



Trinity Term
[2025] UKPC 25
Privy Council Appeal No 0012 of 2024

JUDGMENT

**Keith Rolle and another (Respondents) v Raymond
Meadows (Appellant) (The Bahamas)**

**From the Court of Appeal of the Commonwealth of
The Bahamas**

before

**Lord Sales
Lord Stephens
Lord Richards
Lady Simler
Dame Janice Pereira**

**JUDGMENT GIVEN ON
16 June 2025**

Heard on 24 March 2025

Appellant

Maurice O Ginton KC

Meryl Ginton

(Instructed by Sheridans Solicitors LLP)

Respondents

Harriet Holmes

Tanisha Tynes-Cambridge

(Instructed by Sinclair Gibson LLP and Tynes & Tynes)

DAME JANICE PEREIRA:

1. This appeal raises three primary issues for determination:

(i) whether the respondents Keith Rolle and Dorothea Rolle (“the Rolles”) were in adverse possession of a strip of land (“the Disputed Land”) for a period of more than twelve (12) years before commencement of a claim for possession brought by the appellant Raymond Meadows (“Mr Meadows”) for the purposes of the Limitation Act 1995 (“the Adverse Possession Issue”);

(ii) whether restrictive covenants contained in the Rolle and Meadows conveyances operated as a contractual waiver of the accrual of rights by adverse possession under the Limitation Act (“the Waiver Issue”); and

(iii) whether the Hawksbill Creek Acts (as later referred), the Building and Sanitary Code and the Regulations for Town Planning and Development 2014 applicable to the Port Area of the city of Freeport, on Grand Bahama (“the Regulations”) affect the operation of the Limitation Act (“the Acts and Regulations Issue”).

The background

2. The Rolles, by conveyance dated 3 December 2003, purchased the fee simple estate in a parcel of land with an approximate area of 28,000 square feet (“the Rolle Property”). The Rolle Property comprises part of “tract 19A” situated on Lunar Boulevard in the area known as “Britannia” in the city of Freeport, Grand Bahama.

(1) The larger tract of land comprising 214.02 acres and known as “tract 19A” was acquired by one Joseph Pinder of Grand Bahama by a deed of conveyance dated 5 July 1982 (“the 1982 Deed”). The 1982 Deed contained restrictive covenants set out in the Second Schedule to the Deed. The Rolle Property therefore became subject to the restrictive covenants in the 1982 Deed.

(2) The Rolles proceeded to construct a six-unit commercial complex on the Rolle Property. They paved a 10ft wide roadway and erected a 6ft high wire fence on the Disputed Land. They applied for and obtained a Certificate of Occupancy from the Grand Bahama Port Authority (“the GBPA”) dated 18 March 2005. At this time the land to the south of the fence was vacant.

(3) It is common ground that the Disputed Land is accessible only from the Rolle Property, is enclosed by a fence on the side of the Rolle Property and the paved roadway thereon provides access to the commercial building on the Rolle Property.

(4) Mr Meadows, by a conveyance dated 1 February 2017, purchased a parcel of land comprising approximately, 1.305 acres, also forming part of “tract 19A”. (“the Meadows Property”). Accordingly, the Meadows Property is also subject to the restrictive covenants in the 1982 Deed. The Rolle Property and the Meadows Property adjoin each other. The Rolle Property’s southern boundary line is the northern boundary line of the Meadows Property. The fence erected by the Rolles on the Disputed Land physically separates them.

(5) It is also common ground that the Rolle Property and the Meadows Property fall within the Port Area. The GBPA by the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act 1955 (“the Principal Act”), the 1960 and the 1965 Amendment Acts to the Principal Act and the Hawksbill Creek Agreements flowing from those enactments (together called “the Hawksbill Creek Acts”) give administration and control of the Port Area to the GBPA. Sawyer CJ in *Commonwealth Brewery Ltd v Attorney General of the Bahamas* (BSCCiv No 14 of 1997 unreported) observed, at p 11: “Considering the Hawksbill Creek Agreement as a whole, it appears ... that to the extent of the Port Area, the Government gave the Port Authority the powers which one would normally associate with Local Government authorities and thereby created a special enclave in order to encourage the development of that particular part of the Bahamas”.

(6) Mr Meadows, after his purchase, had his land surveyed. That survey showed the area where the paved road and fence stood as being situate on the Meadows Property. Mr Meadows therefore formed the view that the area occupied by the paved roadway and fence was an encroachment on the Meadows Property.

(7) At a meeting on 3 March 2017, Mr Meadows informed Mr Rolle of the survey report and of the Rolles’ encroachment on the Meadows Property.

