

**IN THE HIGH COURT OF BELIZE**

**CLAIM No. Civ 481 of 2024**

**IN THE MATTER OF SECTION 42(1) OF THE LAW OF PROPERTY ACT, CHAPTER 190 OF THE LAWS OF BELIZE, R.E. 2020 AND IN THE MATTER OF AN APPLICATION FOR AN ORDER OF DECLARATION OF LONG TITLE BY OLIVE REYNAUD HAMPTON**

**BETWEEN**

**OLIVE REYNAUD HAMPTON**

Applicant

**AND**

**MINISTRY OF NATURAL RESOURCES, PETROLEUM  
AND MINING**

Interested party

**Appearances:**

Mr Jaraad Ysaguirre of Barrow and Co. for the claimant  
Mr Jhawn Graham, Crown Counsel for the Interested party

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28 November 2024

10 December 2024  
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**ORAL DECISION**

*Section 42(1) of the Law of Property Act – declaration of fee simple interest and right to land – continuous and undisturbed possession of land for over thirty years – Proof on a balance of probabilities - Process – Practice Direction No. 2 of 2011 - Proof*

- [1] **HONDORA, J.:** The applicant, Ms Olive Reynaud Hampton (Ms Hampton) filed an application on 18 August 2024 for a declaration under section 42(1) of the Law of Property Act and consistent with Practice

Direction No. 2 of 2011 of the High Court of Belize that:

“she is entitled to the fee simple interest in the undeclared lands...north of Sittee River Village, along Sittee River, Stann Creek District...being a portion of land comprised in Indenture dated 14<sup>th</sup> August 1908 in Deed Book 19 at Folios 455 to 457 on the basis of continuous and undisturbed possession of upward of 70 years.”

- [2] The said land is a 0.82 acre plot, which is part of a larger piece that was left to the applicant's uncle, Modesto Faustino Muslar in the will of his adoptive father. The applicant's case is that through herself and through her mother, she has been in continuous and undisturbed possession of the said land for over 70 years. The applicant avers that her mother lived on the property since 1952 as has she was born on the property and produced her birth certificate, which reflects that the applicant was born in the area. The applicant also asserts that she has lived on the said land all her life and continues to do so.
- [3] The applicant also avers that by agreement dated 31 March 1999, she entered into an agreement with her uncle, Modesto Faustino Muslar in which he agreed to sell fee simple absolute interest in the said land to the applicant. The applicant produced a copy of the said agreement. Modesto Faustino Muslar died in 2022 before the transfer could be effected. Prior to Mr Muslar's death, the applicant had caused a survey to be conducted on the property to mark out the exact boundaries of the said land for the purpose of effecting the transfer and conveyance of the land to her. The agreement of sale was lodged with the General Registry. The applicant has built a house on the said land and has paid all relevant taxes.
- [4] When the matter came up for a first case management hearing on 15 October 2024, and after hearing Mr Ysaquirre, I directed, among others that:
- (a) The Commissioner of Lands be added as an interested party;
  - (b) The applicant file additional information pertaining to her claim that she had been lived on and had been in possession of the said property for all her life;
  - (c) The applicant serve on the Commissioner of Lands authenticated copies of each of the exhibits she had attached to her application;
  - (d) The Commissioner of Lands file and serve an affidavit in response to the applicant's application no later than 31 October 2024 addressing among others:
    - A. whether the piece of land subject to the applicant's application exists;
    - B. whether the information provided by the applicant relating to the property's location, size and description was accurate;
    - C. whether the Commissioner of Lands was of the reasonable belief and knowledge that there exists no one else whom had a claim or had made a claim or expressed an interest in the said property;
    - D. whether in the Commissioner of Lands' opinion the applicant's application satisfied the requirements of section 42 of the Law of Property Act.
- [5] Section 42 of the Law of Property Act provides:
- “(1) Title to the fee simple in any land, or to an easement, right or privilege in or over any land, including

land belonging to the Government, may be acquired by continuous and undisturbed possession of that land for thirty years if such possession is established to the satisfaction of the [High Court] which may issue a declaration of title in respect of the said land, easement, right or privilege in favour of the person who has such possession.”

