

**IN THE SENIOR COURTS OF BELIZE**

**IN THE HIGH COURTS OF BELIZE**

**CLAIM NO. CV 537 OF 2023**

**IN THE MATTER OF SECTION 42(1) OF THE LAW OF PROPERTY ACT, CHAPTER  
190 OF THE LAWS OF BELIZE, R.E. 2020**

**AND IN THE MATTER OF AN APPLICATION FOR AN ORDER OF DECLARATION OF  
LONG TITLE BY JACINTO CIEGO**

**BETWEEN:**

**RAMONA WILLIAMS**

**(Administratrix of the Estate of Jacinto Ciego)**

Applicant

**AND**

**THE ATTORNEY GENERAL OF BELIZE**

**THE COMMISSIONER OF LANDS**

**THE REGISTRAR OF LANDS**

Respondents

**Appearances:**

Ms. Payal Ghanwani for the Applicant

Mr. Jarvis Lou and Mr. Israel Alpuche for the Respondents

-----  
2024: February 09;

June 24  
-----

NOTICE OF APPLICATION FOR DECLARATION OF TITLE TO LAND BY LONG  
POSSESSION

**JUDGMENT**

- [1] **NABIE J.:** The application is dismissed. The applicant has not shown the requirements of section 42(1) of the Law of Property Act in order to establish title by long possession. Therefore the applicant is not entitled to a declaration that Jacinto Ciego is by virtue of continued and undisturbed possession for upwards of 30 years the true owner of the fee simple interest in the land being described as ALL THAT piece or parcel of land situate piece of parcel of land situate on lands formerly known as Carib Reserve North Stann Creek being block No. 465 containing 5 acres which is more particularly described on Plan 48 of 1924.

**BACKGROUND**

- [2.] Ramona Williams, the Applicant in her capacity as administratrix of the estate of Jacinto Ciego seeks by application filed on 29<sup>th</sup> August 2023, pursuant to section 42 of the Law of Property Act and High Court Practice Direction No. 2 of 2011 and/ or under the inherent jurisdiction of the court the following orders:
- (i) A declaration that the estate of Jacinto Ciego is by virtue of continued and undisturbed occupation for upwards of 30 years the true owner of the fee simple interest in land being described as ALL THAT piece of parcel of land situate on lands formerly known as Carib Reserve North Stann Creek being block No. 465 containing 5 acres which is more particularly described on Plan 48 of 1924 (hereinafter referred to as “the Property”).
  - (ii) An Order directing the Commissioner of Lands to execute all relevant instruments and do any necessary acts to convey and

issue title to the Property to the Applicant within four weeks of the grant of this order.

[3.] The tenure of the Property was depicted in the applicant's first affidavit filed on 29<sup>th</sup> August 2023. Damien Ciego died intestate on 21<sup>st</sup> November 1925 and his estate was comprised of the Property. Damien Ciego's widow, Victoria Ciego obtained the grant of administration for Damien Ciego on or about 20<sup>th</sup> December 1927. However, the widow died on 30<sup>th</sup> April 1953 without distributing the estate of Damien Ciego. Thereafter, Zenon Ciego, the eldest son of Damien and Victoria Ciego farmed the Property until he died on 10<sup>th</sup> October 1957 leaving behind a spouse, but no children. On 19<sup>th</sup> September 1964, the widow of Zenon Ciego, Ercilia Ciego filed an indenture transferring the Property to Jacinto Ciego, as the sole surviving heir of Damien and Victoria Ciego. Thereafter, Jacinto made several improvements to the Property using it for the cultivation and farming. Jacinto's children helped with the improvements to the Property and the crops harvested were sold for the upkeep of the family. Jacinto Ciego died intestate on 3<sup>rd</sup> June 1998, leaving a widow and nine children. Jacinto's widow, Atanacia died on 14<sup>th</sup> August 2001. The children of Atanacia and Jacinto Ciego thereafter took control and possession of the Property. The children maintained the Property, paid the taxes and spent money on infrastructure. The daughter of Jacinto Ciego, Ramona Williams obtained a grant of administration dated 17<sup>th</sup> August 2011. This grant is in the name of "Romona Williams". In 2019, the children agreed to subdivide the Property for residential purposes. Upon a visit to the Lands Department, it was revealed that the Property had not passed properly from Damien to Jacinto Ciego. Accordingly, the instant application was filed.