(8) Mr Meadows, by his counsel, wrote to Mr Rolle on 16 May 2017, demanding that the Rolles remove the roadway and fence within 14 days, or alternately offering to rent the Disputed Land to the Rolles. Mr Rolle, by his counsel, responded on 23 May 2017, to Mr Meadows in essence stating that the Disputed Land was part of the Rolle Property on which he had built his commercial complex some 14 years prior. In a further letter to Mr Meadows on 24 May 2017, Mr Rolle enclosed a copy of his Certificate of Occupancy issued by the GBPA.

(9) A further exchange of correspondence took place between Mr Meadows and the Rolles on 30 May and 1 June 2017. Each party maintained their respective claims in respect of the Disputed Land.

(10) On 3 July 2017, Mr Meadows commenced action in the Supreme Court by Writ of Summons in which he alleged that the Rolles had trespassed on the Disputed Land (being a part of the Meadows Property) and sought, among other relief, an order for delivery up of possession by the Rolles of the Disputed Land.

(11) The Rolles, in their Defence filed on 12 July 2017, denied that they had encroached on the Meadows Property, claiming that the Disputed Land was part of the Rolle Property, and, alternatively, alleged that the claim was time barred pursuant to section 16(3) of the Limitation Act 1995 following a period of continuous adverse possession of the Disputed Land by them for upwards of 12 years prior to the issue of the Writ of Summons.

(12) The action proceeded to trial on 9 and 13 August 2019. On 29 September 2020 the trial judge, Hanna-Adderley J, in a written judgment ordered that the Rolles deliver up vacant possession of the Disputed Land, demolish and remove the erections constructed thereon and restrained the Rolles from entering upon the Disputed Land.

(13) The Rolles appealed. Mr Meadows cross appealed. The appeal was heard on 8 March and 22 April 2021. On 31 May 2021 the Court of Appeal (Barnett P, Evans and Bethell JJA) in a written judgment allowed the Rolles' appeal, setting aside the orders made at first instance, and dismissed Mr Meadows' cross appeal.

The findings of the courts below

3. The Supreme Court (Hanna-Adderley J) essentially found that:

(i) between 3 December 2003 and 18 March 2005, the Rolles had constructed a six-unit commercial building on the Rolle Property and that no earlier than 18 March 2005 had erected a 6ft high wire fence and paved a 10ft wide roadway on the Disputed Land (para 28).

(ii) the Disputed Land fell within the Meadows Property (para 29), the Rolles had unlawfully intruded on the Disputed Property and were trespassers (para 42).

(iii) the Rolles could not rely on the defence of adverse possession because:

(a) relying on the Court of Appeal's decision in *Fairness Ltd v Bain et al* (SCCivApp No 30 of 2015), the action was a claim in trespass and was not an action for recovery of land (para 55); and

(b) time stopped running from 3 March 2017 when Mr Meadows asserted his ownership of the Disputed Property (and not when the Writ was issued) so that sections 16(3) and 25(1) of the Limitation Act and adverse possession did not arise. The judge found further in any event that the Rolles were in actual possession of the Disputed Land on 18 March, 2005 and that time having stopped running on 3 March 2017, the Rolles' "alleged occupation falls short by 15 days (total time of actual possession 11 years and 350 days) to meet the 12-year requirement as provided by the ... the Limitation Act" (para 55).

4. The Court of Appeal (Sir Michael Barnett P, Evans and Bethell JJA) concluded that:

(i) The trial judge was wrong to hold that the defence of adverse possession was not sustainable in a claim for trespass (departing from its decision in *Fairness*) (paras 19, 46, 51 and 52).

(ii) There was no basis to set aside the judge's finding based on the evidence she accepted that the Disputed Land fell within the Meadows Property and that the Rolles were in possession of the Disputed Property at latest on 18 March 2005 (paras 67, 70).

(iii) It is settled law that time does not stop running for the twelve-year period of limitation until a writ is issued and the meeting of 3 March 2017 could not stop time running (para 56).

(iv) But for the judge's erroneous view that the 3 March 2017 meeting stopped time from running, the Rolles were in adverse possession for the 12 years immediately preceding the issuance of Mr Meadows' Writ of Summons (para 70).

(v) The restrictive covenants contained in the Rolle and Meadows conveyances did not give rise to a contractual waiver of rights accruing by adverse possession under the Limitation Act (para 75).

- (vi) The Hawksbill Creek Acts and the Regulations made thereunder by the Port Authority did not affect the operation of the Limitation Act (paras 79, 81).

