

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of The  
Belize Estate and Produce Company, Limited,  
v. William Burn Quilter, from the Supreme  
Court of British Honduras; delivered 7th  
April 1897.*

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Present :

LORD WATSON.

LORD HOBHOUSE.

LORD DAVEY.

[*Delivered by Lord Watson.*]

The Appellant Company are the owners, duly registered under the Honduras Lands Titles Registry Act, of two parcels of land situated on the Belize River, known as "Erindale" and "Double Headed Cabbage." In September 1896, they brought an action of damages, in the Supreme Court of Honduras, against the Respondent, William Burn Quilter, upon the allegation that he had wrongfully entered these lands, and cut down timber belonging to them. Before defences were lodged, the parties submitted a special case for the opinion of the Court, pursuant to cap. 13, section 148, of the Consolidated Laws of the Colony; from which it appears that the Respondent meant to rely upon his having been in adverse possession of the lands, for the period of twenty years before the suit was instituted. At the hearing of the special case before the Chief Justice of Honduras, the parties concurred in further stating that the twenty years commenced subsequently to registration of the Appellants' title. The question

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submitted for the opinion of the Court was :—

“ Whether twenty years possession will establish  
 “ a title adverse to the registered owner of lands  
 “ registered under the Honduras Lands Titles  
 “ Acts ? ”

The learned Chief Justice on the 23rd October 1896 answered the question in the affirmative, being of opinion that the provisions of the Colonial Limitation Act apply to lands held under a title duly recorded in terms of the Lands Titles Registry Act; and, consequently, that twenty years adverse possession by the Respondent of the lands in question would afford a good defence to the Appellants' suit.

The statutes of the Colony regulating the limitation of rights of entry, distress or action, and also the registration of land titles, have been from time to time re-enacted, and they have now been included in the Consolidated Laws of 1887, the law of “ Limitation of actions, suits and “ distresses, &c.,” and that relating to the “ British Honduras Land Registry,” forming respectively chapters 19 and 106 of that statutory code. In the argument addressed to their Lordships, it was not disputed by the Appellants' Counsel that the terms of the Limitation Act, if taken by themselves, are sufficient to include and apply to all lands in the Colony, whether the title to such lands be registered or not; and, also, that the Lands Titles Registry Act contains no provision which expressly exempts lands held under a registered title from the operation of the law of limitation. But they maintained that, by the Registry Act, certain rights and privileges are conferred upon the holders of a registered title, which are altogether inconsistent with the applicability of the Limitation Act to their lands, and these special provisions must, as matter of plain implication, be held to exclude the operation of the Limitation Act upon these

lands. In order to estimate the force of the argument, it becomes necessary to refer to those provisions of the two Acts which are said to be thus repugnant.

Chapter 19, section 5, enacts that at the determination of the period limited to any person for making an entry or distress, or bringing any writ or action or suit, "the right  
" and title of such person to the land or rent for  
" the recovery whereof such entry, distress,  
" action, or suit respectively might have been  
" made or brought within such period, shall be  
" extinguished."

The rights and privileges accruing to a landowner whose title is upon the Register are defined by Section 30 of chapter 106, which contains the enactments upon which the argument of the Appellants' Counsel was mainly founded. It is in these terms :—

" The person or persons who, according to the  
" entries made according to this chapter in the  
" register, appear to be entitled, according to  
" this chapter, to land, or to any legal estate,  
" interest, power or right in or affecting land,  
" shall be entitled accordingly, and to the  
" exclusion of all other persons, and of all other  
" estates, interests, powers and rights, not being  
" equitable estates or interests, in or affecting the  
" said land or any part thereof; and the register  
" shall be to all intents and purposes whatsoever,  
" and to the exclusion of all other evidence,  
" (evidence of fraud only excepted), the foun-  
" dation, and the evidence of the foundation  
" of the title to the land registered, and to the  
" estates, interests, powers, and rights registered;  
" and the registered land, estates, interests,  
" powers and rights respectively may, and  
" shall, descend, devolve, and be transmitted,  
" dealt with, disposed of, and enjoyed ac-  
" cordingly; Provided notwithstanding that

“ in regard to all titles to lands, founded upon  
“ previous grants from the Crown, all the  
“ reservations, provisos and conditions con-  
“ tained in those grants shall be preserved.”

Section 31, and subsequent clauses of the same Act, make provision for entering on the register continuations of the title, (1) by transfer, (2) by legal devolution to his heir on the death of a registered proprietor, intestate, and (3) by devise to take effect after his death.

The enactments of Section 30 appear to their Lordships to provide that the entries in the register, unless proved to have been fraudulently procured, are to be conclusive in favour of the persons therein designated as owners, to the extent and effect of showing that they are vested with a title giving them the right to possession of the lands, interests, and powers or rights in or affecting land, which the register describes as their property; and are to be equally conclusive against any person who attempts to set up a title in competition with theirs. According to the Appellants' contention, the clause goes a great deal farther; and not only makes the register the sole foundation and evidence of title, but at the same time makes it conclusive evidence (although the fact may be otherwise) that the registered owner has all along been, and still is, in actual possession of the land. That it would have been within the competency of the legislative authority of Honduras to make an enactment to that effect does not admit of question; but one would expect to find an exceptional provision of that kind expressed in plain and unambiguous language. Their Lordships are unable to discover, either in Section 30 or in any other clause of the Act, a single expression indicating that the Legislature meant to deal with any question of possession.

The 31st and following clauses of the Act

were referred to and relied on by the Appellants' Counsel for the purpose of showing that, whilst means are provided for entering and keeping on the register the names of those persons who may become entitled to registered land by transfer, or by succession whether testate or intestate, no provision whatever is made for enabling a person who, without title, has been in adverse possession of registered land, for upwards of twenty years, to put upon the register an entry of any right or interest which he may thereby have acquired. That would appear to be the case; but it does not necessarily follow that the right of the registered proprietor cannot be affected by adverse possession, under the Act of Limitations.

The adoption of the Lands Titles Registry Act by proprietors is permissive; and it is not made imperative that, when a title has once been put upon the register, it shall thereafter continue to be registered in the name of each successive owner. A registered title may come to an end, through the death of a proprietor intestate, and without leaving heirs. In that event, the land would revert to the Crown who presumably would not, as there is no provision made for its so doing, put its name on the register. The Crown might, and probably would, make a new grant of the land to a subject, who, if he desired to possess a registered title, would be under the necessity of making a fresh application under the Act.

According to section 5 of the Act of Limitations, the right and title of the true proprietor of land, which is and has been the subject of adverse possession by one having no title of property, to bring a suit for recovery of possession, is absolutely extinguished by the lapse of the statutory period of twenty years. If that enactment had been inserted in the Lands Titles Registry Act, their Lordships do not think there would have

been the least colour for the contention that it was repugnant to any of the other provisions of the statute. In their opinion, the fact that the clause occurs in another statute, forming part of the same code of law, makes no difference in result.

Their Lordships will therefore humbly advise Her Majesty to affirm the judgment appealed from and to dismiss the appeal. The costs incurred by the Respondent in this appeal must be borne by the Appellants.

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