- (2) The possession of some other person through whom the applicant for a declaration of title lawfully derived his possession may be taken into account in computing the period of thirty years possession required by this section.
  - (3) The application for a declaration of title shall be made in accordance with rules of court
- [6] The Commissioner of Lands, Mr Talbert Brackett filed two affidavits in which he outlined the property’s history since 1908 as reflected in Deeds Book 19 of 1908, Folios 455-457, being the indenture dated 14 August 1908. The Commissioner also caused research to be undertaken on the property by Mr Sheldon March, Crown Counsel, which reflected and affirmed the contents of the applicant’s affidavit to the effect the Ministry’s official records showed that there was an agreement dated 31 March 1999 between Modesto Faustino Muslar (as vendor) and Ms Olive Reynaud Hampton (as a buyer) of the relevant property for \$4,200.
- [7] The Commissioner of Lands also affirmed that he reviewed the agreement of sale and ascertained that it related to:  
“ALL THAT piece or parcel of land situate North of Sittie River Village, along Sittie River, Stann Creek District, being a portion of land comprised in Indenture dated 14<sup>th</sup> August, 1908 recorded in Deeds Book 19 at Folios 455 to 457 and more particularly described as lot 2 shown the attached plan of survey subdivision by J.V. Hyde.”
- [8] The Commissioner of Lands caused a satellite imagery analysis of the relevant land and confirmed its existence, location and dimensions.
- [9] Although initially unclear, the parties are agreed that the property to which the applicant seeks a declaration is a “lot/polygon that is numbered 2 on Survey Entry Plan No. 6781 Reg 7, which measures 0.85 acres.
- [10] The Commissioner also confirmed that the Ministry’s records show that the applicant paid annual tax for the said property and that any transfer after a declaration by this court was contingent on an application to be made by the applicant and the settling of a Land Transfer instrument and payment of transfer, stamp duty and registration fees. He also confirmed that from the Ministry’s analysis of satellite imagery and physical inspection and records there has been acts of possession of the said property for more than 12 years and that the Ministry’s records do not show any competing interests in relation thereto.
- [11] The Commissioner also caused a Mr Christian Espejo, a survey technician to undertake a physical inspection of the said land, which he did on 11 November 2024. Mr Espejo affirmed that his inspection showed that there were no boundary disputes relating to the said land. Mr Espejo deposed an affidavit dated 15 November 2024. Mr Espejo’s physical inspection also affirmed the existence of pegs on the

ground used in the original survey referenced by the applicant in her affidavit.

[12] In making my decision, I have considered the affidavit and documentary evidence presented by the parties, including:

- (a) the fact that the Commissioner of Lands has no objections to the claim made by Olive Reynaud Hampton to the said property;
- (b) Olive Reynaud Hampton demonstrated that she was born in Sittee Village and has lived on the said property all her life;
- (c) the affidavits filed by the Commissioner of Land, Mr Christian Espejo, which affirmed the existence of the said piece of property, its location and dimensions and that it is occupied by Olive Reynaud Hampton who has been paying taxes on the property since 2002;
- (d) the survey maps, satellite imagery and the information provided drawn from the Ministry of Lands' official records; and
- (e) the submissions made by Mr Ysaguirre (for the applicant) and Mr Jhawn Graham for the interested party.

[13] I am satisfied that the applicant satisfies the requirements set out in section 42(1) of the Law of Property Act and that Olive Reynaud Hampton has proven on a balance of probabilities that she has been in continuous and undisturbed occupation of the said property for more than 30 years.

[14] Consequently, I order as follows:

1. Olive Reynaud Hampton is entitled to a fee simple interest in undeclared land north of the Sittee River Village, along Sittee River, Stann Creek District, being a portion of land comprised in Indenture dated 14 August 1908 in Deed Book 19 at Folios 455-457 and numbered 2 in Survey Entry Plan No. 6781, Reg. No. 7.
2. There be no order as to costs.

**HHJ Tawanda Hondora  
Judge  
High Court of Belize  
Civil Division**