The Acts and Regulations Issue

5. Logically, it is appropriate to deal with the Acts and Regulations Issue and the Waiver Issue before the Adverse Possession Issue. This is because Mr Meadows contends that the effect of the Hawksbill Creek Acts and the Regulations is to prevent the Rolles from relying on a defence of adverse possession under the Limitation Act. Counsel for Mr Meadows says, in essence, that to allow for adverse possession applying the Limitation Act would have the effect of altering the approved lot divisions laid out by the GBPA in settled subdivisions within the Port Area over which the GBPA is vested with exclusive administration and control. Put simply, counsel contends that the Limitation Act does not apply to any of the lots of land or property owned by persons within the Port Area which falls to be administered by GBPA pursuant to its Hawksbill Creek Acts and the various regulations made pursuant to those Acts.

6. In respect of the Waiver Issue, Mr Meadows contends that the restrictive covenants incorporated into the Rolles and Meadows deeds of conveyance operate as a contractual waiver of a landowner's rights vis a vis another whose land is subject the same covenants.

7. Firstly, counsel made reference to the various Hawksbill Creek Acts and to Clause 2(22) of the Schedule to the Principal Act which vested in the GBPA "the sole right ... during the continuance of this Agreement to plan, lay out, and vary the development of the Port Area in such manner as the [GBPA] ... deem fit and proper." Counsel also referred to the 1965 amendment (CH.263.10) to the Principal Act in which the GBPA covenanted with the Government of the Bahamas to "continue to promulgate a comprehensive and detailed Building Code applicable to the Port Area" which would contain "regulations for the purpose of establishing and maintaining proper and appropriate standards of building constructions and layouts in the Port Area".

8. Secondly, in relation to the GBPA Building and Sanitary Code (February 2010), counsel made reference to the restriction on any subdivision without permission from the GBPA and the requirement for permission from the GBPA to subdivide any land within the Port Area.

9. From the Hawksbill Creek Acts and Regulations by which the GBPA regulates subdivisions, building standards and land use, counsel invites the Board to find that the provisions of the Limitation Act are not applicable to land within the Port Area.

Discussion

10. From a perusal of the Hawksbill Creek Acts and Regulations governing the Port Area, it is not doubted that the administration and control of the Port Area vest in the GBPA. The powers given by the Government to the GBPA, as Sawyer CJ said in *Commonwealth Brewery*, are powers akin to those of a local government authority. It has the power to divest itself of or sell land within the Port Area to persons who will hold the land so acquired in fee simple, with all attendant private rights in respect of their ownership, and who would be required to abide by any enactment and/or regulations applicable to their land falling within the Port Area. But this is no different to ownership of land by private persons who may be subject to other governmental enactments or regulations applicable to subdivisions and to building and environmental codes elsewhere in the Bahamas. As Sawyer CJ put it, the Hawksbill enactments “created a special enclave ... to encourage development of that part of the Bahamas”. That said, it does not follow that such an enclave is exempt from or not subject to the general laws such as the Limitation Act or common law principles, for example relating to adverse possession, which are applicable to the Commonwealth of the Bahamas unless this is made clear in the enactments and regulations applicable to the Port Area or such a construction arises by necessary implication.

11. There are no provisions contained in the Hawksbill Creek Acts or Regulations governing the Port Area which either expressly or impliedly abrogate or curtail the rights of a private landowner from acquiring title to land within the Port Area by adverse possession. There are no provisions, either in the Limitation Act itself or in the Hawksbill Creek Acts and Regulations, which disapply or limit the operation of the Limitation Act or which may in any way be understood as affecting the law relating to adverse possession in respect of land within the Port Area. Counsel for Mr Meadows was unable to point to any such provision or indeed to provide any justification for such an interpretation.

12. Barnett P, giving the judgment of the Court of Appeal, observed at paragraph 79:

“Again, it is difficult to see how provisions relating to regulations of a local authority could affect the law relating to adverse possession. Nothing in the Regulations even purports to relate to the law of adverse possession. The provisions in the Regulations are not peculiar to Freeport and the Port Area as suggested by the respondent [Mr Meadows]. Similar provisions regulating subdivisions may be found in the Planning and Subdivisions Act.”

At paragraph 81, the Court of Appeal went on further to say:

“... there is nothing in the Regulations which affects the operation of the provisions of the Limitations Act. If a neighbour encroaches on a neighbour’s lot in a subdivision for more than 12 years, he acquires a possessory title to that part of the neighbour’s lot. ...”

In the Board’s view, the Court of Appeal was right to so find.