[4.] In objection to the application for long possession, the Respondents filed two affidavits of Talbert Brackett, the Commissioner of Lands and Surveys in the Department of Natural Resources in the Ministry of Natural Resources, Petroleum and Mining (the Ministry). He deposed that his duties include the administration of national lands in Belize and to apprise the Minister with responsibility for Lands, of

all issues in relation to land disputes and conflicts. The Respondents object to the instant application on several grounds namely:

- (i) That the information deposed to in the applicant's affidavit is hearsay as it does not say how she has knowledge of it.
- (ii) That the applicant has not proven her own possession or possession she could have derived from someone else.
- (iii) The applicant has not shown continuous undisturbed possession for 30 years. The applicant relies on possession from the parents, namely from Atanacia Ciego's death on 14<sup>th</sup> August 2001 or earlier from Jacinto Ciego's death from 3<sup>rd</sup> June 1998.
- (iv) That there is no proof that the applicant Ramona Williams is the daughter of Jacinto and Atanacia Ciego or that those persons passed away on those said dates.

[5.] The respondents' affiant also produced certain information relative to the application. The Governor's Fiat granting the Property in 1925 to Damien Ciego is exhibited. It was also asserted that no evidence was produced that Damien Ciego died intestate. In 1995, Jacinto Ciego submitted an Assent dated 1<sup>st</sup> August 1995 to the Lands Office, where he vested the Property to himself. In 2019, one Romona Williams (not Ramona Williams) submitted an Assent dated 24<sup>th</sup> April 2019 to the Lands Office issued with instrument No. LTU – 20190069, to vest the land to herself.

[6.] The applicant filed an affidavit on 9<sup>th</sup> January 2023<sup>1</sup> in response to the Talbert Brackett's affidavits. The applicant deposes that she obtained the information that was set out in her earlier affidavit from her mother before her demise in 2001 and from her brother Peter Ciego, an older sibling, who was a teenager when Jacinto received the Property from Ercilia Ciego through an indenture dated 19<sup>th</sup> September 1964. The applicant exhibited the birth certificates of the children of Jacinto and Atanacia Ciego and her social security card. The applicant also produced the Grant of Administration to Victoria Ciego, Damien's wife contrary to the allegation of the

---

<sup>11</sup> The second affidavit of Ramona Williams

respondent. It is the applicant's evidence that the Deed of Assent contained a typographical error "Romona" instead of "Ramona". This document was rejected by the Lands Department. The Property is still registered in the name of Damien Ciego. The applicant retained the services of a researcher and a copy of the report on the title was exhibited to the second affidavit. This document will be referred to later on.

## **LAW**

### **[7.] Law of Property Act (LPA)<sup>2</sup>**

- 42(1) Title to the fee simple in any land, or to an easement, right or privilege in or over any land, including land belonging to the Government, may be acquired by continuous and undisturbed possession of the land for thirty years if such possession is established to the satisfaction of the Supreme Court which may issue a declaration of title in respect of the said land, easement, right or privilege in favour of the person who had such possession.
- 42(2) The possession of some other person through whom the applicant for a declaration of title lawfully derived his possession may be taken into account in computing the period of thirty years possession required by this section
- 42(3) The application for a declaration of title shall be made in accordance with rules of court.

### **[8.] Practice Direction No. 2 of 2011** supplements section 42(1) of the **Law of Property Act**. The following parts of the Practice Direction is as follows:

.....

- "4. Notice of the application for title shall be published by the applicant immediately after filing the application, in two consecutive issues of a newspaper circulating in the area where the land is situate, and may be published at least once in the Government Gazette; the notice must give the full description of the land, the full names and

---

<sup>2</sup> Law of Property Act , Cap 190, Laws of Belize

address of the applicant, and the date of the first hearing of the application.

