

IN THE SENIOR COURTS OF BELIZE

IN THE HIGH COURT OF BELIZE

CLAIM No. CV 429 of 2022

BETWEEN:

[1] CESAR AGUSTO GARIDO

Claimant/Ancillary Defendant

and

**[1] JOSE NAJARRO
[2] WILLIAM NAJARRO**

Defendants/Ancillary Claimants

Appearances:

Rene A. Montero for the Claimant/Ancillary Defendant

Brandon S. Usher for the Defendants/Ancillary Claimants

2023: July 28
December 12

DECISION

[1] **FARNESE, J.:** Mr. Cesar Garido is the registered owner of land in the possession of Mr. Jose Najarro and Mr. William Najarro (the Najarrros). Mr. Garido became registered owner of Parcel 844, Block 4 in the Guinea Grass Village (the Property) on the 12th May 2022. Mr. Garido seeks to recover possession of the Property, mesne profits until his possession is restored, a permanent

injunction barring the Najarrros from the Property, and damages for trespass. In their defence and counterclaim by way of an ancillary claim, the Najarrros assert that Mr. Garido's title is subject to an over-riding interest they have in the Property due to their long possession. In the alternative, they claim that Mr. Garido's title was obtained by mistake and they ask that the Registrar of Lands be ordered to rectify the register to reflect their interest in the Property. They also seek damages from Mr. Garido for allegedly trespassing on the Property and cutting their fence.

[2] The Parties each claim to have been in exclusive possession of the Property from 1996 to 2017. Mr. Garido claims his family exclusively possessed the land for 60 years until 2017 when the Najarrros began grazing cattle on the land. The Najarrros claim that their father, Mr. Trinidad Najarro, acquired possession of the Property from Mr. Rigoberto Hernandez in 1996 who was given possession by Mr. Garido's father, Mr. Eduardo Garido, in 1992. Neither Mr. Eduardo Garido nor Mr. Hernandez, however, held a registered interest. The Property was national lands and remained so until title was registered in Mr. Garido's name in 2022. In 2017, Mr. Garido and his mother were granted a lease to the Property and, in 2019, were given permission to survey a portion of the larger Parcel where the Property is located. In 2020, Mr. Garido alone was given permission to purchase the Property and paid the purchase price.

[3] After reviewing the evidence and submissions presented in this case, I find that the Najarrros have proven, on a balance of probabilities, that they have an over-riding interest in the Property arising from the application of the law of adverse possession. The Najarrros satisfy the requirement in subsection 138 of the Registered Land Act [the RLA]¹ to demonstrate "open, peaceful and uninterrupted possession" of registered land for 30 years. The Najarrros are permitted to aggregate the years Mr. Garido's family were in adverse possession of the Property to their own because there was no break in adverse possession as against the Crown. The claims for mistake and damages have not been proven and are dismissed.

¹ Registered Land Act, the Substantive Laws of Belize, Cap. 194 (Rev. Ed. 2020).

Issues

- [4] This case raises the following issues:
- a) Do the Najarros have an over-riding interest in the Property by operation of the law of adverse possession?
 - b) Did the Registrar grant title to the Property to Mr. Garido by mistake?
 - c) Is either Party entitled to damages for trespass?

Analysis

Do the Najarros have an over-riding interest in the Property by operation of the law of adverse possession?

- [5] As registered owner of the Property, Mr. Garido is vested with absolute title upon registration.² Under subsection 31(1)(f) of the Registered Land Act, a grant of absolute ownership is subject to an unregistered over-riding interest in favour of any interest “acquired or in the process of being acquired by virtue of any law relating to limitation or prescription.”³ To acquire an over-riding interest in the Property through adverse possession that has priority over Mr. Garido’s title, the Najarros must prove they have been in “open, peaceful and uninterrupted possession” for the requisite period of time.⁴ The test for proving adverse possession is not in dispute and, as established by the Caribbean Court of Justice, is as follows:⁵

...a claimant to land by adverse possession needs to show that for the requisite period he (and any necessary predecessor) had (i) a sufficient degree of physical custody and control of the claimed land in the light of the land circumstances (Factual Control), and (ii) an intention to exercise such custody and control on his own behalf and for his own benefit independently of anyone else, except someone engaged with him in a joint enterprise on the land (Intention to Possess)... There must be an intention to make full use of the land in a way in which an owner would.

The possession must also be without the consent of the owner of the land.

² The RLA at s. 26 [the RLA].