The Waiver Issue

13. Mr Meadows argues that the restrictive covenants contained in his deed of conveyance and the Rolles’ deed of conveyance (which incorporate the covenants contained in the Second Schedule to the 1982 Deed) create in effect a contractual waiver, such that it prevents a landowner whose land is subject to those restrictive covenants from accruing rights by adverse possession in respect of the land of another landowner similarly subject. In so far as relevant, the Second Schedule to the 1982 Deed provides:

“(2) Not to do anything on the said hereditaments [the property conveyed] which will interfere with the reasonable use and enjoyment of any adjoining property or any property in the immediate vicinity or neighbourhood of the said hereditaments and in particular not to cause any contamination or pollution of the air sea or any underground water supply in the locality.

(3) Not to erect or construct any building or structure of any kind on any part of the said hereditaments unless such building or structure shall comply with the Town Planning Regulations and the Building and Sanitary Codes ... promulgated by the said [GBPA] ...”

Discussion

14. The restrictive covenants in the terms as set out above are covenants commonly found in many subdivision or building schemes designed to ensure the orderly development and proper use of land within an area. While landowners enjoy the mutual benefits and burdens of such covenants vis a vis each other, and may sue the other for breach of such covenants, that has nothing to do with one landowner adversely acquiring possession of the land of another. The restrictions do not, either expressly or impliedly, seek to disapply the provisions of the Limitation Act nor do they suggest in terms that a landowner, by being subject to such covenants in respect of his land, has thereby waived his right to acquire possessory title against another landowner whose land is subject to

the similar covenants. Indeed, to so construe restrictive covenants in the terms set out would turn the law relating to adverse possession on its head. As the Court of Appeal observed at para 75, in the Board's view rightly:

“... On the respondent's [Mr Meadows'] argument any trespass is an interference with the reasonable use and enjoyment of any adjoining property. No trespasser could ever acquire a possessory title no matter how long he was trespassing and being in exclusive and undisturbed possession of the neighbouring property.”

Conclusion – The Acts and Regulations Issue and Waiver Issue

15. The Board, for the reasons given, has no hesitation in rejecting Mr Meadows' arguments on these two issues. No reason has been shown, in construing the Hawksbill Acts and Regulations or the restrictive covenants contained in the deeds of conveyance, for disapplying the law relating to adverse possession or the Limitation Act. Lest it be misunderstood, the law relating to adverse possession and the Limitation Act apply to all land within the Port Area as they do to any other land outside the Port Area within the Commonwealth of the Bahamas unless expressly or, by necessary implication, excluded.

The Adverse Possession Issue

16. This leaves the Adverse Possession Issue. Sections 16(3) and 25(1) of the Limitation Act 1995 are in the following terms:

“16. (3) No action shall be brought by any person to recover any land after the expiry of twelve years from the date on which the right of action accrued to such person or, if it first accrued to some other person through whom such person claims, to that person:

Provided that, if the right of action first accrued to the Crown and the person bringing the action claims through the Crown, the action may be brought at any time before the expiry of the period during which the action could have been brought by the Crown or of twelve years from the date on which the right of action accrued to some person other than the Crown, whichever period first expires.

...

25. (1) At the expiration of the period prescribed by this Act for any person to bring an action to recover land, the estate or interest of that person in the land shall vest in the person who is then in adverse possession of the land within the meaning of section 24.”

17. The legal principles applicable to adverse possession are not in dispute. The Commonwealth of the Bahamas does not have a land registration regime where the land register provides documentary absolute title to a person so recorded on the land register. It bears noting however, that even under such regimes the common law principles of adverse possession remain applicable. In the Bahamas, the common law applies in respect of possessory titles. Possession gives a good title except as against a person having a better legal right to possession. As Lord Diplock said in *Ocean Estates Ltd v Pinder* [1969] 2 AC 19, 24-25:

“At common law as applied in the Bahamas, which have not adopted the English Land Registration Act, 1925, there is no such concept as an ‘absolute’ title. Where questions of title to land arise in litigation the court is concerned only with the relative strengths of the titles proved by the rival claimants. If party A can prove a better title than party B he is entitled to succeed notwithstanding that C may have a better title than A, if C is neither a party to the action nor a person by whose authority B is in possession or occupation of the land. It follows that as against a defendant whose entry upon the land was made as a trespasser a plaintiff who can prove any documentary title to the land is entitled to recover possession of the land unless debarred under the Real Property Limitation Act by effluxion of the 20-year period of continuous and exclusive possession by the trespasser.”

