28/82

No.2 of 1979

IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL OF THE WEST INDIES
ASSOCIATED STATES SUPREME COURT

B E T W E E N :

ROBIN A. COOPER — Appellant

- and -

VICTOR CHARLES

JOHN M. COMPTON

EMANUEL H. GIRAUDY — Respondents

RECORD OF PROCEEDINGS

DURRANT PIESSE,
73 Cheapside,
London EC2V 6ER.

01 236 6515

AT/APT/C.3903

Appellant's Solicitors

No. 2 of 1979

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE COURT OF APPEAL OF THE WEST INDIES ASSOCIATED STATES SUPREME COURT

BETWEEN:

ROBIN A. COOPER — (Plaintiff) Appellant

- and -

VICTOR CHARLES and JOHN M. COMPTON and EMANUEL H. GIRAUDY — (Defendants) Respondents

RECORD OF PROCEEDINGS

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E X H I B I T S

LIST OF EXHIBITS TRANSMITTED TO THE PRIVY COUNCIL BUT NOT REPRODUCED

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A17	Memorandum of Appearance	18th June 1974	
R1	Summons	22nd July 1974	
R2	Affidavit of Victor Charles	22nd July 1974	
A18	Summons for hearing of an application for interlocutory damages	24th July 1974	
A19	Affidavit of Robin A. Cooper	24th July 1974	
A20	Summons	24th July 1974	
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LIST OF EXHIBITS TRANSMITTED TO THE PRIVY COUNCIL BUT NOT REPRODUCED

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No.2 of 1979

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE COURT OF APPEAL OF THE WEST INDIES ASSOCIATED STATES SUPREME COURT

BETWEEN:

ROBIN A. COOPER — Appellant

- and -

VICTOR CHARLES

JOHN M. COMPTON

EMANUEL H. GIRAUDY — Respondents

RECORD OF PROCEEDINGS

In the Supreme Court

No. 1
Writ of Summons
2nd March 1973

No. 1

WRIT OF SUMMONS

IN THE HIGH COURT OF JUSTICE

SAINT LUCIA

1973 No. 43

BETWEEN

ROBIN A. COOPER of Castries, St. Lucia, W.I. Associated States, Commission Agent

Plaintiff

AND

1. VICTOR CHARLES of Desruisseaux Qr. of Micoud, Agriculturist.
2. JOHN M. COMPTON, Premier of St. Lucia aforesaid

In the Supreme Court

No. 1
Writ of Summons
2nd March 1973.
(cont'd)

3. EMMANUEL H. GIRAUDY of Castries aforesaid, Notary Royal.

Defendant.

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

TO VICTOR CHARLES et al
of Desruisseaux/Castries aforesaid
in the State of Saint Lucia, W.I.

WE COMMAND YOU that within eight days after the service of this writ on you, inclusive of the day of service, you do cause an appearance to be entered for you in an action at the suit of ROBIN A. COOPER
and take notice that in default of your so doing the Plaintiff may proceed therein, and judgment may be given in your absence.

Witness, P.C. LEWIS, Acting Chief Justice of the West Indies Associated States Supreme Court, the 2nd day of March 1973.

Note: This writ may not be served more than 12 calendar months after the above date unless renewed by order of the Court.

Directions for entering Appearance.

The Defendant may enter an appearance in person or by a Solicitor either (1) by handing in the appropriate forms, duly completed, at the Registry of the High Court, Castries, or (2) by sending them to that office by post.

Note: If the Defendant enters an appearance, then, unless a summons for judgment is served on him in the meantime, he must also serve a defence on the Solicitor for the Plaintiff within 14 days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against him without notice.

STATEMENT OF CLAIM

THE PLAINTIFF'S ~~CLAIM~~ Is that, 1. the Plaintiff is suing through the agency of Maurice Lsurencin,

M.A. of Castries in the State of Saint Lucia, W.I. reg. in Vol: 125a No. 100419, in a representative capacity.

2. That by two separate deeds of sale dated 30th January 1961 and 17th June, 1963 respectively Elima Edward purported to sell to the first named defendant, a portion of land of which the plaintiff is the owner.

3. That the said deeds of sale were executed before and registered by the second and third named defendants in their capacity as Notary Royal.

4. That on 24th and 25th April, 1972 in Suit No. 7 of 1970 the two deeds of sale aforementioned were declared null and void improbation, but no order was made and no evidence was lead as to damages.

5. That the said two deeds of sale are false claim against the property of the plaintiff, and registered against the property of the plaintiff.

6. The defendants having thereby taken possession of land belonging to the plaintiff and situate at Desruisseaux in the Qr. of Micoud in the said State, causing damage

WHEREFORE THE PLAINTIFF CLAIMS:

PARTICULARS

(a) A declaration as to ownership

(b) An order for possession

(c) An order for the ejectment of the defendants

(d) Damages at $50,000.00 E.C.

(e) The cost hereof.

(f) Any other order as to the Court seems proper.

(Signed) ROBIN A. COOPER by his Attorney Maurice Laurencin

(To be added if the Plaintiff's claim is for a debt or liquidated demand only).

And $ (or such sum as may be allowed on taxation) for costs, and also if the Plaintiff obtains an order for substituted service, the further sum of $ (or such sum as may be allowed on taxation). If the amount claimed and costs be paid to the Plaintiff, h Solicitor or Agent within 8 days after service hereof (inclusive of the day of service), further proceedings will be stayed, but if it appears from the indorsement on the Writ that the Plaintiff is/are resident outside the scheduled territories, as defined by the Exchange Control Act, or is/are acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed and costs is paid into Court within the said time and notice of such payment in is given to the Plaintiff, h Solicitor or Agent.

This Writ was issued by the said plaintiff
of
Solicitor for the said Plaintiff, whose address is St. Louis Street, Castries
Agent for of
Solicitor for the said Plaintiff, whose address is
the said Plaintiff who resides at
and is
(Occupation) and (if the Plaintiff does not reside within the jurisdiction) whose address for service is St. Lucia, W.I.

Indorsement as to service.

This Writ was served by me at Castries on Mr. Giraudy on the Defendant No. 3 and the Solicitor for Defendant No. 1 on Thursday, the 8th day of March 1973.
Indorsed the 9th day of March 1973.

(Signed) (Sgd.) M. Laurencin

(Address) 13 Mary Ann Street
Castries

No. 2

DEFENCE OF J.M. COMPTON and E.H. GIRAUDY

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

No. 43 of 1973

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent,

Plaintiff

AND

(1) VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the said State Agriculturist

(2) JOHN M. COMPTON, Premier, of St. Lucia,

(3) E. HENRY GIRAUDY, of Castries aforesaid, Notary Royal

Defendants

DEFENCE OF JOHN C.M. COMPTON AND E. HENRY GIRAUDY

The defendants states:-

1. The defendants have no knowledge of the matters alleged in paragraph 1 of the Statement of Claim and the defendants further state that even if the matters therein alleged be true such agency does not in law entitle the said agent to act in the representative capacity alleged.

2. In respect of paragraph 2 of the Statement of Claim the defendants admit the sales referred to, state that the said Elima Edward was lawfully entitled to effect the same and deny that the said Elima Edward at any time purported to sell land belonging to the plaintiff.

In the Supreme Court

No. 2
Defence of J.M. Compton and E.H. Giraudy
31st October 1973.
(cont'd)

3. Paragraphs 3 and 4 of the Statement of Claim are admitted.

4. Paragraphs 5 and 6 of the Statement of Claim are denied.

5. The Defendants will further contend at the trial that the action should be dismissed for that:-

(a) the Statement of Claim fails to disclose the jurisdiction in this Court to entertain the same and should accordingly be struck out; and

(b) the Statement of Claim fails to disclose any reasonable cause of action and should be struck out.

The defendants claim that the plaintiff's action be dismissed with costs.

Dated this 31st day of October, 1973.

FLOISSAC & GIRAUDY

per (Sgd.) FLOISSAC & GIRAUDY
Solicitor for defendants
(2 & o)

No. 3
Reply
11th April 1974

No. 3

R E P L Y

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

No. of Suit 43 of 1973

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent

Plaintiff

AND

(1) VICTOR CHARLES of Desruisseaux in the Quarter of Micoud, in the said State, Agriculturist,

(2) JOHN M. COMPTON, Notary Royal and Premier of Saint Lucia,

(3) EMMANUEL H. GIRAUDY, of Castries aforesaid, Notary Royal.

Defendants

REPLY TO DEFENCE OF JOHN G.M. COMPTON and EMMANUEL H. GIRAUDY

The plaintiff states:-

1. In reply to paragraph 1 of the defendants' defence, the plaintiff contends that the defendants cannot ignore or pretend to have no knowledge of the plaintiff's authorised agent namely:- MAURICE LAURENCIN, M.A. who acted for the plaintiff in the representive capacity, since he was duly equipped with Power of Attorney by the plaintiff, registered in Vol. 125a No. 100419 as indicated in the statement of Claim.

2. In respect of paragraph 2 of the defendants' defence the Plaintiff admits that Elima Edward was entitled to effect sales of her undivided one-half share in and to 3½ carres of land situate at Desruisseaux in the Quarter of Micoud in conformity with her title under the Last Will and Testament of her Grand mother Louise Dareix, but in truth and in fact did not sell any part of her undivided one-half share of the land. Proof of this is borne out in Letters of Administration dated 12th June, 1969 and registered in Vol: 122a No. 91096 given the plaintiff by the High Court of Justice which clearly establishes beyond any shadow of doubt in paragraph 7 that the deceased Elima Edward at the time of her death in 1967 was in legal possession of her undivided one-half share of the 3½ carres of the Desruisseaux land. And this is further confirmed by the fact that the two illegal Deeds of Sale referred to in the Statement of Claim were declared null and void by Mr. Justice Neville, Peterkin on the 24th and 25th April, 1972 in Suit No. 7 of 1970. Moreover, the plaintiff contends that the two illegal Deeds of

Sale were fabrications of the defendants especially the second and third defendants who, in their capacity of Notaries knew perfectly well that the title by prescription in connection with these fabrications were false, and further, it was their duty as Notaries to advise their client properly. The plaintiff will further contend that Elima Edward had no knowledge of these fraudulent transaction of sale in that:-

(a) She suffered from senility.

(b) She was illiterate and could not read nor write and,

(c) She virtually died a pauper and it is incompatible with reason to believe that she would have sold her land for the price she was supposed to have been paid for it, if she was of sound mind.

3. In reply to paragraph 4 of the defendants' defence (a) and (b); the plaintiff contends that the cause of action lies in Article 2134 (8) of the Civil Code of Saint Lucia which forbids the misappropriation of property, or a person condemned in damages for maliciously registering or causing to be registered an unfounded claim against property, by negligence or complicity and causing one to suffer damage. Moreover, the plaintiff will further contend at the trial that the second and third defendants in their capacity as Notaries were well aware that Elima Edward had a proper title to the land, that the only reason the title by prescription was applied was to be enable to give specific boundaries, and to deprive the plaintiff of his heritage which is a contravention of Article 2072 of the Civil Code, of St. Lucia which reads:-

> "No one can prescribe against his title, in this sense that no one can change the cause and nature of his own possession, except by intervention".

5. WHEREFORE the Plaintiff reaffirms the claims stated in the preceding Statement of claim and pray for:-

(1) A declaration as to ownership

(2) An Order for possession

(3) An Order for the ejectment of the 1st defendant

(4) Damages at $50,000.00

(5) The Cost hereof.

Dated 11th April, 1974.

(sgd) R.A. Cooper
ROBIN A. COOPER,
Plaintiff.

No. 4
Writ of
Summons
10th June
1974.

No. 4

WRIT OF SUMMONS

IN THE HIGH COURT OF JUSTICE
SAINT LUCIA

1974 No. 148

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent

Plaintiff

AND

VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the said State, Agriculturist

Defendant

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith

TO VICTOR CHARLES
of Desruisseaux, Quarter of Micoud
in the State of Saint Lucia

WE COMMAND YOU that within eight days after the service of this writ on you, inclusive of the

In the Supreme Court

No. 4
Writ of Summons
10th June 1974
(cont'd)

day of service, you do cause an appearance to be entered for you in an action at the suit of ROBIN A. COOPER
and take notice that in default of your so doing the Plaintiff may proceed therein, and judgment may be given in your absence.

Witness, P.C. Lewis, Acting Chief Justice of the West Indies, Associated States Supreme Court, the 10th day of June 1974.

Note: This writ may not be served more than 12 calendar months after the above date unless renewed by order of the Court.

Directions for entering Appearance

The defendant may enter an appearance in person or by a Solicitor either (1) by handing in the appropriate forms, duly completed, at the Registry of the High Court, Castries, or (2) by sending them to that office by post.

Note: If the Defendant enters an appearance, then, unless a summons for judgment is served on him in the meantime, he must also serve a defence on the Solicitor for the Plaintiff within 14 days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against him without notice.

STATEMENT OF CLAIM

THE PLAINTIFF'S [illegible] Is the owner of a portion of land situate at Desruisseaux in the Quarter of Micoud in the State of Saint Lucia as appears by Letters of Administration dated 14th July, 1969 registered in Vol: 122a No. 91096 and Vesting Deed dated 16th September, 1969 registered in Vol: 122a No. 91608.