³ Adverse possession is an equivalent, but more descriptive name for prescription. The terms will be used interchangeably throughout this judgment.

⁴ The RLA at s. 138(1).

⁵ *Toolsie Presaud Ltd. v. Andrew James Investment Ltd.* (2008) 72 WLR 292 at para 28.

Factual Control

- [6] The Najarrros assert that they have been in possession of the Property since 1996. Their father, Mr. Trinidad Najarro, acquired possession from Mr. Rigoberto Hernandez who was given possession by Mr. Garido's father, Mr. Eduardo Garido, in 1992. Mr. Garido disputes that the Najarrros occupied the Property prior to 2017 and claims that he and his family were in possession for 60 years. He claims that his father worked the land until his death in 1999. His mother, Mrs. Consuelo Garrido, continued to farm the Property until the Najarrros' trespass in 2017.
- [7] The burden rests with the Najarrros to prove they had physical custody and control of the Property. Although the date when the Najarrros took custody of the Property is disputed, that they have custody and control of the Property is conceded by Mr. Garido's pleadings and his testimony. Mr. Garido's evidence is that he has been excluded from the Property and his efforts to regain possession have been resisted. He further admits that the Property is fenced and being used by the Najarrros to graze cattle. Mr. Garido seeks mesne profits because he has been denied the right to use and profit from the Property as the rightful owner.
- [8] Mr. Garido offers a declaration purportedly signed by his mother before a Justice of the Peace as evidence of an agreement made in 2017 with the Najarrros' father. The agreement alleges that Mr. Trinidad Najarro agreed to pay \$50/week to Mrs. Consuelo Garrido to graze his cattle on the Property. Mr. Garido claims only one payment was made because the Najarrros intervened and refused to honour their father's commitment. He argues that this declaration is proof that the Najarrros have acknowledged that he is the rightful owner of the Property. I disagree. The Justice of the Peace was not called to testify, and the declaration was not signed by Mr. Trinidad Najarro. The court also has no evidence, other than Mr. Garido's word, that the payment was made. I have attached no weight to this agreement in my decision.

Intention to Control

- [9] The Najarrros have also proven, on a balance of probabilities, that they have the requisite intention to control the Property. I find that most of the Property was enclosed in a fence by the Najarrros which demonstrates an intention to control the Property. Mr. Garido alleges that part of the fence

that he discovered on the Property in 2017 was pre-existing and constructed by a neighbour. He offered no evidence to support this claim. Mr. Luis Najarro, the Najarros' brother, agreed that a neighbour erected the fence along one shared boundary, but that he assisted with enclosing the remaining 15 acres. Under cross-examination, Mr. Luis provided details of how the fence was constructed. His testimony was forthright and without embellishment. I, therefore, find his testimony credible. The photographs and undisputed evidence that the Najarros cleared the Property of bush and sugar cane and planted grass further demonstrate their intention to control the Property's use.

Requisite Duration of Possession

- [10] Subsection 138 of the RLA requires that a person demonstrate “open, peaceful and uninterrupted possession” of registered land for 12 years without the landowner’s consent to obtain rights by prescription unless the land is national land. The period is extended to 30 years for national lands. Mr. Garido argues that the Najarros do not have an over-riding interest in the Property because the court must look at the duration of their possession since he obtained title. He obtained title in 2022, therefore, acquisition of an interest by prescription is impossible; 12 years have not passed.
- [11] The Najarros assert, and I agree, that I must consider the total duration of their possession, including time that predates first registration, to decide whether they have an over-riding interest in the Property. In **Tiabo v Flowers and Buller**,⁶ Young J. relied on the reasons provided by the Jamaican Court of Appeal in **Recreational Holdings (Jamaica) Ltd. v Lazurus**⁷ to conclude that first registration does not restart the clock for a person in adverse possession of property. She also noted that subsection 31(1)(f) of the RLA is broader than the equivalent Jamaican provision because the registered owner is not only subject to existing rights but those “in the process of being acquired” through prescription. All registered landowners, not just those who obtain first registration, are subject to the over-riding interests in subsection 31(1).⁸ A plain reading of that subsection (f) provides no support for limiting its application to the first registered owner.
- [12] Moreover, the evidence before me is that Mr. Garido did not apply under section 138 of the RLA to acquire title to the Property based on his family’s long possession. Instead, he applied and was

⁶ Claim No. 197 of 2017 and 722 of 2017.