The Quieting Titles Act

18. Mr Meadows seeks to suggest (though not addressed in oral argument but advanced in his written case) that the common law principles of adverse possession for the purposes of section 16(3) of the Limitation Act cannot be invoked unless a defendant proceeds first by petition under the Quieting Titles Act 1959 (the QTA). The Board in *Bannerman Town, Millars and John Millars Eleuthera Association v Eleuthera Properties Ltd* [2018] UKPC 27 observed in relation to the QTA at para 41:

“...Section 17 of the [QTA] gives the court a discretion whether to dismiss the application entirely, to dismiss it and grant a certificate of title to an adverse claimant, to grant a certificate of title to the petitioner, or to grant separate certificates of title to different parts of the land to the petitioner and to one or more adverse claimants. In *Nova Scotia (Attorney General) v Brill* [2010] NSCA 69, para 37, Fichaud J said this, speaking of the Quieting Titles Act 1989 in the Nova Scotia Court of Appeal:

‘The QTA does not enable a court to create title. Rather it authorises a court to grant a certificate that reflects the title, including possessory title, to which the party is entitled by the legal principles that exist outside the QTA.’” (Emphasis added)

19. The Court of Appeal departed from its earlier decision in *Fairness* which had held at para 41 that “...adverse possession gives no interest or title unless or until it is declared by the Supreme Court on the conclusion of an investigation under the [QTA]. Before such title is declared, possession of the land remains just that...”. The Court of Appeal, after observing that this view completely ignored section 25(1) of the Limitation Act, at para 46, concluded: “The vesting of title in the trespasser operates as a matter of law and does not require a grant of a Certificate of Title under the [QTA] or any action for declaratory relief in an ordinary action in the Supreme Court.” In the Board’s view, the Court of Appeal was right to so hold. To require a process under the QTA as a first step or precondition to utilising section 16(3) of the Limitation Act as a defence would negate the use of section 16(3), for which it is designed, as a defence to an action for recovery.

The lower courts’ factual findings

20. More pointedly, Mr Meadows seeks to challenge the lower court’s finding of fact in relation to the date that the Rolles erected the fence and paved the roadway on the Disputed Land. The judge found, at para 28, that the evidence of Mr Rolle demonstrated that they were in actual possession of the Disputed Property “no earlier than 18 March 2005, the date of the issuance of the Certificate of Occupancy”, the Rolles “having led no direct evidence as to the date on which the roadway was paved or the fence erected”. Mr Meadows says this evidence was insufficient to enable the judge to conclude when actual possession commenced. The Court of Appeal, at para 69, examined a portion of the transcript of the proceedings before the trial judge during Mr Rolle’s cross examination and concluded that there was evidence on which the trial judge’s finding could be supported. As the Court put it:

“Considering the judgment in the round, the judge concluded that, but for her erroneous view that the 3 March 2017 meeting stopped time from running, the Appellants [the Rolles] would have been in possession for more than 12 years when the Writ was issued on 3 July 2017. That is the relevant finding.” (para 70)

21. On this issue, there are concurrent findings of fact. Even if the judge on the evidence was not persuaded of a specific date prior to the 18 March 2005, her finding of the Rolles being in actual possession “no earlier than 18 March 2005”, coupled with her own calculation of their period of possession which she erroneously concluded had been interrupted by the 3 March meeting, can only reasonably be understood as meaning that as at 18 March 2005, or at least by 18 March 2005, they were in possession of the Disputed Land. By the time the action was brought on 3 July 2017 the 12-year period under the Limitation Act had been met, and accordingly Mr Meadows’ right of action for recovery of the Disputed Land had been defeated.

22. The Board has a settled practice not to, save in exceptional and very limited circumstances, “undertake a review by way of second appeal against concurrent findings of fact by the courts below”: see *Singh v LMCS Ltd* [2024] UKPC 5, para 6; *Devi v Roy* [1946] AC 508, 521; *Glory Trading Holding Ltd v Global Skynet International Ltd* [2022] UKPC 35, para 15; and *Dass v Marchand (Practice Note)* [2021] UKPC 2; [2021] 1 WLR 1788, paras 15 and 16. Mr Meadows’ case, notwithstanding Ms Ginton’s valiant efforts, falls far below the threshold which would warrant such a review. Accordingly, this ground too is unsustainable.

23. After hearing counsel for Mr Meadows the Board, being convinced Mr Meadows could not succeed on any of the issues raised on the appeal, did not consider it necessary to hear from counsel on behalf of the Rolles.

Conclusion

24. For the reasons given, the Board will humbly advise His Majesty that the appeal be dismissed.