

IN THE SENIOR COURTS OF BELIZE

IN THE HIGH COURT OF BELIZE

CLAIM No. CV169 of 2023

BETWEEN:

**[1] SHAWN DILLON DAWSON AND DWAYNE ALLEN DAWSON
(ADMINISTRATORS of the Estate of FRANK ANSWORTH
DAWSON, deceased)**

Claimants

and

**[1] TERESITA MARIE MOODY (As Administrator of the Estate of
OLGA MAE INGRAM Neè JONES)
[2] TERESITA MARIE MOODY**

Defendants

Appearances:

Ms. Tiffany Cadle for the Claimants
Mr. Orson J. Elrington for the Defendants

2023: November 13th and 15th;

2024: March 25th.

JUDGMENT

[1] **ALEXANDER, J.:** The claimants, as administrators of the estate of Frank Dawson, deceased, claim in proprietary estoppel an interest in a portion of land along Phillip Goldson Highway. The claimants claim that when Frank Dawson built his house on lands belonging to Olga Mae Ingram Nee Jones, deceased, it was done on her promise to pass title to Frank Dawson. The defendants are the daughter and administrator of the estate of Olga Mae Ingram Nee Jones (“the deceased Ingram”). The defendants dispute that there was ever any intention by the deceased Ingram to sub-divide her property or to pass title to Frank Dawson. On the death of Frank Dawson, the second defendant moved

onto the disputed property, allegedly taking control of the house, its contents and two vehicles owned by Frank Dawson.

- [2] The claimants seek declarations that the Estate of Frank Dawson is entitled to possession of the said land or that there is an overriding interest held on trust for it by the Estate of the deceased Ingram. The claimants also claim damages for trespass and for detinue of a 1998 Ford Explorer and a 2005 Toyota Camry.
- [3] Following a full trial of the issues in this claim, the evidence supported a finding that the Estate of Frank Dawson has an overriding interest in equity in the disputed land. Frank Dawson relied to his detriment on the representation and/or conduct of the deceased Ingram in constructing his house on the disputed land. Having satisfied me that a proprietary estoppel has arisen over the disputed land, I find in favour of the claimants' claim. I, therefore, make the declarations and orders as sought by the claimants to the extent limited below. I set out below my reasons.
- [4] I shall refer to the claimants as "the Dawson brothers" and the defendants together or singly as "Mrs. Moody".

Facts

- [5] The Dawson brothers brought this claim in their representative capacity on behalf of the Estate of Frank Dawson, their father. During his lifetime, Frank Dawson built his house on 0.83 acres of land, which forms part of a larger piece or parcel of land duly registered under the Registered Land Act Cap 194 as 1257 Block 11 Belize Rural North II, Mile 19 ½ Sandhill Village, Phillip Goldson Highway ("Parcel 1257").
- [6] I shall refer to the 0.83 acres of land on which Frank Dawson built his house as "the disputed land".
- [7] There is no disagreement that the disputed land is registered in the name of the deceased Ingram. There is also no disagreement that when Frank Dawson constructed his home

on the disputed land, he did so during the lifetime of the deceased Ingram, and in open and full view of the public. The deceased Ingram died on 22nd March 2018. There were no attempts taken by the deceased Ingram during her lifetime or, after her demise by Mrs. Moody, to stop Frank Dawson's construction and/or development of the disputed land. The evidence is incontrovertible that it is only upon the death of Frank Dawson on 4th January 2022 that Mrs. Moody moved onto the property, with workmen, and began making alterations to the house built by Frank Dawson. Mrs. Moody claims ownership of both the house and disputed land that are at the centre of the present proceedings.

- [8] On 8th March 2023, the Dawson brothers obtained a Grant of Probate Number 52 of 2023 to the Estate of Frank Dawson ("the Dawson Grant"). To date there has been no step taken by Mrs. Moody or anyone else to set aside the Dawson Grant.