⁷ [2014] JMCA Civ. 34.

⁸ See e.g. *McQuarrie v. Ascendancy Belize Ltd.* Claim No. 550 of 2021.

granted permission to purchase the Property in accordance with section 13(1) of the National Lands Act, 1992.⁹ That permission references the lease to the Property Mr. Garido and his mother applied for and received in 2017 from the Crown. By applying for the lease while the Najjarros were in possession of the Property, Mr. Garido abandoned any claim under section 138 of the RLA because his possession was no longer adverse. Subsection 139(6) of the RLA provides:

(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.

(emphasis added)

[13] With the granting of the lease, Mr. Garido’s legal position relative to the Najjarros also changed. Mr. Garido was no longer a squatter who had been dispossessed by a subsequent squatter. In those cases, the law is clear, “as against the first squatter, the second squatter must himself occupy for the full period before his title becomes unassailable.”¹⁰ Mr. Garido had become a lessee seeking possession of land from a squatter who began possessing the land before the leasehold interest was created. If Mr. Garido had tried to recover possession of the Property as leaseholder, subsection 138 of the RLA would have required the Najjarros to prove “open, peaceful and uninterrupted possession” for 30 years because the Property was national lands. By its nature, an over-riding interest predates the registered claim. If the Najjarros are entitled to consider their time in possession prior Mr. Garido obtaining the registered title to prove their claim, it follows that the requirements that govern acquiring the interest through adverse possession are those that existed when possession began. The Najjarros must demonstrate 30 years of adverse possession before the date of the claim.

[14] In a claim against the registered owner, the court will consider the total years land was continuously adversely possessed to satisfy the 30-year requirement even where custody and control of the land

⁹ The Substantive Laws of Belize, Cap. 191 (Rev. Ed. 2020).

¹⁰ *Willis v Earl Howe* [1893] 2 Ch 545, per Megarry J as quoted in *Lashey v. Marchong* (2017) Civ. App. No. 266 of 2012 at para 63.

changes hand.¹¹ Kodilinye, in **Commonwealth Caribbean Property Law**, offers a clear and succinct description of the state of the law in this regard:¹²

The possession of a series of adverse possessors may be aggregated in order to make up the appropriate limitation period. Thus, if O, the original 'paper' owner, is dispossessed by X who, in his turn, is dispossessed by Y, Y may aggregate the period of X's possession with that of his own to defeat O's action for the recovery of the land, although X may recover the land from Y before the latter's independent period of adverse possession has lasted for the length of the limitation period.

In order that the periods of adverse possession may be aggregated, they must be continuous. Thus, if X abandons his adverse possession within the limitation period and, after an interval of, say two months, Y begins to possess adversely, Y cannot add his period of possession to that of X, as the periods were not continuous. The break in the adverse possession will have the effect of restoring the full rights of the paper owner, and the limitation period will start afresh with the commencement of Y's adverse possession.

(footnotes excluded)

Consequently, the Najarrros (Y) can rely on Mr. Garido's (X) time in adverse possession to satisfy the 30-year period provided that when the Najarrros dispossessed Mr. Garido, adverse possession of the Property, as against the Crown (O), has been continuous.

[15] I find the Najarrros have proven, on a balance of probabilities that they have been in "open, peaceful and uninterrupted possession" for 30 years. The evidence by both Parties presented was largely in the form of witness testimony, which was often inconsistent, imprecise, or where it was precise, self-serving. The court was presented with scant documentary evidence to corroborate the Parties' various claims. But when the evidence was viewed in its totality, the Najarrros' evidence was more compelling and supports a finding that they have been in possession of the Property from 1999. The findings of fact that follow further demonstrate that the Property has been continuously adversely possessed since Mr. Eduardo Garido first possessed the land in the 1970s.

[16] There were some facts to which the Parties agreed. The Najarrros' pleadings concede that the Property was initially in the custody and control of Mr. Garido's father, Mr. Eduardo. Mr. Garido's evidence that his father took possession of the Property in the 1970s and farmed it for at least 20 years is not only supported by the testimony of several witnesses but is undisputed. The Parties also agree that the Property has been continuously adversely possessed since Mr. Eduardo first began farming the land. It is not the Najarrro's evidence that the Property was unoccupied when

¹¹ *Lashley v Marchong* (2017) Civ. App. No. 266 of 212 (Trinidad and Tobago).