2. The Defendant, by fabricated documents purported to be Deeds of Sale executed by Emmanuel H. Giraudy and John G. Compton, Notaries Royal, dated 30th January, 1961 and 7th May, 1963 respectively, was enable to fraudulently acquire from the plaintiff's Aunt namely Elima Edward thereby making trespass and unlawfully occupying two portions of the said lands.

3. That by a judgment handed down in the High Court of Justice, St. Lucia in Suit No. 7 of 1970

dated 24th and 25th April, 1972 it was adjudged that the fabricated documents referred to above are null and void.

4. That by an application for prescriptive title made by the defendant in Petition No. 105 of 1972, it was adjudged that the application should fail and the Petition dismissed as appears by High Court Judgment dated 14th, 15th, 16th and 31st January, 1974.

5. That since 1961 and since the said judgments, the defendant has remained in unlawful occupation of the said lands, whereby the Plaintiff has suffered damage.

WHEREFORE THE PLAINTIFF CLAIMS:-

1. Possession of the two portions of land;

2. An order for the ejectment of the defendant;

3. Damages at $50,000.00 and;

4. The Cost hereof.

(Signed)(Sgd) R.A. Cooper

(To be added if the Plaintiff's claim is for a debt or liquidated demand only).

And $ (or such sum as may be allowed on taxation) for costs, and also, if the Plaintiff obtains an order for substituted service, the

further sum of $ (or such sum as may be allowed on taxation). If the amount claimed and costs be paid to the Plaintiff, h Solicitor or Agent within 8 days after service hereof (inclusive of the day of service), further proceedings will be stayed, but if it appears from the indorsement on the Writ that the Plaintiff is/are resident outside the scheduled territories, as defined by the Exchange Control Act, or is/are acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed and costs is paid into Court within the said time and notice of such payment in is given to the Plaintiff, h Solicitor or Agent.

In the Supreme Court

No. 4
Writ of Summons
10th June 1974.
(cont'd)

This Writ was issued by ROBIN A. COOPER of 44 St. Louis Street, Castries, St. Lucia Solicitor for the said Plaintiff, whose address is same
Agent for of
Solicitor for the said Plaintiff, whose address is
the said Plaintiff who resides at
and is (Occupation)
and (if the Plaintiff does not reside within the jurisdiction) whose address for service is

.....

Indorsement as to service.

This Writ was served by me at Desruisseaux, Quarter of Micoud, on the Defendant Victor Charles Personally by leaving a copy of same. on Friday, the 14th day of June 1974.

Indorsed the 17th day of June 1974.

(Signed)(Sgd.) G. Weekes

(Address) La Pansee' Road,
Castries

No. 5
Defence
30th May 1975

No. 5

D E F E N C E

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

1974 No. 148

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent,

Plaintiff

AND

VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the State of Saint Lucia, Agriculturist

Defendant

In the Supreme Court

No. 5
Defence
30th May 1975
(cont'd)

D E F E N C E

1. The Defendant does not admit that the Plaintiff is the owner of the portion of land mentioned in paragraph 1 of the Statement of Claim.

2. The Defendant denies as alleged in paragraph 2 of the Statement of Claim (a) that the fraudulently acquired any land from the Plaintiff's Aunt (b) that he is making trespass to the said land (c) that he is unlawfully occupying the aforesaid two portion or any of the said land, (d) that any documents proving his root of title were fabricated.

3. The Defendant admits that a judgment of the High Court of Justice St. Lucia in Suit No. 7 of 1970 and dated 24th April, 1972 was handed down.

4. The Defendant denies that it was adjudged in the said Judgment of the High Court of St. Lucia that documents mentioned therein were fabricated.

5. The Defendant admits that by the said judgment mentioned in paragraph 3 hereof it was declared that certain documents were null and void by reason of the operation of provision of Article 1980 of the Civil Code, by virtue of the fact that the Defendant's predecessor in title had failed to register title before conveying the said portion of land to the Defendant.

6. The Defendant says that (a) by Deed of Sale dated 30th January, 1961 and registered in Vol: 100B No. 71541 and also by Deed of Sale dated 7th May, 1963 and registered in Vol: 103 No. 75725 and Deed of Correction dated 15th November, 1966 in Vol: 119 No. 83230. The Defendant's predecessor in title, the said Elima Edward put an end to indivision between herself and her co-heir Sophia Cooper deceased and thereby lawfully partitioned the said portion of land mentioned in paragraph 1 of the Statement of Claim.

7. The Defendant denies that he has been in unlawful occupation of the said lands since 1961 or at all.

8. The Defendant denies that the Plaintiff has suffered damage through the Defendant's lawful occupation of the said property or at all.

9. The Defendant says

(a) that by Deeds mentioned in paragraph 6 hereof the said Elima Edward deceased sold to him the said portions of land for the consideration stated in the said Deeds of Sale.

(b) that from the date mentioned in the said Deeds of Sale he has been in peaceful and lawful possession of the said portion of land.

(c) that on the 31st day of July, 1967 said Elima Edward died at Micoud, St. Lucia, leaving her heirs surviving the following persons namely:- 1. Robin Cooper, 2. India Aurelia Cooper, 3. Evelina Violet Francis (born Cooper), 4. Mary Adella Danzie (born Cooper), 5. Alma Albertina Blanchard (born Cooper), 6. Jane Florentine Williams (born Cooper), 7. Amable Wilhelmina Jones (born Cooper), 8. Evelyn Angel Virgilius Cooper, 9. Owen Shirland Ashley Cooper, 10. Ethel Eliza Cooper, 11. Florida Alice May Cooper.

(d) that by Letters of Administration dated 14th July, 1969 and registered in Vol: 122a No. 91096 the Plaintiff was lawfully declared to be the Administrator of the estate of the said Elima Edward deceased.

(e) that by her failure to comply with the provisions a constructive trustee of the portions of land mentioned in paragraph 6 hereof she having received the purchase monies mentioned in the said Deeds of Sale.

(f) That by virtue of his appointment as Administrator of the estate of the said Elima Edward deceased the Plaintiff has entered into the succession of the said estate as trustee, holding the said portions of land on trust for the defendant

and subject to the obligation which reminded on the said Elima Edward deceased to perfect her title and to correct the deeds of conveyance mentioned in paragraph 6 hereof.

10. The Defendant therefore claims:-

(a) an order directing the plaintiff to execute all necessary documents required to correct the deeds of sale mentioned in paragraph 6 hereof and that in default of the execution of the said order the Registrar be ordered to convey the said portion of land to the defendant.

(b) a declaration that he is the owner of the portions of land mentioned in paragraph 6 hereof

(c) the costs hereof.

Dated this 30th day of May, 1975.

PRIMROSE A. BLEDMAN
Defendant's Solicitor.

No. 6

R E P L Y

No. 6
Reply
10th June
1975

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Suit No. 148 of 1974

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent

Plaintiff

AND

In the Supreme Court

No. 6
Reply
10th June
1975
(cont'd)

VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the said State, Agriculturist,

Defendant

REPLY TO DEFENCE

The Plaintiff states:-

1. In reply to paragraph 1, 2 and 4 of the Defendant's defence, the Plaintiff reaffirms his claim as owner of the land mentioned in his Statement of Claim by virtue of the following facts.

(a) Letters of Administration granted to him by High Court of Justice dated 14th July, 1969 and registered in Vol: 122A No. 91096.

(b) Vesting Deed in favour of the plaintiff, dated 25th September, 1969 and registered in Vol: 122A No. 91608.

(c) St. Lucia Inland Revenue Receipt Nos. 64208 and 30220 dated 3/4/69 and 28/12/73 respectively, evidencing Succession Duty paid by him in the amount of $502.42 in respect of his Aunt Elima Edward's share in and to 3½ carres of land situate at Desruisseaux in the Quarter of Micoud.

2. As already stated in his Statement of Claim, the plaintiff affirms with sufficient emphasis that the Defendant was enabled to fraudulently acquire the aforesaid two portions of land, thereby making trespass and unlawfully occupying same by means of the unscrupulous manipulations of the Notaries namely:- Emmanuel H. Giraudy and John Compton who both executed and caused to be registered the unauthentic documents purported to be Deeds of Sale by his Aunt Elima Edward to the Defendant, using the false title of Prescription. The said documents being NULL AND VOID AS INITIO, and their nullification confirmed by High Court Judgment handed down on 24th, and 25th April, 1972.

3. Moreover, by an application for prescriptive title made by the defendant in Petition No. 105 of 1872, it was adjudged that the Petition should fail and the Petition dismissed as appears by

High Court Judgment dated 14th, 15th and 31st January, 1974.

4. The Plaintiff contends that the documents mentioned in his Statement of Claim were fabrication of the Notaries in connivance with the defendant who all knew full well and/or should have made it their duty to know from the Registry of Deeds and Mortgages that:-

(a) the land referred to is yet undivided and could not be legally conveyed in the manner manipulated by the Notaries.

(b) That the said Notaries namely:- Emmanuel Giraudy and John Compton, applying the false title of Prescription as Elima Edward's Title committed an offence contrary to Article 2072 of the Civil Code.

5. In reply to paragraph 5 of the defendant's defence, the Plaintiff relies on Article 2072 of the Civil Code.

6. In reply to paragraph 6 of the defendant's defence, the plaintiff will contend at the trial that according to Letters of Administration referred to in my Statement of Claim, there were no bona fide sales by his Aunt Elima Edward to the defendant. Therefore, there could be no question of any legal partition between Elima Edward and her sister Sophia Cooper, further, there is no legal documentary evidence to support the defendant's claim in title regard.

7. In reply to paragraph 7 and 8 of the defendant's defence, the plaintiff reaffirms his claim in paragraph 5 of his Statement of Claim and say that he has suffered incalculable damage in that, for more than 13 years he has been denied his birthright to a legal partition which would have given equal value in the land concerned, and was also denied the opportunity of developing same, and the potential benefits which could be derived therefrom. Moreover, the plaintiff has spent a considerable amount of money over a period of 8 years in pursuit of Justice and in an effort to recover his mis-appropriated property, not to mention the tremendous amount of valuable time spent in these litigations, which could have been taken up in interest of his business.

8. In reply to paragraph 9 of the defendant's defence, the Plaintiff will contend as follows:-

(a) That according to Letters of Administration granted to him by High Court of Justice dated 14th July, 1969 and registered in Vol: 122A No. 91096, there were no sales by my Aunt Elima Edward to the defendant: Therefore, there was no monetary consideration to the plaintiff's Aunt Elima Edward by the Defendant for the two portions of land which he unlawfully occupies.

(b) That Elima Edward was not bound by Article 1980 of the Civil Code since, by virtue of the Last Will and Testament of her Grand Mother the late Louis Dareix registered on 24th August, 1993 (sic) in Vol: 52a No. 19298, she was seized of her title up to the time of her death on 31st July, 1967, so that she could not change or be expected to register any other title.

(c) That the Notaries Emmanuel Giraudy and John Compton in connivance with the defendant were fully cognizant of the existence of the Will of Louise Dareix by virtue of which Elima Edward was seized of her title up to the time of her death, and only formulated such a bogus title of prescription as being the only means they could give specific boundaries, and to defraud the plaintiff of his property.

(d) The plaintiff contends that the Deeds of Sale being worthless and a complete fabrication of the Notaries there was no deficiency whatever as my Aunt not knowing anything about them did not fail to do anything like registering her title before the sale, for she could not sell by law giving specific portions and boundaries in her said undivided one-half share, she having inherited same under the Will of Louise Dareix already had a registered title.

(e) The Plaintiff therefore, by entering the Succession and being satisfied that his Aunt Elima Edward knew nothing of the said bogus Deeds , that as she did no wrong, made no deficiency in not registering her

title before a sale she knew nothing of, or was not a party to, the plaintiff could never be expected to correct these fabrications of the Notaries on the hypothesis that his Aunt only failed to register her title before the sale, moreover, the plaintiff could not condone what is nothing short of a felony perpetrated by Master Minds of Organised Crime, taking advantage of his Aunt, a poor, senile and illiterate old woman, 87 years of age on a sick bed. It also becomes the plaintiff's bounden duty to refute the remotest idea or argument as set out in the defendant's defence, as it is incumbent upon him to uphold the integrity of his Aunt Elima Edward and her Successors in the estate. The plaintiff will further contend that the responsibility for the consequences of this unfortunate long drawn out litigations over a 7 year period now lies surely and squarely on the shoulders of the Notaries in connivance with the defendant, and will request the Court to direct an order on the Attorney General to investigate this matter in a thorough manner and the perpetrators of this gross fraud be brought to justice and given the full penalty of the law, as this is nothing short of organised crime cooly calculated to defraud a poor old senile and illiterate old woman of her property, which in turn would rob the beneficiaries of Elima Edward of their birthright.

(f) The Plaintiff will further contend that the Deeds are NULL AND VOID not only on the Hypothesis that Elima Edward could have sold and did sell omitting to register her title before selling, but that the Deeds are fraudulent and illegal in every sense of the word and the perpetrators and the defendant should be brought to justice and be made to pay the full penalty for this grave offence.