The Claim

- [9] On 21st March 2023, the Dawson brothers filed an injunction to restrain Mrs. Moody, from unlawfully trespassing onto and destroying the contents of the dwelling house on the disputed land, and from wrongfully interfering and converting two vehicles on the said property for her personal use. By their application, the Dawson brothers also sought to prevent Mrs. Moody from removing existing fencing and survey boundary markers that demarcated the disputed premises, and from disposing of or interfering with the quiet enjoyment, by the heirs of Frank Dawson, of the contents of his Estate.
- [10] The application for interim relief was accompanied by a fixed date claim form. The claim is in equitable estoppel and seeks declarations that the Estate of Frank Dawson is entitled to possession of the disputed land. It also asks for registration of an unregistered plan drawn by licensed land surveyor Cyril Samuels, Jr under section 16 of the Land Surveyors Act Chapter 187. The Dawson brothers claim that the Estate of Frank Dawson has an overriding interest, held on trust in the disputed land, by the Estate of the deceased Ingram. They asked for a declaration to that effect and for a Certificate of title to be issued for the disputed land to the Estate of Frank Dawson.

[11] Basically, the Dawson brothers seek, by their claim, to prevent Mrs. Moody from taking possession of the disputed land for her personal use or as forming part of her mother's Estate.

[12] At a hearing on 30th March 2023, this court granted the interim relief to the Dawson brothers, stopping all activities on the disputed land, and ordered that Mrs. Moody be served.

The Defence

[13] In a defence filed on 2nd May 2023, Mrs. Moody stated that Frank Dawson was the nephew of the deceased Ingram (her mother). The deceased Ingram did not treat him like a son, as the Dawson brothers were claiming. Both the deceased Ingram and Frank Dawson were raised as family by the parents of the deceased Ingram after his mother died. Nothing turns on this issue that Mrs. Moody raised in her defence, as the familial relationship was confirmed.

[14] Mrs. Moody admits that Frank Dawson made "significant investments in the construction of the two-storey concrete house" on the disputed land. Her case, however, was that this was done so he could use the property "as a vacation home for himself and his family while he was alive".

[15] By her defence, she asserts that Frank Dawson never had any promise that title would be passed to him, as the said two-storey concrete house was built for and intended to be used as a family house, for the enjoyment of all family members. Frank Dawson and his family were to be the primary persons to use the property, but it belonged to the entire family who assumedly were free to use it as their vacation home or otherwise. Mrs. Moody states that "multiple parties" contributed financially to the building of the two-storey concrete house including the deceased Ingram and Mrs. Moody herself. She did not identify who were the other "multiple parties" or the nature of their contributions. The fact that the other family members had never utilized the house on the disputed land or that

she had only assumed ownership after Frank Dawson's death was not addressed by Mrs. Moody in her defence.

[16] Regarding title, Mrs. Moody's case was that the deceased Ingram never intended to subdivide Parcel 1257 and/or to give title to anyone who built on the deceased Ingram's lands. Other people were allowed to build on Parcel 1257 without ever being given title. Mrs. Moody stated further that the disputed land was eventually "transferred into her name as her lawful right and the wishes of her deceased mother". Mrs. Moody produced a Land Certificate Title LRS-202301777 to show that she now has good title to all the lands of the deceased Ingram i.e. Parcel 1257.

[17] In answer to the claim that the two vehicles were wrongfully interfered with or detained by her, she stated that the 2005 Toyota Camry was "fraudulently transferred to the Dawson brothers." She annexes a Certificate of Title 67906 showing this transfer. She did not deny the allegation made against her but simply alleged fraud.

[18] By her defence, she seems to be making the case that the two vehicles of Frank Dawson are also lawfully hers. She, therefore, decried the action of the Dawson brothers to transfer title to one administrator, claiming it was done fraudulently, given that the signature of Frank Dawson was on the transfer form. This allegation of fraud was not properly made out at the trial and is dealt with below.

Issues

[19] The issues, as this court finds them, are:

1. Whether a claim in proprietary estoppel exists in favour of the Estate of Frank Dawson and/or the Dawson brothers?
2. Whether the defendants are Estopped from denying the interest of the claimants?
3. What is an appropriate relief for proprietary estoppel?
4. Was the claim of a fraudulent transfer of Frank Dawson's vehicle, one of the administrators of the Estate, properly made out?
5. Whether evidence of the quantum for trespass can be led at an assessment?