¹² Gilbert Kodilinye, *Commonwealth Caribbean Property Law*, 5th ed., 2022 at 218.

they took possession. Rather, they claim to have come into possession as the successor of a prior adverse possessor, Mr. Hernandez, who was transferred the Property by Mr. Eduardo Garido. Finally, the Parties agree that at some point sugar cane was planted on the Property and subsequently cleared by the Najarrros. How much cane, who planted it, who farmed it, and when it was cleared are disputed.

- [17] Mr. William Najarro testified in support of his defence and the counterclaim. He maintained under cross-examination that his father obtained the Property from Mr. Hernandez but cannot recall the year because he was a young child at the time. He checked cattle on the Property in 2000 and assisted with putting up a fence in 2002 and 2003 after which the family exclusively raised cattle on the Property. He also provided a 2001 letter detailing his father's request to have his sugar cane license transferred to Guinea Grass where the Property is located. While the request confirms that the Najarrros were in the area in 2001, it does not confirm that they were farming the Property. Mr. Trinidad Najarro had other land in the area. Consequently, I assign no weight to the request to transfer in my decision.
- [18] Mr. Jose Najarro also testified. His evidence mirrors that of his brother, Mr. William. Mr. Jose claims that when his father obtained the Property from Mr. Hernandez, 7 acres were cleared. He says the remaining acres were cleared by 2002. The year after, the family gave up cane farming and only raised cattle. Mr. Jose admitted under cross-examination that he did not provide any documentation to support his claim that the family raised and sold cattle from the Property.
- [19] Mr. Luis Najarro, another son of Mr. Trinidad, also testified. His evidence supports that of his brothers. He states that he returned from Guatemala in 1999 and began assisting his family on the Property. He testified under cross-examination that he was certain of the Property's size and location because he fenced it.
- [20] Mr. Hipolito Humes lives on land adjacent to the Property. He testified that Mr. Eduardo Najarro had a small portion of the Property cleared and planted with corn until 1991 or 1992. He believes Mr. Eduardo cleared 3 or 4 mecatres (approximately 7 acres). He testified that after 1992, the Property was farmed by Mr. Hernandez and then, in 1996, by Mr. Trinidad. He states that the Najarrros have been on the Property ever since.

- [21] Mr. Ovidio de Jesus Mendez testified that he worked for Mr. Trinidad in 1999 on the Property. He recalls that about 7 acres were cleared when he arrived. He assisted with cleaning sugar cane, making fenceposts and clearing approximately 15 acres. Although he did not specify a date, he does remember Mr. Trinidad began to raise cattle on the Property.
- [22] Finally, Mr. Rigoberto Hernandez testified and confirmed that he acquired the Property from Mr. Eduardo in 1992. He also confirmed that he transferred the Property to Mr. Trinidad in 1996. He maintains that he cleared the first 7 acres of the Property, not Mr. Eduardo.
- [23] Mr. Garido, however, was unwavering in his claim that his family actively farmed the Property for 60 years. He says he helped his father on the Property when he left school at age 14 and before he began working in Belize City. He states that his mother continued to farm sugar cane after his father died in 1999. He claims that his mother received a “quota” from BSI, so she planted and harvested sugar cane on the Property until 2016.
- [24] Mr. Thomas Munoz farms land approximately 500m from the Property. He testified that the Najarrros did not have possession of the land between 1996 and 2012 because he worked and visited weekly with Mr. Eduardo before his death in 1999 . He saw Mrs. Consuelo Garrido continuing to work on the Property until 2012. He also refutes the Najarrros evidence that the land was planted with corn prior to 2000. Mr. Munoz recalls only seeing sugar cane that Mrs. Consuelo continued to work until 2012. He testified that the Property contained sugar cane until 2015 or 2016, which is also when he began to see cows grazing. Mr. Munoz admitted under cross-examination that he could not say to whom the cattle belonged.
- [25] Finally, I give no weight to Mr. Patricio Carillo’s evidence. While Mr. Carillo was certain about the land the Najarrros are currently farming as belonging to the Garidos, I do not find his memory particularly reliable. For example, he could not remember the year that he was forced to abandon lands he was farming by BSI or who farmed other lands near him but was certain that the Garidos continually farmed the Property until they were allegedly, wrongfully displaced by the Najarrros in 2016 or 2017. He also says 20 acres of the Property were planted with sugar cane when all other witnesses spoke of the amounts planted which are less than half of the Property’s total acres. Finally, he was certain that he would see Mr. Garido working alongside his mother on the Property after his father died. Under cross-examination, Mr. Garido admitted to only helping his mother twice.

