted Chang J.A.’s pronouncement in *Sukdeo* that the mere transfer of the title could not constitute acknowledgement by the adverse possessor of the superior title of the title holder; the rationale of course being because the adverse possessor would not have had notice of the transfer: para [20] *Ramlagan*’s case. Significantly,

by *section 139(6)(c) of the RLA*, an acknowledgment by an adverse possessor is expressly stated to constitute interruption in the adverse possessor's occupation.

48. Thus, the legal position, as distilled by the CCJ in *Ramlagan* and the *RLA* is that: (i) the automatic transfer of the title to another does not extinguish the adverse possessor's possessory right and the new land owner takes title subject to the adverse possessor's possessory right (para 21 *Ramlagan/sections 26, 31(1)(f) & (g) RLA*); (ii) there must be some positive act acknowledging the title of the new titleholder.

49. We submit that when these principles are applied to the facts of the case at bar, it is seen that the title acquired by the Claimant in 2007 could not operate to extinguish the adverse possessory rights of the Defendant that started to accrue in 2003. The Claimant took title subject to "*the duration of the adverse possession, that is the right of the adverse possession (the Defendant) and was in no better position than his predecessor in title (the Crown.*" Further, the Defendant has not done any positive act which can be regarded as an acknowledgment by the Defendant that the Claimant had superior title to him. And again, by operation of section 31 of the *RLA*, there

can be no serious contention that the Claimant's interest acquired in the land overrides the Defendant's possessory rights in the property up to 2007. To the contrary, the Claimant took her title subject to the overriding possessory rights of the Defendant in the property.

50. For these reasons, it is submitted that the Claimant's claim must be struck out. The Claimant did not take action to assert her right until the Defendant's fifteenth year of being in *open, peaceful and uninterrupted possession*. The Defendant's possessory rights have crystallised in a prescriptive title which he has a right to now make to the Registrar pursuant to sections 138 and 140 of the RLA.

Conclusion

51. In the event, it is the Defendant's submissions that the Claimant's claim, respectfully, must be dismissed with costs.

52. DECISION

I am grateful to both counsel for their submissions on this preliminary issue: **“When does the twelve year period start to run, for**

purposes of prescriptive title under Section 138(1) of the Registered Land Act where as in the particular facts of this case, the Defendant has been in possession since 2003, but the title of the subject property was transferred from the Government to the Claimant in 2007.”

I find in favour of the Claimant on this preliminary point. It is clear from the excerpt from McGarry and Wade cited by the Claimant that the relevant date from which time starts to run is the date of dispossession i.e. the date when the possession of the land shifts from one party to another according to AJ Oakley's McGarry's Manual of the Law of Real Property Sweet & Maxwell 8th Edition at p. 551 occurs when an owner has been driven out of possession by another. Time will begin to run against an owner of land who is entitled in possession only where; (i) he has either been dispossessed or he has discontinued his possession and (ii) adverse possession of the land has been taken by some other person. In this case, the land was previously national land. So during the period of time between 2003 and 2007 when the Defendant claims to have first occupied or taken possession of the land, the period of time for him to claim ownership would have been thirty years as against the title of the government. When the ownership of the land shifted from the government to Ms. Thompson in 2007, the land became private land from

2007 until the present. The period of time for Mr. Williams to be able to claim ownership through adverse possession as against Ms. Thompson became twelve years from 2007, when Ms. Thompson became the legal owner of the land. The Government of Belize became dispossessed of the land in 2007 when Ms. Thompson became the legal owner. Mr. Williams' limitation period as against Ms. Thompson was twelve years, starting in 2007. The unexpired term as against the Government was twenty-six years of thirty years in 2007 since Mr. Williams took possession in 2003. The shorter period is twelve years starting from 2007 so that twelve years from 2007 is the relevant period for which he needs to establish undisturbed possession in order to prove ownership of this land. As the CCJ's decision of *Ramlagan* cited by Mr. Sylvester did not address the issue of change in ownership from national land to private land in relation to the issue of prescription. I respectfully agree with Ms. Espat's submission that that authority does not assist in or solving the issue of computation of time raised in the case at bar.

I take Mr. Sylvester's point that the RLA s. 31(1) provides that the legal owner's registered title is subject to the overriding interest listed therein including:

(f) rights acquired or in the process of being acquired by virtue of any law relating to limitation or prescription;

(g) rights of a person in actual possession of land or in receipt of the rents and profits thereof except where inquiry is made of such person and the rights are not disclosed

The prominence afforded such rights by the legislature is emphasized by the fact that these rights are enforceable, *even if* they are not noted on the register.

As Mr. Sylvester has argued, correctly in my view, this illustrates the fact that registered title is not indefeasible. However, the section does not say that those rights extinguish the rights of the registered title holder. It states that the registered title holder rights are “subject to” the rights of those persons under s. 31(1). The concept of adverse possession contemplates a hostile possession which is expressly or impliedly against or in denial of the title of the legal owner.

I therefore find in answering the preliminary question, on the facts of this specific case, the twelve year period starts to run for purposes of prescriptive title under the Registered Land Act section 138 (1) from 2007 when Ms. Thompson bought the land from the Government of Belize, and not from 2003 when Mr. Williams claims he first occupied the land.

Each party bears own costs.

Dated 13th day of July, 2022

Michelle Arana

Chief Justice (Ag.)

Supreme Court of Belize