**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSS**

**IN BERMUDA**

**CHAIRMAN**

**JUSTICE NORMA WADE-MILLER**

**COMMISSIONERS**

**MR. WAYNE PERINCHIEF**

**MS. MAXINE BINNS**

**MR. QUINTON STOVELL**

**MS. LYNDA MILLIGAN-WHYTE**

**MS. FREDERICA FORTH**

**MR. JONATHAN STARLING**

**COUNSEL**

**MR. DIRK HARRISON**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: UNKNOWN**

**WEDNESDAY, NOVEMBER 30, 2020**

**AFTERNOON SESSION (b) AT 1:41 PM**

(Continued from 11/30/2020 (a)

**JUSTICE NORMA WADE-MILLER** 0:00 Just to verify this is a 19th March 1945 document. And it's between Roderick Alexander Fergusson.

**MR. CHARLES BROWN** 0:07: Yes.

**JUSTICE NORMA WADE-MILLER** 0:07 : And John Alexander Virgil as well.

**MR. CHARLES BROWN** 0:15: Yes.

**JUSTICE NORMA WADE-MILLER** 0:16: Okay

**COUNSEL DIRK HARRISON** 0:19: Mr. Brown, how are the pages numbered,

**MR. CHARLES BROWN** 0:22: The document has Page #1, Page #2, and then Page #3 is shown twice. And they’re double-sided. And so the fourth side is #3. Just thought I would bring it to your attention.

**JUSTICE NORMA WADE-MILLER**  0:46: So it's a document of three (3) pages.

**MR. CHARLES BROWN** 0:49: It's a document of three sheets of paper, double sided but the fourth side has number three on it. So the three is listed twice; but the fourth page is this, the fourth side has number three on it. So the three is listed twice. Just so that we're not thinking it's a three page document and it is four. We believe it is a typo.

**COUNSEL DIRK HARRISON** 1:21: Just asked whether the witness could indicate if the document bears any indication of a mortgage, So the property hasn't been subject to a mortgage that it was.

**MR. CHARLES BROWN** 1:37: Yes, this Conveyance

**COUNSEL DIRK HARRISON** 1:38: Conveyance is back to the named person

**MR. CHARLES BROWN** 1:44: It is a Reconveyance back to the named person. Thank you

**COUNSEL DIRK HARRISON** 1:55: Could have been shown to the Chairman

**JUSTICE NORMA WADE-MILLER** 2:05: Counsel, I have not been looking if they're reconveying, I've seen that they're Indentured. I certify that this is a true copy of the original. Sorry

Sorry it has been entered as Exhibit CNLB10viii.

**COUNSEL DIRK HARRISON** 4:57: That is correct. That is it Mr. Brown.

Please make sure and secure the documents

Just for the record just for the record but I know it will be done, the pages that were certified as a true copy, that copies could be made of that page itself that was not done the copying process was done prior to the certification

**JUSTICE NORMA WADE-MILLER**  6:21: Right.

**COUNSEL DIRK HARRISON** 6:28: Now Mr. Brown, prior to us going off on our recess earlier, we had been speaking of a document which you referred to as a memorandum which appears on Page 21 as Exhibit CNLBiv, dated the 24th January, 1962

I'm sorry. The Indenture is dated the 24th of January, 1962, and the document is signed by the attorney for the purchase on the 7th April 1969.

So Mr. Brown, I'm gonna just show you a document. What do you have there, sir?

**MR. CHARLES BROWN** 10:12: This is a memorandum or a copy of a memorandum that was prepared by David Wilkinson's office on the 15th April of 1969, claiming that John Augustus Alexander Virgil conveyed the southern portion of his property to Eric Arthur Jones and his wife on the 24th January 1962.