Based on Mr. Garido's witness statement, one of those times was in 2017 when he alleges, he first discovered the Najjarros on the Property.

[26] When I review the totality of the evidence, I find that the evidence equally supports a finding that the Property was transferred to Mr. Hernandez in 1992 and then to the Najjarros in 1996, and a finding that the Property remained in Mr. Eduardo's possession until he died. Therefore, the Najjarros have not satisfied the burden to show that they were in possession before 1999. After 1999, the balance of the evidence supports a finding that the Najjarros were in possession of the Property.

Before 1999

[27] Mr. Munoz testified to visiting Mr. Eduardo weekly until his death and to have worked for him after 1996. I find it reasonable that as Mr. Eduardo's employee and neighbour, Mr. Munoz would be able to recall the date when he stopped working with him on the Property. I found his evidence credible. Mr. Garido, however, offered no independent evidence to verify his claim that he assisted his father on the Property until he died. I also find that his testimony lacked candour and consistency. For example, in his Witness Statement, Mr. Garido says that in 2017 when he and his mother went to the Property, they found their sugar cane field destroyed and cows grazing, which is when they first discovered the Najjarros on the land. They subsequently met with Mr. Trinidad and arranged the lease payment. Under cross-examination, Mr. Garido stated his mother came to him crying for assistance after she and Mr. Trinidad made the lease agreement. He then met with Mr. Trinidad and the Najjarros who refused to honour the agreement after making one payment.

[28] Unlike Mr. Munoz, Mr. Humes provides no explanation for why he specifically recalls that the Property transferred from Mr. Eduardo to Mr. Hernandez in 1992 and then to Mr. Trinidad in 1996. He also admitted, under cross-examination, that he was not privy to the agreements that resulted in the Property changing hands. I also give little weight to the Najjarro's evidence as to how and when their father acquired the Property. Not only is the evidence hearsay, but their age when these events occurred raises questions of reliability. Furthermore, it is suspicious that Mr. Hernandez had possession exactly the additional number of years the Najjarros needed to satisfy the statutory requirement to acquire national lands through adverse possession. The court was not provided with any independent verification to allay those suspicions.

After 1999

- [29] Both Mr. Luis and Mr. de Jesus Mendez testified to working on the Property with Mr. Trinidad in 1999. Mr. Luis remembers the year because he returned to Belize after living elsewhere. When cross-examined, Mr. de Jesus Mendez maintained that he worked on the Property and not other land owned by Mr. Trinidad and was firm that he was employed in 1999. I found both witnesses credible. They directly responded to questions under cross-examination and provided answers that were consistent with their witness statements.
- [30] The Najarros maintain that they stopped farming sugar cane in about 2004 and since then have and only raised cattle on the Property. They assert that they finished clearing the land in 2005. Whether clearing included removing the sugar cane or just the natural bush was not explained to the court. Photographs, taken been 2017 and 2021 and submitted as evidence, show mature pastures planted to grass and cleared of bush and sugar cane indicating the Property was more likely than not cleared earlier than 2015 as Mr. Munoz recalled. The evidence of cleared lands and mature pastures also support the Najarros' claims they have primarily used the land to graze cattle.
- [31] Mr. Garido, on the other hand, offered no documents or witness from BSI to corroborate his claim that his mother was farming sugar cane until 2017 in accordance with a quota. I find the absence of that evidence suspect especially as all Parties agree that the Najarros had possession of the Property and were disputing Mr. Garido's assertion of rights from 2017. It was more likely that Mrs. Consuelo's quota was satisfied with sugar cane grown within BSI's land. Mr. Munoz testifies Mrs. Consuelo harvested sugar cane until 2012. The court notes that two witnesses testified that 2012 is around the time that Belize Sugar Industries (BSI) dispossessed many who had been farming their land. BSI's land is nearby the Property. Given that timing and the fact that not all the Property was fenced, I find it more likely than not that Mrs. Consuelo was farming other sugar cane located within BSI's lands.
- [32] While I accept that Mr. Munoz would recall who did not continue to farm sugar cane after BSI's actions, I am not convinced that Mr. Munoz has an accurate recollection of what sugar cane Mrs. Consuelo continued to harvest after her husband died. He also testified that he keeps to himself when he visits his land. He does not reside on those lands and the court was not given any indication of how frequently he visited. The court also cannot rule out the possibility that Mr. Munoz

did not notice cows on the Property before 2015. Therefore, I prefer the Najjarros' evidence regarding the Property's land-use after 1999 to Mr. Garido's.