Issue No. 1: Whether a claim in proprietary estoppel exists in favour of the Estate of Frank Dawson and/or the Dawson brothers?

The Law and Analysis

[20] The law on proprietary estoppel is well traversed. For a claim in proprietary estoppel to be successfully pursued, there are three main elements to be satisfied. These include: “a representation or assurance made to the claimant; reliance on it by the claimant; and detriment to the claimant in consequence of his (reasonable) reliance.”¹ The common thread running through all three elements is that equity is concerned to prevent unconscionable conduct.

(i) Was a Promise or Representation Made to Frank Dawson?

[21] The question that arises here is whether the deceased Ingram, as landowner, represented to Frank Dawson that she would grant him the disputed land or she stood by and did not assert her title to the land while he developed the land.²

[22] A proprietary estoppel can arise where a party stands by or actively encourages, through a representation of fact or promise, the development of the property. The representation or promise can be by words or conduct including silence, inaction, or negligence. It is not necessary to show a written agreement once the landowner induced, encouraged, or allowed the claimant to believe that he has or will acquire a right or interest in the property.

[23] To satisfy this condition, the promise or representation must be clear and be more than a statement of current intention. Generally, evidence of the representation is needed to satisfy this element. If the evidence comes from a third party who does not stand to benefit from the promise, the limb can be satisfied. To settle this issue, a court will undertake a

¹ *Thorner v Major* [2009] UKHL 18 at paragraph 29.

² *Commonwealth Caribbean Land Law* at page 186.

retrospective analysis of the conduct or action of the promisor, which will include the character and relationship of the parties.³

[24] In the present matter, the owner of the land is deceased so is unable to speak on her own behalf. Her daughter, Mrs. Moody, is adamant that no such promise was given by the deceased Ingram to Frank Dawson. Mrs. Moody relies on the fact that during the lifetime of the deceased Ingram, the property was never subdivided although the deceased Ingram permitted multiple persons to build on Parcel 1257.

[25] During cross-examination, Mrs. Moody stated that there were eight houses on Parcel 1257, with some thirteen to fifteen persons residing on the property. The persons in occupation include *inter alia* Mrs. Moody, one of her daughters and a Mr. Ambrose Gilroy Underwood (the caretaker of the property and father of the son of the deceased Ingram). All persons have been in occupation of different pieces or portions of Parcel 1257 for several years, all during the lifetime of the deceased Ingram without having titles passed to them. Mr. O.J. Elrington, counsel for Mrs. Moody, argues that this practice for occupation of Parcel 1257 constituted irrefutable evidence that it was never the deceased Ingram's intention to pass title to Frank Dawson or anyone else. I disagree.

[26] I accept only that the deceased Ingram did not subdivide Parcel 1257 during her lifetime.

[27] In my view, the fact that the deceased Ingram did not subdivide Parcel 1257 does not automatically mean that she never made a promise by word or conduct to Frank Dawson that she would pass title to him. That is the issue that now engages this court. Both the deceased Ingram and Frank Dawson are unavailable to give direct evidence of any promise or representation that might have been made between them to subdivide the disputed land. I turn to the conduct of the deceased Ingram and Frank Dawson to determine first if there was representation on which Frank Dawson relied.

[28] The evidence is clear that Frank Dawson expended huge sums to develop the disputed land and to build his house. Did he do this for the benefit of all family members and/or for

³ Thorner, *supra* note 1.

the purpose of having “a *place*” to stay during his yearly vacation? I have no evidence of a direct representation by words of the deceased Ingram hence the parties’ conduct was critical.

[29] There was evidence that during the lifetime of the deceased Ingram, Cyrus Samuels Jr., a surveyor (“Mr. Samuels”) was asked by Frank Dawson to do a survey. He attended the site and, in the presence of the deceased Ingram and on her directions, he placed markers on the boundaries around the disputed land on which Frank Dawson built his house. There were also allegations that the boundary markers placed around the disputed property were removed following the death of Frank Dawson. The evidence of Mr. Samuels is critical in helping to resolve this issue, so I now turn to it.