(g) The Plaintiff is claiming damages, general and specific and will ask that these illegal and bogus Deeds be withdrawn from the archives of the Registry of Deeds and Mortgages and an order for the Attorney General to investigate this matter on which the plaintiff has already written him under date

In the Supreme Court

No. 6
Reply
10th June
1975
(cont'd)

of the plaintiff's letter of 1st April, 1970 copy of which is being filed as part of the plaintiff's pleadings.

9. In reply to paragraph 10 (a & b) of the defence, the plaintiff will contend that the defendant's prayer should not be entertained as the defence is asking the Honourable Court to condone a felony which would be the greatest travesty of Justice and an insult to the high esteem and integrity of the Court, for, if the defendant's claims were recognized, organised crime would have played its part and a whole family lost its birthright, because a poor, senile, weak and illiterate old woman was advantageously used by Master Minds as a scapegoat and using the law to condone same.

WHEREFORE THE PLAINTIFF PRAYS FOR:-

A reaffirmation of his claim as stated in his Statement of Claim as follows:-

(1) Possession of the two portions of land

(2) An order for ejectment of the Defendant

(3) Damages at $50,000.00

(4) The costs hereof.

Dated 10th June, 1975.

(Sgd.) R.A. Cooper
PLAINTIFF

Whose address for service is No. 44 St. Louis Street, City of Castries in the State of Saint Lucia.

No. 7
Order for
Consolidation
15th November
1976

No. 7

ORDER FOR CONSOLIDATION

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Suit No. 148 of 1974

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent.

Plaintiff

AND

VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the aforesaid, State, Agriculturist

Defendant

Suit No. 43 of 1973

BETWEEN

ROBIN A. COOPER of Castries in the State of Saint Lucia, Commission Agent.

Plaintiff

AND

(1) VICTOR CHARLES of Desruisseaux in the Quarter of Micoud aforesaid, Agriculturist

(2) JOHN M. COMPTON of Castries, Premier of Saint Lucia and Notary Royal.

(3) EMMANUEL H. GIRAUDY of Castries in the State of Saint Lucia aforesaid, Notary Royal.

Defendants

BEFORE: The Honourable Mr. Justice Barrymore Renwick.
A Judge in Chambers,
The Plaintiff in person.
Primrose Bledman for Defendant No. 1
Primrose Bledman for Defendants No. 2 &3.

Dated:

Entered: 24th November, 1976.

ORDER FOR CONSOLIDATION OF ACTIONS

This action coming on for hearing on 30th April, 1976 Upon hearing Solicitor for the Defendants and the Plaintiff in person.

AND UPON READING the appleadings in these actions

In the Supreme Court

No. 7
Order for Consolidation 15th November 1976. (cont'd)

IT IS ORDERED that action 1974 No. 148 be consolidated with action 1973 No. 43 and that the said actions do proceed as one action and that the costs of and occasioned by this Application be costs in cause.

Dated this 15th day of November, 1976.

BY THE COURT

(Sgd.) Gordon DaBreo

REGISTRAR.

No. 8
Notes of Evidence 20th January 1977

No. 8

NOTES OF EVIDENCE

THURSDAY 20th JANUARY 1977.

Suit No. 43 of 1973

ROBIN A. COOPER — Plaintiff

and

VICTOR CHARLES
JOHN M. COMPTON
EMANUEL H. GIRAUDY — Defendants

Suit No. 148 of 1974

ROBIN A. COOPER — Plaintiff

and

VICTOR CHARLES — Defendant

Plaintiff in person.

P. Bledman Esq., for Defendant.

Mr. Bledman: The Plaintiff has come in these actions by way of a (illegible) claim. No cause of action is disclosed and that the action be dismissed with costs on the ground that the plaintiff has not been disturbed in

See Article 1(4z) definition of "a possessory action" in the Civil (illegible) Article 763 of C.C.P. to 768. Plaintiff should have asked for a declaration (illegible) part: That is one of the remedies he is claiming.

ROBIN ALFRED COOPER, sworn saith: I live at No. 40 St. Louis Street, Castries. I am a Commission and Insurance Agent. I submit in accordance with (illegible) that the judgment of Peterkin J. in Suit 7/1970 and Petition 105, be submitted in evidence.

Submitted and marked Exhibit "R.A.C.1". I appointed Maurice Laurencin be my attorney to act for me, I now produce it. Admitted in evidence and marked Exhibit R.A.C.2. The land in dispute in this case is 1½ carres of land (illegible) Desruisseaux in the Quarter of Micoud, bounded on the North by (illegible) by Desruisseaux. East by lands of Jn. Marie August and West by land Mrs. Hobart. These lands belonged to Elima Edward, who was my aunt. (illegible) by virtue of the Last Will and Testament of Louise Dariex who died (illegible) August, 1893. Admitted and marked R.A.C.3. She left the property to her children - 3½ carres of land. Elima Edward was one of these grand-children, Stanley Edward, Samuel Edward and Eugenie Edward all died without issue, intestate. This left Sophia Cooper and Elima Edward as sole survivors. Elima Edward died on 31st July, 1967. I now produce Letter of Administration (illegible) to me. Admitted and marked Exhibit R.A.C.4.

Before death of Elima Edward she purported to make 2 Deeds of Sale dated (illegible) January, 1961 and 7th May, 1963 to Victor Charles. These were (illegible) Judgment of Peterkin J. to be null and void. Deeds admitted and marked (illegible) C.5.

Sophia Cooper died on 24th October, 1947. She died intestate leaving (illegible) children of whom I am one. I made a Declaration of Succession to her Estate dated 11th February, 1966. Admitted in evidence and marked Exhibit R.A.C.6.

During her life time Elima Edward occupied the lands. Victor Charles is still on the lands. I am now claiming to be declared owner together with others of the land. Possession of lands and damages.

Mr. Giraudy had on one occasion at his office told me that my aunt told him to ask me for the Title Deed of the land. I told him I hadn't got it and in any case my aunt was not selling any land. This was around 1961.

Compton never spoke to me about my aunt's Title. He wrote me about partition of land.

Defendant is still in possession.

Robin Cooper on same oath - cross examined by Mr. Bledman: My aunt did not sign. In second sale Father Paul Chavaut signed on behalf of my aunt. He was an accessory to this fraud. I knew of the sale at the time of the sales. At that time I knew that my aunt was selling her share of the property. I was so informed by letter. The name of Elima Edward was on the letter. The name below was Elima Edward. At that time I accepted the fact that she was selling. I did not object because I thought the sale was a proper sale. I was not at that time satisfied that my aunt had left my share intact. I did nothing to secure my interest at that time. My aunt told me that she hadn't sold the land. I made research. This was in 1962. I discovered that the land was not properly sold after my Aunt died. I discovered not that my aunt did not sell but (illegible) manner in which she sold was wrong. I sold some of my mother's share from the part which was reserved for my mother. I sold to Herbet Tousan around 1967. The Government a piece of the land in 1966. Miss Bouty was representing Agricultural Department; Mr. McVane came along as a friend. I was there. I showed them a sit. I agreed. I agreed on a definite portion of land. I know Clermina Montrose. I took action against her for illegally occupying my land. Her Deed is dated in 1961. She bought from my aunt. According to documents, my aunt purported to sell on one side of the dividing line. I disagree with Schedule in Gazette Notice at p.432 of 20th August, 1966. I now say I agree with the Schedule. I am relying on documentary evidence. My aunt had a half share of the land. She had a right to sell that half share in her lifetime. She purported to sell her interest. I, on behalf of the others have sold out of the remaining interest. After my aunt's death, I detected a technical defect in Deeds of sale by my aunt. I was taking by succession from my aunt. A perfect deed would have

been alright. I went to see Mr. Floissac and Mr. Lewis on other business around 1969 -66, before the sales. I met him at the Chambers and would not be surpised to hear that Mr. Giaungy didn't join Floissac till December 1961. Clermina Montrose went to C. of A. I never agreed to Court Order in C. of A.

Case for the plaintiff.

No. 9

J U D G M E N T

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Suit No. 43 of 1973
Suit No. 148 of 1974

BETWEEN

ROBIN COOPER — Plaintiff

and

1) VICTOR CHARLES
2) JOHN M. COMPTON
3) EMMANUEL H. GIRAUDY — Defendants

Plaintiff in person

P. Bledman, Esq., for Defendants.

1977, January 25

JUDGMENT

RENWICK, J.

These cases were consolidated by Order of the Court on the hearing of the Summons for

The claim for possession and ejectment and damages are dismissed. Action against the defendants Compton and Giraudy are dismissed. The defendants Compton and Giraudy are entitled to their costs to be taxed. I will make no Order as to cased between the plaintiff and the defendant Charles.

It does seem as if a partition action will now have to be brought.

(Sgd.) J.D.B. RENWICK
Puisne Judge.

No. 10

O R D E R

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Suit No. 43 of 1973
Suit No. 148 of 1974

BETWEEN

ROBIN A. COOPER of Castries in the State of St. Lucia, Commission and Insurance Agent

Plaintiff

and

1) VICTOR CHARLES of Desruisseaux in the Quarter of Micoud in the said State, Agriculturist;

2) JOHN M. COMPTON of Castries, Premier of St. Lucia and Notary Royal;

3) EMMANUEL H. GIRAUDY of Castries in the State of Saint Lucia aforesaid , Notary Royal

Defendants

In the Supreme Court

No. 10
Order
25th January
1977
(cont'd)

Dated: 25th January, 1977

Entered: the 7th day of March, 1977

Before : His Lordship Mr. Justice J.B. Renwick
The plaintiff Robin A. Cooper in person
P. Bledman for the Defendants.

O R D E R

This action coming up for hearing on the twenty-fifth day of January One thousand nine hundred and seventy-seven in the presence of the Plaintiff and of the Defendants Victor Charles and Emanuel H. Giraudy and Counsel for the Defendants, the Defendant John M. Compton being absent; and

UPON READING the Pleadings; and

UPON HEARING the evidence adduced for the Plaintiff;

It is hereby ordered:-

1. That the Defendant Victor Charles be declared the owner of the land which he purchased from Elima Edward; that the Plaintiff is entitled to be declared the owner with the other heirs of such part of the undivided half share which Sophia Cooper owned and of the remaining lands which Elima Edward owned, should there be any such lands remaining.

2. That the claim for possession and ejectment and damages be dismissed; Action against defendants Compton and Giraudy be dismissed;

3. That the Defendants Compton and Giraudy be entitled to their costs to be taxed;

4. No Order as to costs between the Plaintiff and the Defendant Charles.

BY THE COURT
(Sgd.) Gordon DaBreo
REGISTRAR.

No. 11

NOTICE OF APPEAL

In the West Indies Associated States Supreme Court of Appeal

No. 11
Notice of Appeal
4th March 1977.

CIVIL FORM 1

IN THE COURT OF APPEAL

NOTICE OF APPEAL

State) SAINT LUCIA

Civil Appeal No. 3 of 1977

BETWEEN

ROBIN A. COOPER — Plaintiff/ Appellant

and

VICTOR CHARLES)
JOHN M. COMPTON) — Defendants/ Respondents
EMMANUEL B. GIRAUDY)

TAKE NOTICE that the Plaintiff/Appellant being dissatisfied with the decision more particularly stated in paragraph 2 hereof of the HIGH COURT OF JUSTICE contained in the Judgment of Mr. JUSTICE J.B.D. RENWICK dated the 25th day of January 1977 doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

AND the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

2. WHOLE DECISION.

Grounds of Appeal

(1) see Appendix "A"

(2)

(3)

4. Reversal with costs.

5. Persons directly affected by the appeal:

Name		Address
(1)	ROBIN A. COOPER	44 St. Louis St. Castries, St. Lucia.
(2)	VICTOR CHARLES	Desruisseaux, Quarter of Micoud St. Lucia.
(3)	JOHN M. COMPTON	Vigie, Castries, St. Lucia.
(4)	EMANUEL H. GIRAUDY	The Morne, Castries, St. Lucia.

Dated this 4th day of March, 1977.

(sgd.) R.A. Cooper
Appellant

APPENDIX "A"

GROUNDS OF APPEAL

The Learned Trial Judge erred:

(1) by his decision which is against the weight of the evidence.

(2) by erroneously taking into account his own reservations on the decision of Peterkin J. in declaring the Deeds of Sale null and void in Suit No. 7 of 1970, and his decision in Petition No. 105 of 1972

(3) by concluding that there had been lawful sales by Elima Edward in which the title had been incorrectly stated in the Deeds.

(4) by his failure to consider and/or direct his mind to the fact that the alleged sales are not merely null and void under Article 1980 of the Civil Code, but they are expressly forbidden by Article 2134(8) and 2072 of the Civil Code.

(5) by erroneously assuming that the Plaintiff is relying on the false title by prescription, impugned.

(6) by his failure to consider and/or direct his mind to the fact that the Plaintiff's claim is based on the Last Will and Testament of Louise Dareix and subsequent Letters of Administration and Vesting Deed.

(7) by adjudicating beyond the conclusion of the Suit in declaring Victor Charles to be the owner of the land

(8) by his frequent and threatening interruptions made when the Plaintiff was giving evidence, and by not affording the Plaintiff an opportunity of addressing the court after giving evidence and before judgment was given, prevented the Plaintiff from stating and conducting his case properly and fairly.