Did the Registrar grant title to the Property to Mr. Garido by mistake?

[33] The Najjarros pled mistake in the alternative to their claim for adverse possession. Having succeeded on the first question, deciding whether a mistake was made will not change who is entitled to possession of the Property. A few comments are nonetheless warranted to support my finding that the Najjarros have not proven that the title was registered to Mr. Garido by mistake.

[34] The Najjarros have argued that Mr. Garido procured title to the Property through fraudulent claims that his family were in adverse possession of the Property until 2017. My finding that the Najjarros have proven that they have had possession of the Property since 1999 does not automatically lead to the conclusion that title was mistakenly registered in Mr. Garido's name because it was based on fraudulent claims. That Mr. Garido testified that he received a recommendation from a local politician after he discussed his family's long possession of the Property does not change that fact.

[35] First, Mr. Garido applied and was granted permission to purchase the property in accordance with section 13(1) of the National Lands Act, 1992. He did not rely on section 138 of the RLA to acquire title to the Property based on his family's long possession. In these circumstances, without evidence from the Lands Department, I cannot know what factors were considered in the Minister's decision to grant the right to purchase. Therefore, I have no basis to conclude that the registration was a mistake because it was based on the long possession claims by Mr. Garido.

[36] Second, the Najjarros have not proven fraud. I have no doubt in the sincerity of Mr. Garido's belief that his family's long connection to the Property entitles him to title. I have also found that the Najjarros have not proven that their claim that they received their title from Mr. Eduardo through Mr. Hernandez. Therefore, the Najjarros cannot argue that Mr. Garido fraudulently received title despite knowing that his father voluntarily transferred his interest in the Property.

[37] While it may seem unjust that adverse possession rewards a trespasser, the root of title to land at common law is possession. A person cannot sleep on their rights and then complain to the court for a remedy. Section 138 of the RLA reflects a public policy choice to grant title to persons with

long-standing possession of national lands. This choice permanently removes land from the public trust and places it in private hands. The requirements of section 138 must be strictly observed.

[38] As no mistake has been found, the court is not at liberty to order the Registrar of Lands to rectify the title. Subsection 143(1) of the RLA permits the court to order rectification only “where it is satisfied that any registration, including a first registration, has been obtained, made or omitted by fraud or mistake.” The Najarros, however, are entitled to apply to be registered as “proprietor” because they have proven their claim of adverse possession.¹³ The Registrar can rely on their authority under subsection 31(2) to direct the registration of any rights arising from an over-riding interest.

Is either Party entitled to damages for trespass?

[39] Neither Party is entitled to damages. The Najarros’ over-riding interest in the Property entitles them to possession of the land. They are not trespassers. Mr. Garido is not entitled to the damages he seeks arising from that possession. The Najarros also have not proven that Mr. Garido is responsible for cutting their fence. No evidence was presented to the court to demonstrate how the fence came to be cut or who was responsible.

Disposition

[40] It is hereby ordered and declared that:

1. Mr. Cesar Augusto Garido’s claim against Mr. Jose Najarro and Mr. William Najarro is dismissed.
2. Mr. Jose Najarro and Mr. William Najarro have been in open, peaceful, and uninterrupted possession of the Property, specifically described as Registration: Guinea Grass, Block 4, Parcel: 844, containing 20.469 acres of land, and captured under Land Certificate: LRS-20220596, dated 12th May 2022 since 1999.
3. The registered title to the Property is subject to the over-riding interest of Mr. Jose Najarro and Mr. William Najarro as a result of their position as the last in a continuous chain of persons who have had longstanding adverse possession of the Property;

¹³ The RLA at s.38(2).

4. Mr. Cesar Augusto Garido must deliver possession of the Land Certificate: LRS-20220596 to the Ministry of Natural Resources, Land's Department by 10th January 2024.
5. The Registrar of Lands is ordered to register Mr. Jose Najarro and Mr. William Najarro as registered owners of the Property upon their application.
6. Mr. Jose Najarro and Mr. William Najarro are entitled to a permanent injunction restraining Mr. Garido, whether by himself or his agents, from entering or being on the Property or any portion of the Property thereof;
7. Costs are awarded to Mr. Jose Najarro and Mr. William Najarro as agreed or assessed.

Patricia Farnese
High Court Judge