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Departmental and Other Notices

COMMONWEALTH OF DOMINICA
DOMHCV2009/0388

Between:

Gilbert Guye
Shirley Guye

Claimants

and

Clarenton Andrew

Defendant

Before: The Hon. Justice Brian Cottle

Appearances:

Ms. Mary Roberts for Claimants
Mr. Steven Isidore and Mr. Rene Butcher for the Defendant

[2013: February 19th 28th]
[March 8th]
[May 1st]

JUDGMENT

[1] COTTLE J: The claimants are the registered proprietors of a parcel of land at Eggleston measuring 2.125 acres. They purchased the parcel in 2009 from the personal representatives of the former registered proprietors. The claimants say that during negotiations for the purchase they had the land surveyed by

Mr. C. Fingal. On his visit in September 2008, Mr. Fingal says that he found the land unoccupied. On a second visit in January 2009 he was confronted by the defendant who claimed ownership.

[2] The defendant says he entered the land in 1995 and remained in continuous occupation until 2010 when the claimants obtained an interim order restraining him from entry unto the disputed parcel. The claimants have brought the present action seeking a declaration that they are the owners of the parcel and a permanent injunction restraining the defendant from trespassing. They also seek damages for trespass.

[3] The defendant's case is that he has been in occupation for more than 12 years before the filing of the claim and is entitled to rely on the Real Property Limitation Act Chap 54:07 for protection.

[4] Section 2 of that Act reads:

“ After the commencement of this Act, no person shall make an entry for distress, or bring an action or suit, to recover any land or rent, but within twelve years next after the time at which the right to make the entry or distress, or to bring the action or suit, has first accrued to some person through whom he claims; or, if the right has not accrued to any person through whom he claims, then within twelve years next after the time at which the right to make the entry or distress, or