[30] Mr. Samuels stated that in 2015, he was paid BZ\$1500 by Frank Dawson to survey and do a subdivision of Parcel 1257. He visited the site and did markers of the boundaries, based on what was pointed out to him by the deceased Ingram. He claimed that while there, he was told by the deceased Ingram that she intended to pass title to Frank Dawson. He placed four Pillars around the disputed land, in the presence of the deceased Ingram and Frank Dawson. He stated that this commenced the groundwork for the survey, but the application to subdivide was not lodged because the deceased Ingram could not find her title for Parcel 1257. During cross-examination, Mr. O.J. Elrington made heavy weather about Mr. Samuels’ failure to follow the “Guidelines for Survey Submission”⁴. He pointed out that Mr. Samuels did not serve a notice on Mrs. Moody, as required by law, and did not register any survey. In response, Mr. Samuels stated that commencing a survey and registering it are two different things. It was not unusual to first visit the site to take the measurements ahead of time as the actual groundwork was the hardest part of the application process to subdivide the land.

[31] Mr. Samuels’ evidence was unshaken. He presented as a credible, and forthright witness. I had no indication that his evidence was anything but independent. Mr. Samuels maintained that the deceased Ingram was present and pointed out the piece of land to

⁴ Guidelines No. 1/2021-Survey & Mapping Section: For Surveyors to satisfy the Requirements for Consideration of Authentication of a Survey Plan, Belmopan, 14th June 2021.

be measured. He then placed markers along the boundary areas pursuant to her instructions. He did not complete the process as she could not produce her title documents. I accepted his evidence.

[32] I did not find favour with the arguments of Mr. O.J. Elrington, which sought to focus me on Mr. Samuels' failure to follow the strict letter of the law, as contained in the "guidelines" to apply for subdivisions. He pointed to the lack of documents to corroborate the evidence of Mr. Samuels, which included inter alia a letter of authorization from the deceased Ingram and an application for provisional approval signed by her. He argued that Mr. Samuels did not have these documents because he was never requested to commence any survey by either the deceased Ingram or Frank Dawson. On these bases, he invited me to make a finding that Mr. Samuels had lied about the deceased Ingram expressing an intention to pass title to Frank Dawson. As already mentioned, I found Mr. Samuels to be a credible witness and accepted his evidence.

[33] The learning allows evidence that comes from a third party, who does not stand to benefit from the promise, to be used to support representation.⁵ Mr. Samuels provided me with evidence of the conduct of the deceased Ingram and of Frank Dawson. It led me to the conclusion that there was some representation of intention to pass title of the disputed land to Frank Dawson. Why else would the deceased Ingram be present during the site visit and be actively participating in identifying the boundaries of the disputed land. I was fortified in this position when, during cross-examination of Mr. Samuels, it came out that Mrs. Moody too was present during his visit.

[34] Further, other witnesses spoke of the uninhibited way in which Frank Dawson constructed the dwelling house, building it bit by bit since 2005 whenever he was in Belize. There was no evidence that pointed to the deceased Ingram asserting her rights or barring Frank Dawson from developing the disputed land. Mrs. Moody's defence was that Frank Dawson had the deceased Ingram's permission "to contribute" towards building the dwelling house so he could stay there whenever he was in Belize. I do not accept her evidence as truthful. In fact, there were occasions where her statements were shown to

⁵ Supra note 2.

be far from the truth. She claimed in her witness statement that it was only in 2018 that Frank Dawson started making *frequent* visits to Belize, assumedly this was after the demise of the deceased Ingram. During cross-examination, Mrs. Moody resiled from this statement and admitted that Frank Dawson was a yearly visitor to Belize, prior to and during the work on the disputed land. Notably, her evidence of Frank Dawson's sporadic trips to Belize conflicted with that of other witnesses including that of Alrick Moody, her husband, who admitted during cross-examination that Frank Dawson was a *regular* visitor to Belize and stayed at their home before the construction of the said house. Alrick Moody was adamant though that the disputed land was not gifted to Frank Dawson because Parcel 1257 was not to be subdivided but to remain family property, with her holding the lawful rights to it.