5. The application, affidavits, and a copy of the published notice shall be served on occupiers of any adjoining land, a person or persons on the land without the permission of the applicant and the Commissioner of Lands; and a copy of the notice only shall be displayed on the land. The applicant shall file an affidavit confirming compliance with the foregoing.
6. The application shall be listed for a first hearing for the purpose of enquiring whether the procedure in this Practice Direction has been complied with, and for enquiring whether any notice of objection has been filed or any person objecting to the application has attended court, and any other matter arising or that the judge considers appropriate.
7. An objection filed late but before the court has heard the application does not bar the objector from being heard at the hearing of the application if he shows good reason for late filing of the objection.
8. A court order of a declaration of title to land made under s 42 of the Law of Property Act shall be transmitted to the Registrar of the Supreme Court to the Commissioner of Lands immediately”.

## **SUBMISSIONS OF THE PARTIES**

### **APPLICANT’S CASE**

[9.] The applicant submitted that as the law exists the grounds set out are simply that there must be shown 30 years of undisturbed possession and the procedures in the Practice Direction must be satisfied. By virtue of section 42(2) of the LPA, an applicant can show possession through another person for the purposes of computing time. This was contained in the affidavits of the applicant. The facts relied on are that since 1964 Jacinto Ciego, his wife and children have continued in peaceful and undisturbed possession of the Property, they have paid all the taxes up to date. Therefore the applicant has satisfied the requirements of section 42 of

the LPA and has acquired ownership by long possession. Further, the application has met the requirements in Practice Direction no.2 of 2011 and this is set out in the affidavit of Adriana Avilez filed on 17<sup>th</sup> October 2023. Damien Ciego remains the registered title holder. It was agreed that the Ercilia Ciego could not have transferred the property to Jacinto as she had no grant of administration. Nevertheless Jacinto Ciego and his family went into possession.

- [10.] The Court was asked to note that the applicant is the Estate of Jacinto Ciego, not Ramona Williams in her personal capacity. The applicant also noted there is no objection before the court, that the respondents preferred that the court makes a decision on the matter.

#### **RESPONDENT'S CASE**

- [11.] At the commencement of the Crown's response it was indicated that they did not have an objection as indicated by the applicant. However it was pointed out by the court that the affidavits of Talbert Bracket were headed as an objection. Counsel for the Crown then accepted that there was in fact an objection. Counsel agreed with the law as advocated by the applicant's attorney. It was contended that applications of this nature are meant to eliminate any kind of uncertainty and to secure title to an applicant. However, the respondents' view is that this application leaves a measure of uncertainty.
- [12.] In reciting the history of the possession and title, the Crown pointed out the initial possession of Damien Ciego in 1925, which was passed to his wife Victoria, who had obtained a grant of administration for her husband's estate. It was submitted that upon Victoria's death in 1953, all that possession does not come within the 30 year mark. It is the respondents' view that after 1953, it is not clear how the persons who were in possession of the Property came to be into possession and this was also pointed out by the Lands Department. There was a transfer of from Ercilia Ciego who filed an indenture to Jacinto Ciego, but it is not clear what interest was passed to him.

- [13.] The Crown pointed to the 3 requirements for the applicant to succeed. The applicant is to prove the fact of possession, an intention to have exclusive possession and that possession must be for at least 30 years. The Crown's position is that the applicant does not meet the threshold.
- [14.] While the Crown agreed that the applicant can rely on the possession of the person from whom the applicant lawfully derived possession, Mr. Lou indicated that it must be shown that the person who had been in occupation before, had the intent for the applicant to have exclusive possession. Counsel relied on the authority of **Errington v Errington**<sup>3</sup>. In the Errington matter, counsel highlighted that the applicant in that matter could not rely on his mother's previous possession as the intention to have exclusive possession was not established. In applying this to the present case Mr. Lou submitted that according to the application, Jacinto Ciego came into possession in 1964, but there is no proof that Jacinto had the intention for the applicant to be in exclusive possession. He relied on the applicant's affidavit at para 16:  
"However, as Jacinto Ciego died, we children took over full control and possession of the Property, and we continue to maintain, clear up and upkeep the Property."
- [15.] It was argued that 1998 was when the applicant took full control and exclusive control and this amounts to 25 years. It was also raised as to whether the time should even run from 1998 as Jacinto's wife Atanacia was still alive and she passed away in 2001. Therefore, if the date of mother's death was used then the applicant could only have possession for 22 years. The Crown indicated that it was not contending that the applicant had no right to be on the property but had not met the requirements to be granted title to the land under the application. Counsel then referred to the judgment of Awich J. in **Harrison August Snr. v. Oswald Patten**<sup>4</sup>. In that case the application was dismissed. The respondents in their submissions