No. 12

AFFIDAVIT OF R. A. COOPER

IN THE COURT OF APPEAL
SAINT LUCIA

Civil Appeal No. 3 of 1977

BETWEEN

ROBIN A. COOPER — Plaintiff/Appellant

and

VICTOR CHARLES)
JOHN M. COMPTON)
EMANUEL H. GIRAUDY) — Defendants/Respondents

A F F I D A V I T

I, ROBIN A. COOPER of No. 44 St. Louis Street in the City of Castries in the State of Saint Lucia, abovenamed Plaintiff/Appellant make oath and say as follows:-

1. I must in the first place set the Record right by pointing out that on page 37 of the Record of Proceeding dealing with the Notes of evidence in respect of Suit No. 43 of 1973 and Suit No. 148 of 1974, which cases were consolidated by Order of the Court, the date of Hearing in connection with the above consolidation was Tuesday the 25th January 1977, and not Thursday the 20th January 1977 as stated.

2. I did not say on oath under cross examination by Mr. Bledman, what are recorded on page 39 of the Record of Proceeding in respect of the Notes of evidence beginning at line 1 and ending at line 40 the following:-

> "I knew of the sales at the time of the sales. At that time I knew that my aunt was selling her share of the property. I was so informed by letter. The name of Elima Edward was on the letter. The name below was Elima Edward. At that time I accepted the fact that she was selling. I did not object because I thought the sale was a proper sale. I was not at that time satisfied that my aunt had left my share intact. I did nothing to secure my interest at that time. According to documents, my aunt purported to sell on one side of the dividing line. After my aunt's death, I detected a technical defect in the Deed of Sale by my aunt. I was taking by succession from my aunt. I went to see Mr. Floissac and Mr. Lewis on other business around 1960-1966 before the sales. I would not be surprised to hear that Mr. Giraudy didn't join Floissac till December 1961."

3. What I did say on oath under cross examination are as follows:- I had heard of those sales by my aunt Elima Edward and was of the opinion that they were proper sales. But it was not until some time 1962 when I went to Desruisseaux, I asked my aunt about those sales, and in the presence of Mr. Louis McVane and Miss Euralis Bouty she quite vaguely said to me in patois "I do not know anything. I have done nothing". I had gone to Desruisseaux to select an area of one acre of the said land for lease to the Agricultural Department at the instance of Miss Bouty who was representing that Department

at the time. Mr. McVane accompanies us as a friend. I subsequently made research and discovered that the title applied to the Deeds of Sale was false. I do not agree with Schedule in the Gazette Notice at page 432 because it stipulates that the portion of land acquired by Government for a Health Centre is bounded at a point forming the north-eastern of Clermina Montrose's boundary, since Clermina Montrose has no legal boundary. I agree that Government acquired the portion of land for a Health Centre. I went to see Mr. Floissac on business around the year 1960-1961, and it was on that occasion I met with Mr. Giraudy who asked me for the title Deed of the land.

SWORN BEFORE ME at Castries St. Lucia this 6th day of May, 1977;

Sgd. Martin Jn Baptiste
JUSTICE OF THE PEACE

Sgd. R.A. Cooper
Deponent

This Affidavit is filed on behalf of the Plaintiff/Appellant.

No. 13

PLAINTIFF'S EVIDENCE ON APPEAL

IN THE COURT OF APPEAL - CIVIL APPEAL NO. 3 OF 1977 - NOVEMBER 2, 1977

MY LORDS:

I appear in person in this Appeal. This is an appeal from the Order of the High Court made by Mr. Justice J.B. Renwick in consolidated Suits Nos. 43 of 1973 and 148 of 1974 on the 25th of January 1977, pages 42 and 43 of the Record in which his Lordship ordered:-

1. That the Defendant Victor Charles be declared the owner of the land which he purchased from Elima Edward: that the Plaintiff is entitled to be declared the owner with the other heirs of such part of the undivided half share which Sophia Cooper owned and of the remaining

land which Elima Edward owned, should there be any such lands remaining.

2. That the claim for possession and ejectment and damages be dismissed; action against defendants Compton and Giraudy be dismissed;

3. That the Defendants Compton and Giraudy be entitled to their costs to be taxed;

4. No order as to costs between the Plaintiff and the Defendant Charles.

I have filed one Affirdavit and I pray for leave to adduce the Affidavit evidence contained therein.

I have filed this appeal on 8 grounds - these are listed at page 48 of the Record.

I would like with your Lordships permission to take the first 7 grounds of appeal together that:-

1. The learned trial Judge erred by his decision which is against the weight of the evidence.

2. By erroneously taking into account his own reservations on the decisions of Peterkin J. in declaring the deeds of sale null and void in Suit No. 7 of 1970; and his decision in Petition No. 105 of 1972.

3. By concluding that there had been lawful sales by Elima Edward in which the title had been incorrectly stated in the deeds.

4. By his failure to consider and/or direct his mind to the fact that the alleged sales are not merely null and void under Article 1980 of the Civil Code, but they are expressly forbidden by Articles 2134(8) and 2072 of the Civil Code.

5. By erroneously assuming that the Plaintiff is relying on the false title by prescription, impugned.

6. By his failure to consider and/or direct his mind to the fact that the Plaintiff's claim is based on the last Will and Testament of Louise Dareix and subsequent Letters of Administration and Vesting Deed.

7. By adjudicating beyond the conclusion of the Suit in declaring Victor Charles to be the owner of the land.

8. By his frequent and threatening interruptions made when the Plaintiff was giving evidence, and by not affording the Plaintiff an opportunity of addressing the Court after evidence, and before Judgment was given, prevented the Plaintiff from stating and conducting his case properly and fairly.

His Lordship gave the Defendant/Respondent Victor Charles a declaration of ownership. I submit that his Lordship erred in doing so for the following reasons:-

1. The Deeds of Sale on which the Defendant Victor Charles in his defence, page 26 paragraphs 6 and 7 of the Record based his claim of title to the property were both already declared null and void by the High Court in Suit No. 7 of 1970 at page 44 (9) of the Record. These Deeds of Sale being null and void and so declared by the Court, no claim to ownership of the said lands could be founded on them.

2. Furthermore, the question of any claim which the Defendant Victor Charles may have had to the properties was decided adversely to the Defendant/Respondent in Petition No. 105 of 1972, and so, as far as the Defendant/Respondent is concerned the question is already res judicata. I refer your Lordships to page 44 (10) of the Record. Victor Charles brought those proceedings praying for a declaration of title - 4th line of the Judgment which reads as follows:-

> "The Petitioner prays for a declaration of title in regard to 1½ carres of land situate at Desruisseaux in the Quarter of Micoud which he alleges he purchased from the late Elima Edward. The Petitioner claims that he purchased the lands in two portions by deeds of sale dated 30th January 1961 and 7th May 1963 respectively, and that he has since been in possession of the lands".

The Plaintiff in this Appeal (myself Robin Cooper) was the Respondent in that Petition.

3. There was no claim before the Court which would justify the Court in making a declaration of ownership in favour of the Defendant. The Defendant/Respondent Victor Charles is not the Plaintiff in either of the Suits. He is a Defendant. If he felt that he had any claim or was entitled to any relief or remedy against Plaintiff in this action in respect of any matter (whenever and however arising) may, instead of bringing a separate action, make a counterclaim in respect of that matter; and where he does so he must add the counterclaim to his defence. There has been no counterclaim in either of the Suits which have been consolidated. The Defendant/Respondent Victor Charles quite rightly did not counterclaim for a declaration of ownership because he had already in Petition No. 105 of 1972 - page 44 (10) of the Record, Line 4 of the Judgment of His Lordship Mr. Neville Peterkin prayed for a declaration of title in these lands. The application was dismissed, and so the question was res judicata with him. He could not have counterclaimed on the strength of the Deeds of Sale dated 30th January 1961 and 7th May 1963 because those two Deeds of Sale had already been declared null and void by the Court in the Judgment of His Lordship Mr. Peterkin at page 44 (9) of the Record. I therefore submit that there was no claim whatsoever before His Lordship Mr. Renwick on which he could give the Defendant/Respondent Victor Charles a declaration of ownership.

As to the remaining part of para. 1 of the Order of His Lordship Mr. Justice Renwick at page 42 of the Record namely:

> "That the Plaintiff is entitled to be declared the owner with the other heirs of such part of the undivided half shares which Sophia Cooper owned and of the remaining lands which Elima Edward owned, should there be any such lands remaining."

I would like to make it quite clear that Sophia Cooper's undivided one-half share was never in question in these actions.

The facts as to the ownership of the lands in dispute and to the title of the Plaintiff - that is, my title to the land is based on the last Will and Testament of Louise Dareix who died

on 24th August 1893 - evidence page 38 of the Record lines 1 - 3. She left the property to her grand children. Elima Edward was one of those grand children. Stanley Edward, Samuel Edward and Eugenie Edward all died without issue, single and intestate. This left Sophia Cooper and Elima Edward as sole surviving owners - page 38 of the Record lines 1 to 9, Elima Edward died on 31st July 1967 - Line 10. I took out Letters of Adminstrators and these are on record at page 44 (6). The Vesting Deed is at page 44 (7). The two portions of land are part of the property listed in both these documents. This constitutes the title of the Plaintiff. Against this title the Defendant/Respondent sets at para. 6 of his defence, page 26 of the Record, two Deeds of Sale which have already been declared null and void by the Court.

As to the Defendants/Respondents Compton and Giraudy, they admit at para. 3 of their Defence (page 7 of the Record) having executed the two Deeds of Sale. They also admit at para. 3 of their defence that the two Deeds were declared null and void, yet they insist at para. 2 of their Defence that Elima Edward was lawfully entitled to effect the same.

I humbly submit that this case is not a case of a valid sale which suffers from the defects of failure to register title under Article 1980 of the Civil Code as was argued in Suit No. 7 of 1970. In such a case the emphasis would be placed on the merely null and aspects of the Deeds and no distinction would be made as to the substantially fraudulent and fully illegal character of the contract as opposed to its void character. The essence of the matter is that an unlawful conspiracy has been committed without the knowledge of the lawful owners of the land in question, by the unlawful claim of title by prescription which was registered against the whole of the property belonging to the Plaintiff and to the injury and detriment of the said Plaintiff and contrary to public policy. The Plaintiff's claim to possession and damages therefore, is based on the fully illegal act of the Defendants for which they are liable to punishment by imprisonment, and which gives them no right at law nor at equity to the said lands. Moreover, I contend that by virtue of the fraudulent and illegal nature of their act, the

Defendants are barred from pleading the statute of limitation, whereas the Plaintiff acquires a right to action for damages and possession of his land against them in tort. Furthermore, I contend that the documents purported to be Deeds of Sale by Elima Edward to the Defendant/ Respondent Victor Charles were null and void ab initio.

The property being undivided, could not be conveyed giving specified boundaries by title of prescription, Furthermore, the Defendants were fully aware of the existence of the proper title to the property, but maliciously formulated such a bogus title as being the only means by which they could give specified boundaries and to defraud the Plaintiff of his property.

As to para. 8 of the grounds of Appeal, it was obvious from the outset of proceedings that I would not be allowed to make my points clearly and fully, as I was frequently interrupted and threatened by His Lordship, especially when reference was made by me of the Defendants Compton and Giraudy as having fraudulently executed and caused to be registered a false claim against my property. I was threatened with heavy costs being awarded against me if I insisted in making allegations of fraud against Defendants Compton and Giraudy. To add to the interruptions, a recess of 10 minutes was taken by the Court, during which time I was invited by His Lordship into his Chambers along with all concerned. It was there and then proposed to me by His Lordship that a partition of the land should be undertaken with the Defendant Victor Charles participating. I disagreed on the grounds that the Defendant was a trespasser on my land and could not take part in any partition. In support of my contention I quoted from the M & E Handbook series on Equity in respect of Constructive Trusts as follows, on page 136 para. 18 - constructive trusts are held to exist in the following situations:*

> "The case of property acquired by fraud. Where X acquires property by fraud upon Y, he will be considered in equity as a constructive trustee holding for the benefit of Y. McCormack v Grogan (1869.)."

Also quoting from M & E Handbook Series on Equity at page 248, para. 12, under transactions which are fraudulent in substance, it is noted as follows:-

> "Inequitable dealings with weak, poor and ignorant persons. Equity will set aside transactions of this nature."

It is also for this reason that I am claiming fraud on the part of the Defendants Compton and Giraudy in particular as pleaded by me in my Affidavit opposing extension of time - page 22 of the Record paras. 7 and 8.

It is to be noted that the Defendants did not give evidence on oath. Neither was the Defendant Compton present in Court.

With regard to Fr. Paul Chaigneau whose signature appears as a witness on one of the Deeds - page 44(3) of the Record, the para. before the last showing title by prescription, I say he was an accessory to the fraud - see Notes of Evidence pages 38 and 39 of the Record, because he was cognizant of the fact that Elima Edward's Title to the Land was not by prescription, since she (Elima Edward) had sent him to me, and discussion and discussion and correspondence whereby he was asked to deal with me, well knowing that the property was undivided and that we (myself and Elima Edward my aunt) were co-owners to the land. It is abundantly clear therefore, that Fr. Chaigneau, well knowing the property to be undivided, deliberately became an accessory to a transaction perpetrated by the Defendants, which is nothing short of fraud. That he should in conscience bound, especially as a Priest, should never have been a party to such an atrocious crime, knowing also that Elima Edward was illiterate, poor, senile and a very sick old woman as stated in the Deed of Sale - page 44(3) of the Record. Moreover, he knew that I did agree to sell any part of the Family Estate, and I had written this to him, quite apart from having told him so verbally, as he was interested in acquiring a portion of this undivided land at the time.