[35] On the evidence before me, I accepted that the deceased Ingram was present and gave instructions to Mr. Samuels for subdivision of the disputed land. Further Frank Dawson paid for the survey believing that he would be given title. I inferred that these acts were the first steps in the process of passing title. By participating in the commencement of the survey and pointing out the boundaries for the disputed land, the deceased Ingram evinced that she intended to give Frank Dawson title to or an interest in the disputed land.

(ii) *Was there Reliance on a Representation Made to Frank Dawson?*

[36] I find that there was reliance by Frank Dawson on the representation of the deceased Ingram. By her conduct, the deceased Ingram led him to believe that she would be passing to him an interest in the disputed land. The evidence of the Dawson brothers points to Frank Dawson making significant financial and other investments in the disputed land. Mrs. Moody collaborated this evidence of his investments but claimed that he was doing it for the benefit of all family members. I do not accept her arguments as establishing that Frank Dawson expended his time and monies in developing the land without the promise of title. His conduct must be examined to determine if it evinced a reliance on a representation made to him.

[37] First, Frank Dawson alone paid for the construction of the house and other developments of the disputed land. The house took several years to build, with work only taking place when Frank Dawson would make yearly visits to Belize. On all such visits, he hired and paid workers engaged in the construction on and development of the disputed land. Secondly, the evidence showed that he and his workers had unimpeded access to the disputed land during the construction of the dwelling house. Thirdly, he used monies from the sale of a property he owned in USA to build the house and he would also bring vehicles and other items to sell every time he visited Belize. The question is whether he was acting in reliance on a promise that he would get title or, out of magnanimity, for the benefit all family members.

[38] The evidence of the several witnesses called by the Dawson brothers pointed to Frank Dawson doing work on the disputed land whenever he was in Belize. There was no evidence of work being done in the absence of Frank Dawson. There was no evidence of monies being spent on developing the disputed land other than by Frank Dawson. Mr. Polin Morales gave evidence that he was hired by Frank Dawson over the years 2005, 2006 and 2007, as a trucker, to deliver different types of soil, sand, and gravel to fill a 6 feet deep pond on the disputed land. He also recently delivered a truck load of clay to the disputed land some two years before Frank Dawson died. He stated that Frank Dawson always paid him personally for his trucking services, and he made his deliveries without incident and only when Frank Dawson was in Belize. He was never contracted by or paid for his services by the deceased Ingram or Mrs. Moody. He admitted that he could not speak to any arrangements or investments that they might have in the house on the disputed land.

[39] Another witness, Ms. Samantha Moody, the daughter of Mrs. Moody, gave evidence that corroborated that of other witnesses. She stated that construction work on the disputed land only took place when her Uncle Frank was in Belize; she saw him paying the workers and only Frank Dawson and his children occupied or stayed at that property. She never saw her mother making any payment to any worker or contributing to the construction in any way. She stated also that her mother, Mrs. Moody, always referred to the house as Frank's house and that between the years 2018 and 2022 when the deceased Ingram

and Frank Dawson died respectively, Mrs. Moody never made any claims to the disputed land or house, nor did she attempt to have him vacate the disputed property.

[40] I was satisfied, on the evidence, that there was reliance by Frank Dawson on the representation and/or conduct of the deceased Ingram in developing the disputed land. I rejected Mrs. Moody's oral evidence and that of her husband that she financially contributed to the building of the said house as did the deceased Ingram. She produced no evidence of these alleged financial investments save her say so. She stated that she was the business partner of Frank Dawson. She did not prove this business relationship. She claimed that she would help him sell the items he brought yearly from the USA, and some of the money went into building the said house so that constituted her contribution or investment. She admitted that she was paid for assisting him to sell the items but relied, however, on the additional sums from those sales that were invested into the construction as her contribution and/or investment into the said house. I did not accept that her oral evidence proved that she had made financial investments into the building of the said house or that she was the business partner of Frank Dawson in the sale of these items. She provided no real evidence of the actual sums that constituted her share of the alleged investment. There was also no evidence that she contributed to the purchase of the items in the USA, and in what sums. I was at a loss as to what percentage of the monies invested from the sales, into building of the house, constituted her contribution as Frank Dawson's partner. There was also no evidence of monies invested by the deceased Ingram into developing the disputed land.

