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Departmental and Other Notices

EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)

COMMONWEALTH OF DOMINICA
DOMHCV2013!0001

Between:

Andrew Laville

Claimant

and

Marcus Marcellin

Defendant

Before: The Hon. Justice Brian Cottle

Appearances:

Mr. Kondwani Williams for the Claimant
Mr. David Bruney for Defendant

JUDGMENT

[2013: April 24th]
[August 23rd]

[1] Cottle J: The claimant is the registered proprietor of 2.16 acres of land at Pointe Baptiste in Calibishie. The defendant is at present cultivating 32,304 square feet of that land. The claimant seeks possession and an

injunction to restrain the defendant from trespassing. The defendant says that he has been in occupation as an adverse possessor for more than 12 years and is entitled to the protection of Section 2 of the Real Property Limitation Act

THE EVIDENCE

[2] The claimant applied for the issue of a first certificate of title to the land in 2002. Third parties filed caveats against the issue of the certificate of title on the basis that they had been in exclusive possession of the land for more than 30 years. After trial, Matthew J. gave judgment for the claimant and the certificate of title was issued in 2004 upon the judge's fiat. Again, in 2006 one Joseph Cyrille made a claim to have been in possession of the land for 46 years. His claim failed and the claimants certificate of title was upheld.

[3] In his witness statement the claimant says that in 2010 he hired a gang of labourers to clear the land which was overgrown with shrubs and trees. He says that he was then approached by the defendant who threatened him. The matter was reported to the police and the defendant was prosecuted before the magistrate. The claimant further swears that on 27th November 2012 he again hired labourers to clean and clear the land in preparation for a survey as he intended to sell a part of the land. When the surveyor and the prospective purchaser attended the land in December 2012, they found that the land had been recently planted with