In notes of evidence page 37 of the Record para. 1, counsel for the Defendants referred to Articles 763 to 768 of the Code of Civil

Procedure in an attempt to create a time bar to my action against the Defendants. In the first place, as already stated, I contend that the Defendants are not entitled to plead the Statute of Limitation on the grounds that the Defendants have committed a breach of duty imposed by law. I claim the action of the Defendants amounts to nothing short of fraud, in that they, well knowing the proper legal title of the property in question, maliciously registered a false claim against my property, thereby causing me to suffer damage.

In support of my contention, I refer to M & E Handbook (illegible) on Equity at page 24 para. 15 which states as follows:-

> "Equity will not permit a Statute to be a cloak for fraud. Section 53(1) of the Law of Property Act, 1925, which replaced Section 7 of the Statute of Fraud, 1677 states "With respect to the creation of interests in land by Parol.. A declaration of trust respecting any land or interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust."

Equity will not allow this section to be utilised as a shelter for fraudulent dealings.

A significant point to be observed also is, the learned Judge's remark in his Judgment - page 41 of the record line 10 to the effect that "in my view the Plaintiff was aware of the sales and is now seeking to take unfair advantage of the Defendant Charles to recover land which the Plaintiff is well aware had already been sold by his Aunt". My reply to the above is to be found in my Affidavit at para. 3 refuting certain statements which his Lordship noted that I said. What I said in my evidence on oath were as follows:-

> "I had heard of those sales and was of the opinion that they were legal sales. But it was not until some time in 1962 when I went to Desruisseaux, I asked my Aunt about those sales, and in the presence of Mr. Louis McVane and Miss Euralis Bouty she quite vaguely said to me in Patois "I do not know anything. I have done nothing." I had gone to Desruisseaux to select an

area of one acre of the said land for lease to the Agricultural Department at the instance of Miss Bouty who was representing that Department at the time. Mr. McVane accompanies us as a friend. I subsequently made research and discovered that the title applied to the Deeds of Sale was false."

In fact, my research revealed that the documents purported to be Deeds of Sale were fictitious. I then took out Letters of Administration which was granted to me by the Supreme Court. I took action against the Defendant Victor Charles in 1970, and in 1972 the Court declared the Deeds of Sale to the Defendant Charles null and void. I am not aware that the Defendant paid any money to my Aunt for the lands. In fact, Letters of Administration granted to me by the Court clearly shows that there were no sales, so that there could be no payments. The Defendant has therefore fraudulently acquired my property and is still a trespasser in illegal occupation. As a contrast, I the Plaintiff has produced legal evidence on page 28 of the Record in reply to Defence in Suit No. 148 of 1974 para. 1(e) that I have paid into the St. Lucia Inland Revenue the sum of $502.42 as per official receipts Nos. 64208 and 302200 respectively, being succession duty in respect of my Aunt's undivided one-half share of the 3½ carres of the land at Desruisseaux in the Quarter of Micoud, as against $400.00 supposed to have been paid to my Aunt by the Defendant for the 1½ carres as appears by the two Deeds of Sale which have already been declared null and void by the Court. In view of the above facts, I leave it to your Lordships to deduce who is taking advantage as stated by the learned Judge.

Finally, I contend that I have been able to satisfy the Court by way of substantial documentary evidence as well as evidence on oath that I am the lawful owner of the land. The Defendant/Respondent Victor Charles has no claim to the land, but is a trespasser in unlawful occupation by virtue of the fictitious documents which were executed and caused to be registered by Compton and Giraudy, which said documents have already been declared null and void in Suit No. 7 of 1970.

I therefore pray that your Lordships will give due and favourable consideration to my claim.

In the West Indies Associated States Supreme Court of Appeal

No. 13
Plaintiff's Evidence on Appeal
2nd November 1977.
(cont'd)

A F F I D A V I T

I, Robin A. Cooper of No. 44 St. Louis Street, Castries in the State of Saint Lucia, Commission and Insurance Agent, make oath and say as follows:-

1. That the foregoing is my address before the Court of Appeal in St. Lucia in Civil Appeal No. 3 of 1977 which was heard on the 2nd day of November 1977.

2. That on conclusion of my speech to the Court, Mr. Justice J.A. St. Bernard, one of the Court of Appeal Judges sitting, asked me for a copy of the above speech and it was given to him by me.

Sworn to at 32 St. Louis Street, Castries in the State this 26th day of June 1978

(sgd) R.A. Cooper
R.A. Cooper
Deponent

BEFORE ME:

(sgd) Robert Odlum,
J.P.
ROBERT ODLUM,
J.P.

No. 14
Judgment of St. Bernard J.A.
27th February 1978

No. 14

JUDGMENT OF ST. BERNARD, J.A.

IN THE HIGH COURT OF
IN THE COURT OF APPEAL

SAINT LUCIA:

CIVIL APPEAL NO. 3 of 1977

BETWEEN:

ROBIN A. COOPER Plaintiff/Appellant

and

VICTOR CHARLES
JOHN H. COMPTON
EMMANUEL H. GIRAUDY — Defendants/ Respondents

Before The Hon. Sir Maurice Davis, Q.C., - Chief Justice.
The Honourable Mr. Justice St. Bernard
The Honourable Mr. Justice Perridge (Acting)

Appearance: Appellant in person
P. Bledman for Respondents.

1977, November 2
1978, February 27.

J U D G M E N T

ST. BERNARD; J.A.:

This appeal arises out of two cases (No. 43 of 1973 and No. 148 of 1974 which were consolidated by the Court on the 15th November, 1976.

The appellant obtained Letters of Administration of the estate of Elima Edward, of Desruisseaux, his aunt, on the 12th day of June, 1969, and vested her real estate in himself as administrator and attorney for his brothers and sisters, by vesting deed dated the 16th September 1969 and registered the 25th September 1969. Before her death in July 1969, Elima owned a half share of 3½ carres of land left under a will of her grandmother who died on 29th January 1893. The other half share belonged to the appellant's mother who died in 1947 and her share devolved upon her children. Elima sold a portion of her share (undivided) to the first respondent in 1961. There was no fraud or any suggestion of duress or undue influence. He was given a title not under the will but by prescription for 30 years possession. In 1963 the same respondent bought another parcel of land from her and was given the same type of title. These titles were given under a registered title. The respondent who was placed in lawful possession built his home on the land. After Elima died in 1967, the appellant discovered a "technical defect" as he put it in the deed and

as administrator of the estate sued for a declaration that both deeds were null and void. He was granted the declaration. Having been granted the declaration the appellant sued the 1st respondent for unlawful occupation, a declaration of ownership and ejectment and damages for fifty thousand dollars. He sued the other two respondents who are Notaries for negligence and fraud.

At the trial no fraud was proved, neither was there any proper allegation of fraud given. At the hearing of this appeal appeallant spoke of the fraudulent and illegal nature of the contract but the evidence before the Court disclosed no fraud or illegal contract.

In cross-examination appellant said -

"In second sale Father Paul Chavaut signed on behalf of my aunt. He was an accessory to the fraud. I knew of the sale at the time of the sales. At that time I knew that my aunt was selling her share of the property. I was so informed by letter. The name Elmina Edward was on the letter. The name below was Elmina Edward. At that time I accepted the fact that she was selling. I did not object because I thought the sale was a proper sale. I was not at that time satisfied that my aunt had left my half share intact .....
.....
I discovered that the land was not properly sold after my aunt died. I discovered not that my aunt did not sell but the manner in which she sold was wrong. I sold some of my mother's share from the part which was reserved for my mother. I sold to Herbert Tousan around 1967 .....
.....
.....
I am relying on documentary evidence. My aunt had a half share of the land. She had a right to sell that half share in her lifetime. She purported to sell her interest. I, on behalf of the others have sold out of the remaining interest. After my aunt's death, I detected a technical defect in Deeds of Sale by my aunt. I was taking by succession from my aunt. A perfect Deed would have been quite alright."

The appellant had eight grounds of appeal seven of which he argued together. He contended that since the deeds of sale were declared null and void by the court no claim of ownership could be founded on them and the sales were not valid sales. He stated that his claim to possession and damages was based on the fully illegal act of the respondents for which they are liable to punishment by imprisonment and therefore have no right in law or equity to possession of the parcels of land.

In my opinion the appellant has totally misconceived his true position. He stands in the shoes of Elmina Edward. He is an extension in space of her and has no more claim to the land than she would have and if she were alive. The fact is he continues her existence though not physically. His claim amounts to this: Elima Edward by a valid contract of sale under article 1382 of the Civil Code Chapter 242 of the Laws of St. Lucia placed the respondent Charles in lawful possession of two parcels of land but gave a defective title, although capable of giving a valid title. In 1969 on discovery of the defect in the title she asks the court to declare the title null and void, to declare the possession unlawful and to give damages of $50,000.00 for placing the respondent in possession. She keeps the sale price of the land and sells to a third party. The appellant must realize that he is not a third party and his position has not been prejudiced in any manner. Article 1980 of the Civil Code under which the deeds were declared null and void appears mainly to be for the protection of third parties and not to assist a dishonest vendor from depriving an honest purchaser from possession of land under a valid contract of sale. The deeds although they may not comply with the provisions of Article 1980 of the Code are evidence of a valid contract of sale.

The appellant also contended that the trial judge declared the respondent Charles to be owner of the land although he had no counter-claim before him. I have looked at the pleadings of the respondent at the end of his defence it is stated that the defendant therefore claim -

(a) an order directing the plaintiff to execute all necessary documents etc.

No. 14
Judgment of St. Bernard J.A.
27th February 1978.
(cont'd)

(b) a declaration that he is owner of the land."

Although the usual expression, "counterclaim" was not used, I would treat that paragraph as equating to a counterclaim. I would not interfere with the judge's order. The appellant has not claimed that he was prejudiced by any deficiency in soil or in value by the sale to the respondent. The only complaint is that there is a technical defect in the deed of sale. I would dismiss the appeal with costs to be taxed. 10

(E.L. St. Bernard)
JUSTICE OF APPEAL

I agree

(N.A. Berridge) (Ag)
JUSTICE OF APPEAL

I also agree

(Sir Maurice Davis)
CHIEF JUSTICE

No. 15
Order granting Final Leave to Appeal to H.M. in Council
24th November 1978

No. 15 20

ORDER GRANTING FINAL LEAVE TO APPEAL TO H. M. IN COUNCIL

CIVIL FORM 11 Rule 37

IN THE COURT OF APPEAL

CERTIFICATE OF THE ORDER OF THE COURT

(State) SAINT LUCIA

Motion 1 Civil Appeal No. 3 of 1977

Final Leave to Appeal to Her Majesty in Council from the Judgment of the West Indies Associated States Court of Appeal. 30

State of Saint Lucia dated the 2nd November, 1977 and 27th day of February 1978.

In the West Indies Associated States Supreme Court of Appeal

No. 15
Order granting Final Leave to Appeal to H.M. in Council 24th November 1978 (cont'd)

1 of 1978 Motion
3 of 1977 Appeal No.

Robin A. Cooper (Plaintiff/~~Defendant~~)*
Applicant Appellant(s)

v.

Victor Charles (~~Plaintiff~~/Defendant)*
John M. Compton Respondent(s)
Emmanuel H. Giraudy.

This appeal coming on for hearing on the 20th day of November 1978 before Sir Maurice Davis C.J., N. Peterkin J.A., N. Berridge, J.A. (Ag) in the presence of Robin A. Cooper in person ~~for the Appellant(s)~~ and Mr. P. Bledman for the Respondent(s)

I HEREBY CERTIFY that an Order was made as follows:-

Final leave to Appeal to Her Majesty in Council granted

Given under my hand and the Seal of the Court this 24th day of November 1978.

(sgd) .....
Deputy Registrar.

*Strike out words inapplicable

Exhibits

E X H I B I T S

A.1. LAST WILL AND TESTAMENT OF LOUISE DAREIX

A.1.
Last Will and Testament of Louise Dareix 4th January 1892

On the Twenty fourth August Eighteen hundred and ninety three

VOL: 52a
No.: 19299
FROM THE MINUTES of the Royal Court St. Lucia

Exhibits

A.1.
Last Will and Testament of Louise Dareix 4th January 1892 (cont'd)

IN THE ROYAL COURT

ON THE twenty fourth day of August One thousand eight hundred and ninety three at the Registry of the said Court.

APPEARED: ROBERT EDWARD, Planter and Proprietor of the Parish of Micoud One of the Usufructuary legatees of the after-named LOUISE DAVEIX of the parish of Micoud.

WHO requested the undersigned Registrar to receive and enrol emongst the Minutes of the said Court a document a purporting to be the Last Will and Testament of the late Louise Daveix of the parish of Micoud in her lifetime a proprietor in this Island, the said document being written upon three pages of a sheet of paper commonly called white foolscap rulled beginning with the words in the name of God Amen and ending with threse Marked, published pronounced and declared by the said Louise Daveix as her last Will and Testament in the presence of us the subscribers and the signatures Randolph John Govt. Teacher Micoud and Jno. A. Constable J.P.