[41] In my judgment, the claim of a business relationship with Frank Dawson was manufactured by Mrs. Moody to buttress her case that she had made a financial investment in building the house on the disputed land. In my judgment, further, her evidence of financial contribution(s) or of a business partnership was self-serving and unbelievable. Her evidence was rejected.

[42] I find also that Alrick Moody and his daughter, Celenia Moody-Rivers, were not credible witnesses for the defence. Both were found to be avoiding the truth or prone to half-truths. For example, Alrick Moody in his evidence in chief explained that he was "contracted" to

do the maintenance, construction, and development of the disputed land. He failed to say by whom. He failed to indicate if he was paid for his work and the sums paid. He stated that the deceased Ingram invested in building the said house but could not explain how he knew this or the content of the investment. In my view, Alrick Moody came to corroborate his wife's claim. He stated that his wife, Mrs. Moody, was in business with Frank Dawson, by selling items brought in from the USA. He provided no details of Mrs. Moody's financial contributions towards purchase of items for sale in the USA including of the vehicles. His evidence of this partnership was at best tenuous and was rejected. Another area of concern with Alrick Moody's evidence was the conflict between his witness statement and oral testimony. When asked to explain his evidence in chief that Frank Dawson only started coming to Belize in 2018 and his oral testimony that Frank Dawson made "regular" or yearly trips to Belize, he was adamant that he was not lying. He refused to explain the evidentiary discrepancy. He admitted though that Frank Dawson stayed at their house while the construction of the said house was taking place.

[43] Celenia Moody-Rivers, the daughter of Mrs. Moody, who lives on Parcel 1257 proved also to be a stranger to the truth and an exaggerator. Celenia Moody-Rivers stated that she could not say if the disputed land is fenced, although she lived across from the property all her life. She also claimed that she paid "miscellaneous expenses" for the said house, and only conceded during cross-examination that these were the electricity and water bills only for which Frank Dawson would reimburse her. She conceded also that her mother, Mrs. Moody, never paid any of the house bills since, if Celenia Moody-Rivers was not repaid by Frank Dawson, she had to stand the loss of these payments.

[44] In my judgment, both defence witnesses came with rehearsed stories and proved not to be forthright or credible witnesses.

[45] On a totality of the evidence before me, I am satisfied that Frank Dawson bore the sole responsibility for the expenses associated with developing the disputed land and building his house. He did so because of his reliance on the representation made by the deceased Ingram.

(iii) Did Frank Dawson Suffer a Detriment because of his (Reasonable) Reliance on the Representation?

[46] I find on the evidence that Frank Dawson suffered a detriment by his reliance on the representation of the deceased Ingram. She, however, is not present to advance her own case so I must look at the matter in the round. In this regard, I find helpful a discussion in a matter involving a deceased landowner by Young J in **Concepcion Mis v Glenn Jay Mis et al**⁶ at paragraphs 12 and 13, which I quote liberally from and will adopt.

12. The Court may find it to be unconscionable to allow the landowner to assert strict legal rights in such circumstances. The possibility exists that the landowner's rights may be affected, but he is now deceased. He can not speak on his own behalf and this leaves quite a gap. The Court is, therefore, called upon **to make a thorough analysis of all the evidence provided from those who knew him and any action he took in relation to the Property.**

13. That evidence must prove that Manuel encouraged Omarcito to believe that he would acquire some right over the Property; that in reliance on this encouragement, Omarcito acted to his detriment and finally that **it would be unconscionable for Manuel, or anyone claiming through him, to deny Omarcito the right he expected.** [My emphasis]

[47] The evidence of Shawn Dawson detailing how Frank Dawson was able to finance the said house was unchallenged. This included evidence that Frank Dawson sold his home in California for US\$500,000 which he invested in the construction of the said house. Moreover, I find unimpeachable the evidence of the surveyor, Mr. Samuels, that the deceased Ingram actively engaged in the survey commenced at the site of the disputed land. There is no evidence of the deceased Ingram asserting her rights over the disputed land or seeking to stop the development of it. If anything, the evidence pointed to her encouragement and support of Frank Dawson in developing the disputed land.