---

<sup>3</sup> [1952] 1 AER 149

<sup>4</sup> High Court of Belize, Claim no. 571 of 2004



indicated clearly that it was left to the Court to determine this matter and that each party to bear its own costs.

## ISSUES

Whether the applicant can claim long possession under section 42 of the LPA?

Has the applicant established continuous and undisturbed possession?

Has *animus possidendi* been proven?

Has the thirty year threshold been met?

## DISCUSSION:

[16.] Whether or not there is an objection to the application which is before me, section 42 gives this Court a discretion in granting the relief sought. The authorities are clear that this Court must be satisfied that all the requirements of long possession are met by the applicant. The following extract of the **August** case, is a good starting point:

“14. Section 42 of the Law of Property Act has become an important law in Belize in the acquisition of title outside transfer transactions and in obtaining certainty in title. Many applications have been made and continue to be made for declaration by the Supreme Court, of title to fee simple, by people who have been in occupation of land or have control of it, in towns and countryside alike, or by people who have succeeded the original occupiers. A declaration by court followed by the issuance of a certificate of a fee simple title converts the mere possession, the possessory title of the occupier into a legal estate, a legal title- see S: 42(4) of the Act. The declaration may be made in regard to any land occupied for 30 years, it is an important assurance of title. Whether the section is used to establish title in land that had not belonged to anyone, or to oust a previous title holder after 30 years, is of no practical importance. In

my experience in this court, the aim of most applicants for a declaration of title under s: 42 of the Law of Property Act have been to eliminate any uncertainty and to secure title in the applicants.

15. Both learned counsel in their submissions stated the law correctly. They submitted that for the court to make a declaration of title under s: 42 of the Law of Property Act, there must be evidence of:

- (1) The fact of possession by the applicant, and
- (2) the *animus possidendi*, the intention of the applicant to have exclusive possession. I add a third, that there must be evidence proving that
- (3) the applicant has been in possession for thirty years or more from the date the applicant first took possession to the date he filed the application for title.”

[17.] In the present case, the applicant has brought the application in name of the Estate of Jacinto Ciego. Therefore, this Court is of the view that the Applicant is required to show by evidence that Jacinto was been in “continuous and undisturbed possession” for 30 years of the Property prior to his demise in order for the right of possession to accrue to his estate.

[18.] Recently, in a decision of **Fidel Fuentes v. Eduardo Angel Juarez and Anor** Claim No. 04 of 2022, Justice Farnese citing the decision of **Samuel v. Flores** Claim No. 588 of 2009, gave the following on the interpretation of section 42:

*“Subsection 42(2) allows Mr. Fuentes to derive his rights to the property through Ms. Eleanor. Mr. Fuentes has the burden to prove, on a balance of probabilities, that Ms. Eleanor was in “continuous and undisturbed possession” for 30 years. This test has been described as “open, peaceful, continuous, uninterrupted and undisturbed possession of the land for the requisite period.” The possession must also be without consent as an owner can give up possession without losing their rights to the property.’*

[19.] Further, the Court of Appeal, in its decision in the matter of **Young v Young** Civil Appeal No. 3 of, 1982 previously clarified that Courts should be mindful of importing concepts of adverse possession in its interpretation of section 42:

*“There is a temptation when construing this section to graft on to it, or import into it, attributes of the principles relating to adverse possession or the law relating to the limitations of actions. The learned Chief Justice appeared to take the view that the intention accompanying the acts of interference were of crucial importance; that there must be dispossession, or discontinuance of possession by the true owner.*

*There are essential differences between the principles governing this provision and those governing adverse possession or limitation of actions. In the first place this provision is positive in its operation. It is sword not a shield.*

*In my view it is sufficient to give the words employed in the sections their natural and ordinary meaning. It is, of course, implicit in the section that the “continuous and undisturbed possession” is not under a lease or licence (contractual or otherwise) from the true owner, but otherwise it is unnecessary to import any concept relating to adverse possession or limitation of actions.”*

[20.] I have read the affidavit of Adriana Alvarez<sup>55</sup>, a woman police constable and I have read the exhibits to the said affidavit which include a copy of the notice of the application for title which was published in a newspaper of the 15<sup>th</sup> and 22<sup>nd</sup> September 2023, a copy of the application in the Belize Gazette and a copy of the notice of the first hearing of this application. Ms. Alvarez deposed that on 22<sup>nd</sup> September 2023, she visited the Property for the purpose of displaying the documents exhibited. She placed the documents in a Ziploc bag and nailed it on to a tree at the front of the Property. She identified that there were four adjoining lots, Blocks 455, 456, 466 and 475 and proceed to display the documents in the same manner as she did with the Property. Ms. Alvarez exhibited pictures of this activity.

---

<sup>55</sup> Filed on 17<sup>th</sup> October 2023

I am satisfied that the Applicant has complied with the procedures outlined in Practice Direction no.2 of 2011.

[21.] I am concerned that the applicant has obtained a grant of administration in the name of "Romona Williams" since 2011 and has not had this typographical error corrected. Further as highlighted in the Crown's affidavit, the deed of assent was to "Romona Williams" in her personal capacity as opposed to the children of Jacinto and Atanacia Ciego.

[22.] From the documentary evidence, the taxes have been paid in the name of Jacinto Ciego. The account shows tax payments since 1960, the document does not illustrate when Jacinto Ciego began making payments. The title report evidences an Indenture between Ercilia Ciego of Stann Creek and Jacinto Ciego of Stann Creek, Vol.6/64 Fol. 566-569 dated 19<sup>th</sup> September 1964. Further, by deed of assent Jacinto Ciego vested the land to himself as sole statutory beneficiary of the Property.

[23.] The notes on the title search from the Lands Department were as follows:

*"As stated on the Inventory: 1/3 of this estate goes to the estate of Atanacia Ciego and 2/3 goes to Romona and her siblings Fidel, Peter, Delcia and Aurelia in equal shares. Romona Williams cannot vest the entire 5 acres to herself as beneficiary unless the siblings all do so agree and evidences in the deed. Romona Williams also having the Grant of Administration for the Estate of Atanacia Ciego since 1/3 share is for Atanacia Ciego's beneficiary. There is no evidence of Jacinto Ciego having a Grant from the Court for the Estate of Damien Ciego.*

*The property has not been transferred from Mr. Damien Ciego's Estate although there are documents transferring the property to Jacinto Ciego. Mr. Damien Ciego's widow Victoria Ciego was granted Administration of the Estate but failed to transfer the estate before her death."*

## FACTUAL POSSESSION/ ANIMUS/ THIRTY YEARS

[24.] I have reviewed the evidence of Ramona Williams. I am not satisfied that she has produced enough evidence to establish that Jacinto Ciego had factual possession of the property for thirty years. Ramona Williams was born in 1963. She deposed as follows in her first affidavit:

“9. ....on or about 19<sup>th</sup> of September 1964, Ercilia Ciego, wife of Zenon Ciego, filed an indenture transferring the Property to Jacinto Ciego in natural love and consideration as the sole surviving heir of Damien and Victoria Ciego.

10. Since then, Jacinto Ciego (deceased) expended a considerable amount of labour and time to clear the Property and upkeep it. He primarily used the Property for cultivation and farming wherein he planted various crops for his personal use.....