AND: JOHN ASHLEY COOPER of Castries a Sworn land Surveyor and William Thomas Callendar of Castries Tailor having been duly Sworn so declare and say that the signature of the aforesaid Randolph John is the true signature of the aforesaid Randolph John and the said John Ashley Cooper and Duncan Ferguson of Castries Solicitor having been duly sworn do declare and say that the signature Jno. A. Constable is a true signature of John Alfred Constable of Micoud a Justice of the Peace and that the Last Will and Testament pronounced is the true Last Will and Testament of the said Louise Daveix.

(Signed) Jr. Ash. Cooper, W.T. Callender, Duncan Ferguson.

Sworn to before me at Castries on the day and year above written.

(Signed) Alex. Clavier Registrar.

The aforesaid Will and Testament shall be and remain hereunto annexed after being signed by the Registrar ne Varietur in order that extracts or copies may be delivered to all whom it may concern.

Done in the Registry of the Royal Court the day and year first above written.

(Signed) Alex. Clavier Registrar.

IN THE NAME OF GOD AMEN.

The Fourth day of January One thousand eight hundred and ninety two.

I, LOUISE DAVEIX of Calbassier in the parish of Micoud in the island of St. Lucia being very sick and weak of body but of perfect mind and memory thanks be given unto God: therefore calling unto my mind the mortality of the body, knowing that it is appointed unto all men once to die do make and ordain this my last Will and Testament; that is to say principally and first of all I give and recommend my soul unto the hands of almighty God that give it, and my body I recommend to the earth to be buried in decent Christian burial, nothing doubting but at the general resurraction I shall receive the same again by the Almighty power of God. And touching such worldly Estate wherewith it hath pleased Almighty God to bless me in this life, I give devise and dispose of the same in the following manner:-

I give and bequeath to my five grand-children SOPHIA the present wife of JOHN ANDERSON COOPER of the Village of Micoud, STANLEY EDWARD, SAMUEL EDWARD, EUGENIE EDWARD, and ELIMA EDWARD, (the last four minors) the children of Robert Edward by his lawful wife Mathurine Daveix all residing in the Parish of Micoud the following.

Three and a half carres of land with a wooden house erected thereon, bounded North by Delomel Estate, South by Devnisseau Augustin, East by the lands of Jean Marie and West by the lands of the Heirs Hobart; one wooden house with and appurtenances in Philadelphia Row in Pascal Cooper's Village in the Village of Micoud one milch cow, one filly one mohogany bedstead, four cotton and hair mattresses, one sofa, one looking glass four deal tables, one bureau, which Estate I leave into the hands of Robert Edward and his wife Mathurine Daveix to be by them enjoyed until their beforenamed minor children arrive at the age of majority.

Exhibits

A.1.
Last Will and Testament of Louise Dareix 4th January 1892
(cont'd)

AND I do hereby utterly disallow revoke and disannual all other testaments by me in any way before named; ratifying this and confirming the same and no other to be my last Will and Testament.

IN WITNESS WHEREOF I have hereunto made my mark the day and year above written.

Louise his X mark Daveix

Before me (Signed) Jno. A. Constable.

Marked, published, pronounced and declared by the said Louise Daveix as her last Will and Testament in the presence of us the Subscribers.

(sgd) Randolph John Govt. Teacher, Micoud, Jno. A. Constable J.P.

19th August, 1892. Declaration of the Death of the late Louise Daveix of the Parish of Micoud.

KNOW ALL MEN by these presents that before the undersigned DUNCAN ALOYSIUS JAMES FERGUSON Notary Royal in and for the island of St. Lucia residing in Castries.

PERSONALLY APPEARED: ROBERT EDWARD planter and proprietor residing in the Parish of Micoud, who declared to the undersigned Notary Royal as follows:-

That is one of the usufructuary legatees of the late LOUISE DAVEIX as appears by the above written will and that the said Louise Daveix died in the Parish of Micoud in this Island on the twenty ninth day of January this year.

WHEREOF ACT.

WHEREOF ACT.

DONE AND PASSED at Castries Island of St. Lucia this nineteenth August One thousand eight hundred and ninety two and threse presents having been read over to the Appearer he has signed the name with and in the presence of the said Notary.

(Signed) Robert Edward, Duncan Ferguson, Notary Royal.

This is the Will referred to in my Proses Verbal of the 24th August, 1893 (ninety three)

(Signed) Alex. Clavier Registrar.

True Copy (Signed) Alex Clavier, Registrar.

(Sgd.) Alex Clavier
REGISTRAR.

A.2. DEED OF SALE

A.2.
Deed of Sale
30th January
1961

Dated 30th January, 1961

SALE
by
ELIMA EDWARD
to
VICTOR CHARLES
of

A piece or parcel of land to be dismembered from a larger portion of land situate at Desruisseaux, Quarter of Micoud.

For: $200.00 Cash.
Vol: 100b
No : 71541
At : 11.15
6th February, 1961.

THESE PRESENTS made this thirtieth day of January One thousand nine hundred and sixty-one.

BEFORE EMMANUEL HENRY GIRAUDY Notary Royal practising in the Island of Saint Lucia residing in the Desruisseaux in the Quarter of Micoud in the said Island.

BETWEEN : ELIMA EDWARD of Desruisseaux aforesaid, Spinster and Proprietress, (hereinafter called the Vendor) of the one part

Exhibits

A.2.
Deed of Sale
30th January
1961
(cont'd)

AND : VICTOR CHARLES of Desruisseaux aforesaid, Bus Proprietor and Planter (hereinafter called the purchaser) of the other part

WITNESS that in consideration of the sum of TWO HUNDRED DOLLARS payable within seven days of the execution hereof by the purchaser to the vendor (receipt sells and conveys free and clear of all encumbrances unto the Purchaser thereof accepting the immoveable property described in the Schedule hereto

TO HOLD the same unto the Purchaser absolutely with immediate possession.

WHEREOF RECORD.

IN WITNESS WHEREOF, these presents after due reading thereof have been signed at Desruisseaux aforesaid on the day month and year first above written by the parties with and in the presence of the said Notary.

SCHEDULE

ALL that piece or parcel of land situate at Desruisseaux in the Quarter of Micoud in the said Island to be dismembered from a larger portion of land three and one half carres in extent, the said piece or parcel measuring four hundred feet by four hundred feet and bounded North by lands of Sydney Robard, South by the remainder of the said three and one half carres, East by the public road and West by lands of Justin Ferguson, or howsoever otherwise the same may be bounded; together with all the appurtenances and dependencies thereof.

Title:- The Vendor claim the land hereby sold by virtue of prescription she having been in continuous open peaceable and undisturbed possession as owner thereof for over thirty years.

Thus signed on the original: Elima Edward; Victor Charles; E. Henry Giraudy, Notary Royal.

Compared with and certified a true copy of the original.

(sgd.) E. Henry Giraudy.
NOTARY ROYAL

A.3. DEED OF SALE

Dated 7th May, 1963

SALE
by
ELIMA EDWARD
to
VICTOR CHARLES
of

A portion of land indeterminate in extent situate on the West of the Desruisseaux - Calypso Road in the Quarter of Micoud

For : $200.00 Cash
VOL : 103
No. : 75725
AT : 11.00
9th May, 1963

THESE PRESENTS made this seventh day of May One thousand nine hundred and sixty-three,

BEFORE : JOHN GEORGE MELVIN COMPTON Notary Royal practising in the Island of Saint Lucia and residing in the Town of Castries in the said Island.

BETWEEN : ELIMA EDWARD of Desruisseaux in the Quarter of Micoud in the Island of Saint Lucia, Spinster and Proprietress, (hereinafter called the Vendor) of the one part

AND : VICTOR CHARLES of Desruisseaux in the Quarter of Micoud aforesaid, Bus-Proprietor and Planter, (hereinafter called the Purchaser) of the other part

WITNESS that in consideration of the sum of TWO HUNDRED DOLLARS paid before the execution hereof by the purchaser to the Vendor (receipt whereof the vendor hereby acknowledges) the Vendo hereby sells and conveys free and clear of all encumbrances unto the Purchaser thereof accepting the immoveable property described in the Schedule hereto.

TO HOLD the same unto the Purchaser absolutely and with immediate possession.

- WHEREOF RECORD -

Exhibits

A.3.
Deed of Sale
7th May 1963
(cont'd)

IN WITNESS WHEREOF, these presents after due reading thereof have been signed at Desruisseaux aforesaid on the day month and year first hereinbefore written by the purchaser, by Rev. Father PAUL CHAIGNEAU F.M.I. Parish Priest, a witness hereto specially required by the vendor, and by the said Notary only, the Vendor upon being duly required to sign thereto having declared her inability to do so owing to illness.

SCHEDULE

ALL the remainder of the vendor's land which lie to the West of the Calypso Desruisseaux Road, the portion of land being a dismemberment of three and one quarter of one carre situate at Desruisseaux in the Quarter of Micoud. The portion hereby sold and conveyed in indeterminate in extent but together with an area of four hundred feet square previously sold and delivered to the purchaser (vide Deed registered in Vol: 100b No. 71541) comprised on area on one and a one half carres and is bounded on the East by the Calypso Desruisseaux Road, West by Justin Ferguson, North by Signey Robard and South by the lands of Roman Catholic Parish. Together with all the appurtenances and dependencies thereof.

Title: The Vendor claims the land hereby sold by virtue of Prescription she having been in continuous open peaceable and undisturbed possession as owner thereof for over thirty years.

Thus signed on the original:- Victor Charles; Paul Chaigneau, P.P. ; John G.M. Compton Notary Royal,

Compared with and certified to be a true copy of the original.

(Sgd.) John G.M. Compton
NOTARY ROYAL

A.4. DECLARATION OF SUCCESSION

Dated 11th February, 1966

DECLARATION
by
ROBIN A. COOPER

of the Succession of the late
SOPHIA COOPER

SAINT LUCIA
OFFICE OF DEEDS & MORTGAGES
RECORDED

Twelfth day of February NINETEEN hundred and sixty-six
Vol:119a No. 81364 at 10.00

(sgd). ELVIRA AUGIER SANCHEZ
AG. DEP. REGISTRAR.

Dated 11th February, 1966. DECLARATION by ROBIN A. COOPER of the Succession of the late SOPHIA COOPER.

ON THIS DAY the 11th day of February One thousand nine hundred and sixty-six.

BEFORE: ST. GEORGE MURRAY Notary Royal practising in the Island of Saint Lucia and residing in the Town of Castries in the said Island

PERSONALLY APPEARED: ROBIN A. COOPER of the Town of Castries in the Island of Saint Lucia Commission Agent (hereinafter called the Appearer)

WHO DECLARED UNTO THE UNDERSIGNED NOTARY AS FOLLOWS:

(1) That the late LOUISE DAREIX in her lifetime of "Calbasieur" in the Quarter of Micoud in the Island of Saint Lucia died in the Quarter of Micoud aforesaid on the 29th January 1893, leaving a Last Will and Testament in English form dated 4th January, 1892 which was duly admitted to Probate on 24th August 1993 sic and registered on the 24th August 1993 sic in Vol: 52a No. 19298.

(2) That under the said Last Will and Testament

Exhibits

A.4.
Declaration of Succession 11th February 1966 (cont'd)

the late LOUISE DAREIX devised and bequeathed to her five grand-children, namely (a) SOPHIA COOPER (wife of John Anderson Cooper of the Village of Micoud) (b) STANLEY EDWARD (c) SAMUEL EDWARD (d) EUGENIE EDWARD and (e) ELIMA EDWARD (the last four named being minor children of Robert Edward and his lawful wife Mathurine Dareix), the immoveable property described in the Schedule hereto.

(3) That SOPHIA COOPER aforesaid died at Castries in the Island of Saint Lucia on 28th October, 1947, intestate, leaving as her heirs-at-law and legal representatives the following eleven (11) children born of her marriage to John Anderson Cooper, aforesaid (a) INIDIA AURELIA COOPER now resident in the United States of America, (b) EVALINA VIOLET COOPER now resident in the Republic of Panama, (c) JANE FLORENTINE WILLIAMS (born Cooper now resident in the United States of America), (f) AMABEL WILHELMINA JONES (born Cooper) now resident in the United States of America, (g) ANGEL VIRGILIUS COOPER also called EVELYN COOPER now resident in the United States of America, (h) ETHEL ELIZA COOPER now resident in the Republic of Panama, (i) OWEN SHERLAND ASHLEY COOPER now resident in the United States of America, (j) FLORIDA ALICE MAY (born Cooper) now resident in the United States of America and (k) ROBIN ALPHA PASCAL COOPER, the Appearer.

(4) That STANLEY EDWARD left Saint Lucia for Cayenne, French Guiana, in the early part of the Century, where he died, intestate, unmarried and without lawful issue, without ever having visited Saint Lucia.

(5) That SAMUEL EDWARD left Saint Lucia for Cayenne, French Guiana, in the early part of the Cenutry, where he died intestate, unmarried and without lawful issue only once paying a brief visit to Saint Lucia in or about 1921 to 1922.

(6) That EUGENIE EDWARD left Saint Lucia for Colon, Isthmus of Panama, in the early part of the century, where she died, intestate, unmarried and without lawful issue, without ever having visited Saint Lucia.