[48] Given the conduct of the deceased Ingram and Frank Dawson, I am satisfied that Frank Dawson's reliance on the representation was reasonable, and it was done to his detriment.

⁶ Claim No. 666 of 2017.

[49] I am satisfied on the unchallenged evidence also that Frank Dawson's contributions and/or investments in developing the disputed land and building the said house were significant, as agreed by Mrs. Moody. She produced no credible evidence of any contribution that she allegedly made towards the development of the disputed land. In my judgment, her claim to ownership of the disputed land and house came after the death of Frank Dawson and I am not satisfied that her case has been made out. I rejected Mrs. Moody's claim as to the magnanimity of Frank Dawson in building his house for occupation by all family members including those who already have houses on Parcel 1257 such as Mrs. Moody.

[50] I find that taking all the evidence in the round, the deceased Ingram made a representation by conduct and verbally, as stated by Mr. Samuels, that she intended to pass title of the disputed land to Frank Dawson. He acted in reasonable reliance on her promise, expended huge sums in the development of the disputed land and he did so to his detriment. I find it would be now unconscionable to deny Frank Dawson and/or his Estate the right he expected.

Issue No. 2: Whether the defendants are estopped from denying the interest of the claimants?

[51] Given the evidence of his significant expenditure in developing the disputed land, Frank Dawson had an equitable interest in the property. The disputed land is registered land. The law provides that the title to registered land is subject to the overriding interests as set out in the Registered Land Act ("RLA").

[52] Section 31(1) of the RLA reads:

[31.-(1)] Subject to subsection (2), unless the contrary is expressed in the register, all registered land shall be subject to such of the following over-riding interests as may for the time being subsist and affect it. Without their being noted on the register,

...

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

(2) The Registrar may direct registration of any or the liabilities, rights and interests hereinbefore defined in such manner as he thinks fit.

[53] In the present case, the owner of land (both the deceased Ingram and Mrs. Moody) allowed Frank Dawson to freely expend his money to develop the disputed land, under an expectation created or encouraged by them that he would be entitled to stay there and/or occupy it and/or acquire title. The undisputed evidence shows that Mrs. Moody was fixed with notice of Frank Dawson and/or his Estate's possession and exclusive occupation of the disputed land prior to and, at least, at the time she obtained title to Parcel 1257. She took no legal steps to prevent him from building his house, not even after the death of the deceased Ingram. She chose to move onto the disputed land only after the demise of Frank Dawson. By that time, Frank Dawson had already established, through his sole occupation of the disputed land, that he has an overriding interest in it pursuant to section 31(1)(g) of the RLA.

[54] I find that there is an equity arising out of the huge expenditure of money and investments of time and resources and I would not allow Frank Dawson's expectation to be defeated. To do so would be unconscionable and inequitable. Taking all the evidence in the round, I find in favour of a property estoppel arising over the disputed land. Mrs. Moody is estopped from denying the interest of Frank Dawson and/or his Estate. She takes her legal title subject to their equitable interest.

Issue No. 3: What is an appropriate relief for proprietary estoppel?

[55] The court has a wide discretion in granting relief for an equity that arises from proprietary estoppel. The usual practice would be for the court to satisfy the equity raised by the estoppel by meeting the promisee's expectation. This can take the form of granting him what he expected or its monetary equivalent. It is not about granting an award that exceeds the promisee's expectation. In granting relief, the court must make an award that

does not exceed but be proportionate to the detriment suffered. This process of granting relief involves the finding of the minimum equity to do justice to the promise.⁷

[56] In the present circumstances and given the evidence of significant investments by Frank Dawson and the impact on the domestic relationships, I am minded to grant an award that reflects a “clean break” over the disputed land. In fact, I find on the evidence that this was the intention of the deceased Ingram, in her encouragement and participation in the survey exercise. Her conduct would have influenced Frank Dawson’s expectation of title over the disputed land and led to the detriment he suffered. The Estate of Frank Dawson is entitled to have the survey exercise completed by its registration.

[57] My award is reflected below in the disposal order.

Issue No. 4: Was the claim of a fraudulent transfer of Frank Dawson’s vehicle, to one of the administrators of the Estate, properly made out?