11. In or around the year 1965, Jacinto Ciego (deceased) started to take his children, which included Peter, John, Edmund, Albert, and Fidel Ciego to the Property with him regularly to help with the Property maintenance and cultivation.”

[25.] The Crown had indicated that she had not stated how she knew of these events. Ramona Williams’ response was that she had this knowledge from her deceased mother and her eldest Peter Ciego who was a teenager when Jacinto allegedly went into possession. In her second affidavit she had this to say:

“7.....The information in my First Affidavit is based on my personal knowledge post 1963, information provided to me by my mother before her demise in August 2001, and my older sibling Peter Ciego, born on 5<sup>th</sup> day of March 1951, who was a teenager when our father received the subject land from Ercilia Ciego through an indenture dated 19<sup>th</sup> September 1964.

8. Peter, along with my other older siblings and our late father, has been cultivating the subject property since 1965.

.....

10. It is my contention that Jacinto Ciego has occupied and had continuous, undisturbed possession of the subject land since the 19<sup>th</sup> day of September 1964, when the property was transferred to him.....”

I am unable to give much weight to the statements made by Ramona Williams. Ramona Williams had not definitively stated from her own knowledge and recollection as to when Jacinto would have gone into continuous and undisturbed possession.

[26.] There is no explanation proffered by the applicant as to the reason the other siblings have not given evidence. The birth certificates show that there are older siblings, John Andrew Ciego born on the 03<sup>rd</sup> September, 1952, Edmund Hertrudez Ciego born on 16<sup>th</sup> November, 1956, Alberto Joseph Ciego born on the 15<sup>th</sup> November, 1958, Zeta Ciego born on the 27<sup>th</sup> April, 1960 and Catherine Cyrilla Ciego born on the 20<sup>th</sup> March, 1962. These siblings, according to the applicant's evidence also have a vested interested in the application before me. There is no evidence before me that indicates that they are deceased or incapable of giving evidence before this Court in support of the application before me. Therefore it has not been established when Jacinto Ciego went into possession of the Property. The fact of the indenture is not evidence that Jacinto went into possession in 1964. The fact that Jacinto died in 1998 means that his occupation for the purposes of this application must be proven to be in 1968 or earlier. The applicant must produce a witness to attest to this. This has not been done.

[27.] Further, there is no evidence regarding the physical layout of the property for example the boundaries. It is the Crown's affiant who exhibits a plan. The applicant did however produce undated pictures of infrastructure work done on the Property by the children of Jacinto Ciego. I am therefore of the view that the applicant has

failed to properly prove the fact of Jacinto's possession of thirty (30) years or more. There is therefore no need for this Court to inquire further whether there was the intention of the Jacinto to have exclusive possession as the applicant would still be faced with the same evidential issues.

[28.] The applicant in reply to the respondents' arguments pointed out that the respondent has misconstrued the application, that the applicant was the Estate of Jacinto Ciego not Ramona Williams. Therefore the factual possession was that of Jacinto not the children. Accordingly, the continuous and undisturbed possession with the *animus possidendi* for 30 years would be from 1968 and before.

[29.] The respondents' arguments were based on the position that it was Ramona Williams in her personal capacity rather than the Estate of Jacinto Ciego that made the application. Therefore as the applicant is the Estate of Jacinto Ciego, the calculations of the time from either Jacinto or Atanancia's death were not necessary based on the application.

## **CONCLUSION**

[30.] In the premises, I am unable to grant the declarations sought. The applicant has not produced the evidence to show that Jacinto went into possession in 1968 or earlier. Further, even if the applicant had proven what was required under section 42 (2) of the LPA, I would have been constrained to refuse the application because the Ramona Williams is not in possession of a grant of administration for Jacinto Ciego with her name as LPR. The name on the grant of administration for Jacinto Ciego is "Romona Williams". Further, it is not clear why Ramona Williams attempted to vest the property in the name of "Romona Williams" in a personal capacity.

**Disposition**

[31.] It is hereby ordered as follows:

1. The application is dismissed.
2. Each party to bear its own costs.

**Nadine Nabie**  
**High Court Judge**