(7) That by death aforesaid of the late STANLEY EDWARD, SAMUEL EDWARD and EUGENIE EDWARD, their

shares and interest in the aforesaid property described in the Schedule hereto developed upon the aforesaid eleven (11) heirs-at-law and legal representatives of the late SOPHIA COOPER and the said ELIMA EDWARD who were entitled to claim the said property as co-heirs.

(8) That the said Appearer on behalf of himself and of his other aforesaid mentioned two brothers and eight sisters doth claim ownership of an undivided one-half share to the aforesaid immoveable property described in the Schedule hereto.

WHEREOF RECORD.

IN WITNESS WHEREOF, these presents after due reading thereof have been signed on the day month and year first hereinbefore written by the appearer with and in the presence of the said Notary.

SCHEDULE

ALL that piece or parcel of land situate at Desruisseaux in the Quarter of Micoud in the Island of Saint Lucia comprising Three and One-half carres in extent and which said piece or parcel of land is bounded as follows:- North by "Delomel" Estate, South by Desruisseaux; East by the lands of Jean Marie Augustin, and West by the lands of Heir Hobart, or howsoever else the same may now be bounded. Together with all the appurtenances and dependencies thereof.

Thus signed on the original:- R.A. Cooper
St. George Murray, Notary Royal.

Compared with the original and certified a true copy thereof.

(Sgd). St. George Murray
NOTARY ROYAL

A.5. LETTERS OF ADMINISTRATION

IN THE HIGH COURT OF JUSTICE, SAINT LUCIA

M 72 of 1969

(LETTERS OF ADMINISTRATION)

Extracted by

BE IT KNOWN that on the 12th day of June, 1969 Letters of Administration of all the Estate of Elima Edward in her lifetime of Desruisseaux, Quarter of Micoud deceased who died on the 31st day of July 1969 at Desruisseaux, Quarter of Micoud in the said State of St. Lucia intestate which by law devolves to and vests in the personal representative of the said deceased were granted by the High Court of Justice of the West Indies Associated States Supreme Court at Saint Lucia to ROBIN COOPER he having been first sworn well and faithfully to administer the same according to law and to exhibit a true and perfect inventory of all the said Estate and to render a just and true account thereof whenever required by law so to do.

Acting A.G. HINKSON
Registrar of the High Court, of
the West Indies Associated States
Supreme Court (Saint Lucia).

THE WEST INDIES.

IN THE HIGH COURT OF JUSTICE
(SAINT LUCIA)

IN THE MATTER of a Petition for the granting of Letters of Administration in respect of the intestate Succession of Elima Edward. (Sec. 575 of the Civil Code).

Ex parte : ROBIN COOPER

BEFORE : The Acting Registrar
(Mr. Albert George Hinkson)

Dated : 12th June, 1969.

ORDER

The Petition of ROBIN COOPER of Castries in the State of Saint Lucia coming up for hearing on the 12th day of June, 1969.

AND UPON HEARING the said Petition dated 20th day of February, 1969 and Affidavit of the Petitioner of even date and

UPON PERUSING that various exhibits filed therewith verifying the facts set forth in the said Petition and

UPON HEARING Mr. JEAN RAYNOLD Counsel for the Petitioners and

UPON IT APPEARING that the late Elima Edward died intestate and unmarried and without issue of Desruisseaux in the Quarter of Micoud in the State of Saint Lucia on or about the 31st July, 1967.

AND UPON IT FURTHER APPEARING that the heirs-at-law and legal representatives of the deceased within the heritable degree are:- 1. AMABLE WILHELMINA JONES (born Cooper) 2. MARY ADELIA DANZIE (born Cooper) 3. EVELYN VIOLET FRANCIS (born Cooper) 6. OWEN SHIRLAND ASHLEY COOPER 7. FLORIDA ALICE MAY COOPER 8. ROBIN COOPER 9. INDIA AURELIA COOPER 10. JANE FLORENTINE WILLIAMS (Born Cooper) and 11. AIMA ALBERTINA BLANCHARD (born Cooper).

AND UPON IT FURTHER APPEARING that the deceased at the date of her death was seized of the immoveables property described in the Schedule hereto.

IT IS HEREBY ORDERED:

That Letters of Administration of the late Elima Edward be granted to the Petitioner ROBIN COOPER.

BY THE COURT

Acting Registrar.

- SCHEDULE -

An undivided half share in and to all that piece or parcel of land situate at Desruisseaux

Exhibits

A.5.
Letters of Administration 12th June 1969 (cont'd)

in the Quarter of Micoud in the State of Saint Lucia comprising three and one half carres in extent and which said piece or parcel of land is bounded as follows:- North by "Delomel" Estate South by Desruisseaux, East by the lands of Jean Maria Augustin, and West by the lands of Heirs Hebert- or howsoever else the same may now be bounded. Together with all the appurtenances and dependencies thereof.

SAINT LUCIA

Office of Deeds & Mortgages

R E C O R D

Fourtheenth day of July
Nineteen hundred and sixty-nine
Vol: 122a No. 91096.

(Sgd.) A.G. Hinkson
Deputy Registrar.

A.6.
Vesting Deed 16th September 1969

A.6. VESTING DEED

Dated 16th September 1969

VESTING DEED
by
ROBIN COOPER
in favour of
ROBIN COOPER AMABLE WILHELMINA JONES
(Born Cooper) and others

Registered on the 25th September 1969
Volume 122A
Number 91608

ON THIS DAY the sixteenth of September One thousand nine hundred and sixty-nine.

BEFORE JEAN RAYNOLD, Notary Royal, practising in the Island of Saint Lucia residing in the City of Castries in the said Island.

CAME AND APPEARED:- ROBIN COOPER of the

City of Castries in the said Island (hereinafter called the Administrator).

WHO declared unto the said Notary as follows:

I, ROBIN COOPER of Castries (hereinafter called the Administrator of the Succession of the late ELIMA EDWARD) of Desruisseaux in the Quarter of Micoud who died on or about the 31st July, 1967 whose intestate succession were granted to me on the 12th of June, 1969 and registered on the 14th of July, 1969 in Vol: 122a No. 91096 whereby as such administrator of the deceased assent to the vesting in myself as Administrator and Attorney for my brothers and sisters (1) AMABLE WILHELMINA JONES (born Cooper) 2. MARY DEALIA DANZIE (born Cooper). 3. EVELYN ANGEL VIRGILIUS COOPER, 4. ETHEL ELIZA COOPER 5. EVELINA VIOLET FRANCIS (born Cooper) 6. OWEN SHIRLAND ASKLEY COOPER 7. FLORIDA ALICE MAY COOPER 8. ROBIN COOPER 9. INDIA AURELIA COOPER 10. JANE FLORENTINE WILLIAMS (born Cooper). 11. ALMA ALBERTINA BLANCHARD (born Cooper) the immoveable property described in the Schedule hereto.

AND AT THE MAKING OF THESE PRESENTS there came appeared the said ROBIN COOPER (hereinafter called the Appearer) who accept unconditionally the said immoveable property vested in himself and attorney of the above named brothers and sisters as their share in the property as appears by his signature hereunder.

WHEREOF RECORD.

IN WITNESS WHEREOF, these presents after due reading thereof have been signed on the day month and year first above written at Castries aforesaid by the appearer with and in the presence of the said Notary.

SCHEDULE

AN undivided one half share in and to all that piece or parcel of land situate at Micoud in the said Island of Saint Lucia comprising THREE AND ONE HALF CARRES in extent and which said piece or parcel of land is bounded as follows:- North by "Delomel" Estate, South by Desruisseaux, East by the lands of Jean Marie Augustin and West

Exhibits

A.6.
Vesting Deed
16th September
1969
(cont'd)

by the lands of the Heirs bounded together with all the appurtenances and dependencies thereof.

Thus signed on the original: R.A. Cooper; J. Raynold, Notary Royal.

Compared with the original and certified a true copy thereof.

(Sgd.) J. Raynold
NOTARY ROYAL.

A.7.
Judgment of
Peterkin J.
24th/25th
April 1972

A.7. JUDGMENT OF PETERKIN J.

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Suit No. 7 of 1970
Between:

ROBIN A. COOPER ET AL — Plaintiffs

and

VICTOR CHARLES — Defendant

Mrs. F. Odlum for Plaintiffs
Mr. J. Reynolds with her
Mr. P. Bledman for Defendant

1972, April 24th, 25th.

JUDGMENT

PETERKIN, J.

The claim of the Plaintiffs is clearly set out in their Declaration most of which has been admitted in the Defence. What they seek from the Court is not an Order for Possession, or a declaration as to ownership, but a judgment in terms that the two deeds mentioned be declared null and void. This pure and simple is the subject matter of the suit.

The facts and circumstances are that one Louise Dareix who died on 29th January 1893 left a will by the terms of which she bequeathed 3½ carres of land to her 5 grandchildren named in paragraph 3 of the Declaration. Three of them predeceased their lawful sisters Sophia and Elima who then acquired the land in equal shares. The former died in 1947, and her share devolved to her lawful children, the Plaintiffs in this action. As Elima died in July, 1967, intestate and unmarried, and leaving no lawful issue, her succession also devolved upon the children of Sophia, namely, the Plaintiffs. All of this is stated in the Declaration of the Plaintiffs and admitted in the Defence. However, by two deeds of sale referred to in paragraph 7 and 8 of the Declaration, and dated 30th January, 1961 and 17th June, 1963 respectively. Elima Edward purported to sell to the Defendant two specified portions of this undivided land on the premise that she had acquired a prescriptive title thereto. The title appearing on both deeds is stated as follows:-

> "The vendor claims the land hereby sold by virtue of prescription, she having been in continuous open, peaceable and undisturbed possession as owner thereof for over 30 years".

These are the two deeds which the Plaintiffs seek to have the Court declare null and void.

The Amended Defence, at paragraph 3, claims that the property was informally partitioned by mutual consent, and goes on at paragraph 6 to plead that the Defendant will contend that the Plaintiff being the successor in title of Elima Edward is not competent to institute these proceedings.

Learned Counsel for the Defendant in referring to Article 1980 of the Civil Code contended that, while it seemed to suggest that the vendor should have a registered title, it affected third parties only, and accordingly did not protect the Plaintiffs. He cited as his authority the case of Wilson et al vs. Lacoste et al, Court of Queen's Bench (Appeal) Montreal, 24th September, 1890. It is to the effect that the necessity to register a deed of sale does not exist except with respect to third party purchasers and hypothecary creditors, but not with respect to the vendor his heirs or legatees who are guarantors of the sale.

The first two paragraphs of Article 1980 read as follows:

> "Subst. 19-1904. All acts inter vivos, conveying the ownership, nuda proprietas or usufruct of an immovable must be registered at length or by an abstract hereinafter called a memorial.
>
> In default of such registration, the title of conveyance cannot be invoked against any third party who has purchased the same property or received an onerous gift of it from the same vendor or donor for a valuable consideration and whose title is registered".

In the proviso to the section it is stated as follows:

> "Provided always that all acts inter vivos purporting to convey the ownership, nuda proprietas or usufruct of an immovable shall be null and void, unless prior to the execution of such acts the title of the person or persons purporting to make such conveyance shall have been registered; but this proviso shall not annul or render void any act whereby the Crown purports to make any such conveyance, or in any manner whatsoever affect any right of the Crown".

There are two aspects of the matter which come readily to mind. They are as follows:

(i) The right of the vendor to dispose of the property in the case cited was not called into question.

(ii) The claim in the case cited sought a declaration as to ownership of the property, an Order for possession, and accounts.

The Declaration in the instant case seeks simpliciter that the acts complained of be declared null and void. I should not have throught that the Plaintiffs would have found it necessary to have the Court pronounce on this as surely it is of little value to them. The real issue will undoubtedly arise at such time when the parties ligitate the effect of the failure to register the deeds of sale, or when the

Defendant applies to the Court for a declaration of title in regard to the property under the new rules governing such applications. Article 2103A of the Civil Code provides for such applications in the following terms:-

> "Ad. 34-1956). Title to immovable property, or to any servitude or other right connected therewith, may be acquired by sole and undisturbed possession for thirty years, if that possession is established to the satisfaction of the Supreme Court which may issue a declaration of title in regard to the property or right upon application in the manner prescribed by any statute or rules of court".

In short, the Applicant applies in the manner prescribed by the rules of Court, and the Court, if satisfied that sole and undisturbed possession for 30 years has been established, issues a declaration of title.

Article 1980 provides that before the execution of the act which conveys the ownership of immovable property to another living person, the title must be registered of the former, and that failure to register the title makes the act itself null and void.

For the reasons given, I am satisfied that the failure to register the title in the instant case before selling made all acts purporting to convey the ownership null and void, and, for what it is worth, I make such a declaration in favour of the Plaintiffs.

No evidence as to damages has been led, and this issue accordingly does not arise for consideration. The Defendant will pay to the Plaintiffs their costs of the action to be taxed.

The execution of this Judgment is stayed for 6 weeks, and during appeal, if any, to enable the Defendant to institute, if he so desires, any further litigation on the matter.

The Court wishes to record its thanks to Counsel on both sides for the assistance received in trying to bring the parties to an amicable settlement.

NEVILLE A. PETERKIN
Puisne Judge.

A.8. JUDGMENT OF PETERKIN J.