[58] The defence raised the issue of fraud with respect to the two vehicles belonging to Frank Dawson. There is no dispute that the vehicles were in the name of Frank Dawson prior to his demise and that the Dawson brothers are acting in a representative capacity in the Estate of Frank Dawson.

[59] Once pleaded, there must be clear and sufficient evidence in support of the case of fraud.⁸ Mrs. Moody produced a Certificate of Transfer of the Toyota Camry to one of the Dawson brothers. Mr. O.J. Elrington submitted that this evidence proves that one of the administrators/claimants, Shawn Dawson, committed fraud in transferring the Toyota Camry vehicle by forging the signature of Frank Dawson on the application for transfer. The Dawson brothers also falsified the application for administration, by giving a false address in Belize, so the claim should be defeated.

⁷ Supra note 5, paragraph 35.

⁸ Belize Airports Authority v UETA Ltd of Belize Civil Appeal No. 17 of 2000.

[60] In response, Ms. Cadle, counsel for the Dawson brothers, stated that they were acting in a representative capacity and that Ms. Moody has advanced no evidence that Frank Dawson himself perpetrated an act of fraud and/or concealment in his lifetime upon the deceased Ingram. Their claim could not be defeated or barred in equity because of an allegation of fraud on a vehicle in a defence. Ms. Cadle argued further that in Belize, there is no requirement for a beneficiary to produce a Grant of Letters of Administration to transfer title to a vehicle. She stated that the licensing officer exercised his discretion under section 10(2) of the Motor Vehicles and Licensing Act Cap 230 of the Laws of Belize to have the title to the vehicle changed.

[61] She argued further that the real issue in this case relates to the disputed land. The title documents to the two vehicles show they belonged to the Estate of Frank Dawson, so the issue is of no moment to the present proceedings. I am minded to agree with Ms. Cadle that nothing touches on this issue such that the claim in estoppel ought to be defeated. I make no orders here.

Issue No. 5: Whether evidence of the quantum for trespass can be led at an assessment?

[62] A claim has been made for damages for trespass and Ms. Cadle seeks permission to put in evidence on quantum. Neither party has addressed the court on the issue of trespass or damages in this matter. It is trite law that damages for trespass is based on a claimant proving trespass.⁹

[63] On the evidence, Mrs. Moody is found to have had notice of Frank Dawson's possession and occupation of the house on the disputed land and despite this, she entered and sought to claim possession. However, the Dawson brothers have not proved their quantum of damages. The Dawson brothers will not be permitted at this stage to put in evidence as to quantum.

[64] In any event, at the case management conference, no application was made for bifurcation of this trial. To come after extensive and robust case management of this

⁹ Livingstone v The Rawyards Coal Co. [1880] 5 App. Cas. 25.

matter, where orders were given to manage the evidence at trial, to seek an assessment is too late. This approach to litigation flouts the overriding objective to deal with matters justly, through the best use of the court's resources and time. I will not entertain this. I will not direct any assessment to deal with quantum for trespass. A nominal award of \$750 would be made as damages for trespass.

Costs

[65] The general rule is that the losing party ought to pay the costs of the other side. I will allow the Dawson brothers their costs in this matter.

Disposition

[66] It is declared that the claimants have an equitable interest in the piece or portion of land comprising of 0.83 acres of land, which forms part of a larger piece or parcel of land registered as 1257 Block 11 Belize Rural North II, Mile 19 ½ Sandhill Village, Phillip Goldson Highway, and which constitutes an overriding interest pursuant to section 31(1)(g) of the Registered Land Act Cap 194.

[67] It is ordered as follows:

1. There is judgment for the claimants against the defendants.
2. The defendants shall execute a transfer of land form for the said property forthwith.
3. Should the defendants default in executing or are unable to execute the transfer of land form within 14 days of today's date, the Registrar of the Senior Courts is to execute the requisite transfer form in their place.
4. A nominal award of \$750 is granted as damages for trespass.
5. Costs of the trial is awarded to the claimants to be assessed or taxed by the Registrar in default of agreement.

Martha Alexander
High Court Judge