Saint Lucia

IN THE HIGH COURT OF JUSTICE
(CIVIL)

Petition No. 105 of 1972

EX PARTE:

VICTOR CHARLES

P. Bledman for Petitioner.
Respondent in person.

1974, Jan. 14th, 15th,
16th, 31st

J U D G M E N T

(Judgment delivered 1st March, 1974)

PETERKIN, J.

This is a Petition for a declaration of title in accordance with Article 2103A of the Civil Code. It is brought under the Supreme Court - Prescription By Thirty Years (Declaration of Title) Saint Lucia Rules, S.R.O. No. 7 of 1970. The Petitioner prays for a declaration of title in regard to 1½ carres of land situate at Desruisseaux in the quarter of Micoud which he alleges he purchased from the late Elima Edward. The Petitioner claims that he purchased the land in two portions by deeds of sale dated 30th January, 1961, and 7th May, 1963, respectively, and that he has since then been in possession and occupation of the lands. As his possession relates to a period of time approximately 10 years only, the Petitioner is claiming through himself and his predecessor in title, namely, Elima Edward. He is permitted by the Rules (S.R.O. No. 7 of 1970) to do this. Section 5 requires him to set out in his Petition, inter alia, the facts upon which he relies to establish that he (or he and some other person or persons through whom he claims) has been in sole and undisturbed possession of the property continuously for 30 years.

The facts and circumstances are shortly as follows:-

One Louise Dareix who died on 29th January, 1893, left a will by the terms of which she bequeathed 3½ carres of land to her 5 grand-children. Three of them predeceased their lawful sisters Sophia and Elima who then acquired the land in equal shares. They each owned an undivided one-half share. Sophia was the mother of the Respondent Robin Cooper, and Elima was his Aunt. Sophia died in 1947 and her share devolved upon her lawful children. As Elima died in July, 1967, intestate and unmarried, and leaving no lawful issue, her succession also devolved upon the children of Sophia. On 14th July, 1969, the Respondent Robin Cooper obtained Letters of Administration to the Estate of his Aunt Elima Edward.

By two deeds of sale previously mentioned, namely, 30th January, 1961, and 7th May, 1963, respectively, Elima Edward purported to sell to the Petitioner Victor Charles the two portions of land which form the subject matter of the instant application. They are part and parcel of the 3½ carres of land bequeathed by the late Louise Dareix. There is no evidence that the land has been partitioned either by agreement or by any order of the Court.

By a judgment of this Court given in Suit No. 7 of 1970, between Robin A. Cooper et al and Victor Charles, it was adjudged that the two deeds of sale referred to above were null and void, the Title thereto not having been previously registered as required by law. (Vide Article 1980 of the Civil Code). The Petitioner has however, been in possession and occupation of the two portions of land from the respective dates of the alleged sales until now.

Bearing in mind that the Petitioner's possession, by himself, relates to a period of approximately 10 years only, the urgent question as far as this application is concerned is whether or not Elima Edward in the circumstances of her joint and undivided ownership could in law have prescribed against her sister Sophia and/or her lawful heirs. The success or otherwise of the instant Petition rests as I see it entirely on the answer to this question.

In the first place, Article 2072 of the Civil Code reads as follows:-

> "No one can prescribe against his title, in this sense that no one can change the cause and nature of his own possession, except by interversion."

But quite apart from this, the law of Trusts is just as much a part of the law of St. Lucia as it is of the law of England. Article 916A of the Civil Code reads as follows in subsections 2 and 3:-

> "(2) Implied, constructive and resulting trusts shall arise under the law of the Colony in the same circumstances as they arise under the law of England.
>
> (3) Subject to the provisions of this Code or any other statute the law of England for the time being in force governing the rights, powers and duties of trustees and beneficiaries under a trust shall extend to and apply in the Colony."

It should be noted that the words used in sub-section 3 are "for the time being in force", which of course gives it an ambulatory effect in its interpretation. It is relevant then to see what the law of England is in regard to co-ownership and the running of time. It is to be found in the Law of Real Property by Megarry and Wade, 2nd Edition, at pages 971 and 972. The relevant passage is as follows:-

> "CO-OWNERSHIP. At common law, the unity of possession between co-owners meant that if one joint tenant or tenant in common occupied the whole of the land, or took the whole of the rents and profits, this by itself was not adverse possession which would start time running; some further act, such as ouster of the other co-owners, was needed ....."

And again, at page 972:-

> "Since 1925 the law has been changed, perhaps unintentionally, by the imposition of the statutory trust for sale which now operates in all cases of tenancy in common and beneficial joint tenancy. This brings

into play the rules relating to trusts, mentioned above, in particular the rules that a trustee cannot bar his beneficiary and that one beneficiary cannot bar another beneficiary. Thus in a case where one or two tenants in common took all the rents and profits from 1923 for over twelve years, the other tenant's claim failed in respect of the years 1923-25, when the old law applied; but it succeeded in respect of the later years, for since 1925 the legal estate was vested in the two tenants as trustees for sale on their own behalf, and so neither could plead the Limitation Act against the other. Since 1940, moreover, the position would be the same even if other persons were the trustees, owing to the provision that one beneficiary cannot bar another."

Although the Law of St. Lucia like the Roman Dutch Law provides for positive prescription as well as extinctive or negative prescription, while the English Law holds to the latter only, the principle involved in the instant application remains the same.

For the reasons stated I am of the view that the application should fail. The Petition is accordingly dismissed.

NEVILLE PETERKIN.
Puisne Judge.

A.9. AFFIDAVIT OF A.J. d'AUVERGNE

IN THE COURT OF APPEAL

SAINT LUCIA
CIVIL APPEAL NO. 3 of 1977

BETWEEN

ROBIN A. COOPER — Appellant/ Applicant

and

In the West Indies Associated States Supreme Court of Appeal

VICTOR CHARLES
JOHN M. COMPTON
EMMANUEL H. GIRAUDY Respondents

A.9.
Affidavit of A.J. d' Auvergne 17th March 1978. (cont'd)

AFFIDAVIT

I, A.J. d'AUVERGNE, of Castries in the State of Saint Lucia, Retired Government Assessor, and Land Valuer, make oath and say as follows:-

1. I have been a Landvaluer in Saint Lucia for the past twenty years;

2. I know and I have visted for the purposes of valuing the property which is the subject matter of an application to the Court of Appeal for leave to appeal to Her Majesty in Council in Appeal No. 3 of 1977;

3. I value the said property at $76,665.50.

SWORN to at Castries in this State this 17th day of March 1978

(Sgd.) A.J. d'Auvergne
(A.J. d'AUVERGNE)
DEPONENT

BEFORE ME:

JUSTICE OF THE PEACE

THIS AFFIDAVIT IS FILED ON BEHALF OF THE APPELLANT/APPLICANT

A.10
Notice of Motion for Leave to Appeal to Her Majesty in Council 17th March 1978.

A.10. NOTICE OF MOTION FOR LEAVE TO APPEAL TO HER MAJESTY IN COUNCIL

IN THE COURT OF APPEAL

SAINT LUCIA
CIVIL APPEAL NO. 3 of 1977

BETWEEN

ROBIN A. COOPER Appellant/Applicant

and

VICTOR CHARLES
JOHN M. COMPTON
EMMANUEL H. GIRAUDY Respondents

NOTICE OF MOTION FOR LEAVE TO APPEAL TO HER MAJESTY IN COUNCIL UNDER THE WEST INDIES ASSOCIATED STATES (APPEALS TO PRIVY COUNCIL) ORDER 1967 AND THE SAINT LUCIA CONSTITUTION ORDER 1967

TAKE NOTICE that the Court of Appeal of the West Indies Associated States Supreme Court at Saint Lucia will be moved on Monday, the 22nd day of May 1978, at or so soon thereafter as the Appellant/Applicant can be heard in person, for an order that the Appellant/Applicant be granted leave to appeal to Her Majesty in Council from the final decision of the Court of Appeal delivered on the 27th day of February 1978 in this Appeal.

AND FURTHER TAKE NOTICE that the ground of this application is that the said decision of the Court of Appeal is a final decision of the said Court in a matter involving directly a claim to or question respecting property of the value of over fifteen hundred dollars.

Dated this 17th day of March 1978

(Sgd) R.A. Cooper
ROBIN A. COOPER
Appellant/Applicant

To: 1. The Registrar of the Court of Appeal

2. VICTOR CHARLES, Respondent

3. JOHN M. COMPTON Respondent

4. EMMANUEL H. GIRAUDY Respondent

5. PRIMROSE A. BLEDMAN, Solicitor for the Respondents

In the West Indies Associated States Supreme Court of Appeal

A.11. Certificate of Order of Court granting conditional leave to appeal 2nd June 1978

A.11. CERTIFICATE OF ORDER OF COURT GRANTING CONDITIONAL LEAVE TO APPEAL

CIVIL FORM 11 Rule 37

IN THE COURT OF APPEAL

CERTIFICATE OF THE ORDER OF THE COURT

(State) SAINT LUCIA

Civil Appeal No. 3 of 1977

Appeal from the High Court of Justice in the State of St. Lucia dated the day of 19

..... Motion

3/77 Appeal No.

ROBIN A. COOPER (Plaintiff/~~Defendant~~*) Appellant(s)

v.

VICTOR CHARLES JOHN M. COMPTON, EMMANUEL H. GIRAUDY (~~Plaintiff~~/Defendant*) Respondent(s)

This appeal coming on for hearing on the 24th day of May 1978 before Court of Appeal in the presence of ..... for the Appellant(s) and ..... for the Respondent(s).

I HEREBY CERTIFY that an Order was made as follows:-

Conditional leave to appeal to Her Majesty in Council granted as follows:

(1) Appellant to enter Bond in $2,400 within 90 days for due prosecution of appeal; with one surety in a like sum;

(11) within same 90 days, appellant to take all necessary steps to procure record.

2. If conditions not satisfied, application to stand dismissed.

3. Appellant to return to Court for final leave.

Given under my hand and the Seal of the Court this 2nd day of June 1978.

(sgd)

Registrar.

* Strike out words inapplicable.

A.12. BOND FOR COSTS OF APPEAL

SAINT LUCIA

IN THE COURT OF APPEAL

Civil Appeal No. 3 of

BETWEEN

ROBIN A. COOPER — Plaintiff/ Appellant

and

VICTOR CHARLES
JOHN M. COMPTON
EMANUEL H.GIRAUDY — Defendants/ Respondents

SECURITY FOR COST BOND

KNOW ALL MEN BY THESE PRESENTS THAT I, ROBIN A. COOPER of 44 St. Louis Street, Castries, St. Lucia, Commission and Insurance Agent do hereby bind myself unto the Deputy Registrar of the Court of Appeal (Saint Lucia) in the sum of Two Thousand four hundred dollars to be paid by me to the Deputy Registrar for which payment well and truly I bind myself, heirs, executors and Administrators firmly by these presents.

The condition of this obligation is such that should I, the Plaintiff in this Appeal fail in my action against the abovenamed Defendants before the Privy Council in England, I hold

myself liable to the Deputy Registrar of the Court of Appeal for payment of the above sum of Two Thousand four hundred dollars.

Dated at Castries this 31st day of July 1978.

(sgd) R.A. Cooper.
Plaintiff/Appellant

A.12. Bond for Costs of Appeal 31st July 1978 (cont'd)

The Registrar (Deputy) of the Court of Appeal.

A.13. Bond for Costs of Appeal 10th August 1978

A.13. BOND FOR COSTS OF APPEAL

SAINT LUCIA

IN THE COURT OF APPEAL

Civil Appeal No. 3 of 1977

BETWEEN

ROBIN A. COOPER — Plaintiff/Appellant

and

VICTOR CHARLES
JOHN M. COMPTON
EMANUEL H. GIRAUDY — Defendants/Respondents

SURETY IN CONNECTION WITH SECURITY FOR COST BOND

KNOW ALL MEN BY THESE PRESENTS THAT I, BOSWELL WILLIAMS, Proprietor of Sans Soucis, Castries, in the State of St. Lucia do hereby bind myself unto the Registrar of the Court of Appeal (Saint Lucia) in the sum of Two thousand four hundred dollars ($2,400.00) to be paid by me to the Deputy Registrar for which payment well and truly I bind myself, heirs, executors and Administrators firmly by these presents.

The condition of this obligation is such that should the Plaintiff/Appellant (ROBIN A. COOPER)

in this action fail in his appeal against the Defendants/Respondents before the Privy Council in England, I hold myself liable to the Deputy Registrar of the Court of Appeal for payment of the above sum of Two Thousand four hundred dollars.

SWORN to before me)
at Castries, St. Lucia)
this 10th day of August) (sgd)
10 1978) Deponent

(sgd) Robert Blum J.P.
JUSTICE OF THE PEACE

No. 2 of 1979

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE COURT OF APPEAL OF THE WEST INDIES ASSOCIATED STATES SUPREME COURT

BETWEEN:

ROBIN A. COOPER — Appellant

- and -

VICTOR CHARLES
JOHN M. COMPTON
EMANUEL H. GIRAUDY — Respondents

RECORD OF PROCEEDINGS

DURRANT PIESSE,
73 Cheapside,
London EC2V 6ER.
01 236 5615
AT/APT/C.3903
Appellant's Solicitors