**COUNSEL DIRK HARRISON** 10:41: Is that a copy of the document as you're referring to Sir,

**MR. CHARLES BROWN** 10:45: It is a copy of the document I am referring to.

**COUNSEL DIRK HARRISON** 11:15: Madam Chair, I sent that document pretended that I admitted as Exhibit as CNLB11

**JUSTICE NORMA WADE-MILLER** 11:22: Exhibit CNLB11. That is a memorandum.

**COUNSEL DIRK HARRISON** 11:33: It is a memorandum. It is also referenced in Exhibit 4 at Page 21 for the actual document that is referred to and referenced at page 21 of Exhibit 4.

**MR. CHARLES BROWN** 11:54: Sir if I may

**COUNSEL DIRK HARRISON** 11:59: Go ahead Sir

**MR. CHARLES BROWN** 12:00: This memorandum is also included at the end of the 1961 Indenture in the Summer’s Report, which is just for ease of reference that

**COUNSEL DIRK HARRISON** 12:11: Thank you very much

**JUSTICE NORMA WADE-MILLER** 12:15: Could I enter it as CNLB11?

**COUNSEL DIRK HARRISON** 12:19: I would ask you to do so Madam. I just asked if we could reference to ensure that there is not duplication, it is the same thing that appears on page 21. I mentioned before, and also appears at the end and was referred to by the witness as The Summer Report which is CNLB11.

**JUSTICE NORMA WADE-MILLER** 12:42: So we are marking it?

**COUNSEL DIRK HARRISON** 12:44:We are Madame, I've asked it to be Exhibit CNLB11. But just for ease of reference indicating where else in the document may arise but with other documents CNLB11. Okay.

**JUSTICE NORMA WADE-MILLER** 13:02: Okay. So what destination are we on? 11

**COUNSEL DIRK HARRISON** 13:08: Yes CNLB11. You have a copy of that document. Could you just read it for us?

**MR. CHARLES BROWN** 13:27: Yes. It's a memorandum. And it says by an Indenture, dated the 24th day of January 1962. And made between the within name John Augustus Alexander Virgil of the one part and Eric Arthur Jones and Hedwick Elizabeth Jones his wife, both of the other part. The southern, portion of the lot of land within described in the second schedule, within written, measuring northwesterly 341 feet, north easterly along two straight lines 73 feet and 87 feet respectively. Southeasterly along two parallel straight lines, 58 feet and 226 feet respectively, and south-westerly along two parallel straight lines 100 feet and 60 feet respectively. For the consideration therein mentioned, was conveyed to the said Eric Arthur Jones and Hedwick Elizabeth Jones their heirs and assigns forever. Signed Eric Arthur Jones, attorney for the purchasers. This is recorded 17th of April 1969 by the Registrar General's office under the signature of the acting registrar. This was received by David Wilkinson’s office on the 15th of April, 1969. Same day that plot of land was sold twice.

**COUNSEL DIRK HARRISON** 15:41: Thank You

**MR. CHARLES BROWN** 15:54: I just want to emphasize for the Commissioners that on the 24th of January 1962, where Eric Jones through his lawyer laying legal claim, this memorandum has come to full seven (7) years after the transaction supposedly took place. We think it’s instructive that that span of time be brought to the attention of the commissioners that it took seven (7) years between the dates the transactions supposedly took place. When the Registrar's office was notified by David Wilkinson of this transaction, and you know, we can revisit the details of the southern portion but seven full years passed between the date of the claim and the notification to the registrar's office of this transaction.

**COUNSEL DIRK HARRISON** 16:47: Thank you.

Now, can I take you back to Exhibit CNLB7? It is your schedule of evidence we had been going through the documents. We had paused at Page 4, and then we had stopped at the Title Deeds which we have just dealt with. I ask that you take us to Page 5 of the Exhibit reference I

**MR. CHARLES BROWN** 17:40: Yes.

**COUNSEL DIRK HARRISON** 17:45: You make reference to Russell Levi Pearman. And in your item description misrepresentation to The Central Planning Authority in March 1968. Could you guide us to the document upon which you place reliance in aid of that item description.

**MR. CHARLES BROWN** 18:17 Certainly. On the 6th, on the 8th, sorry of March 1968, according to Annex F of the Summer's report that is the Bermuda Caribbean Annex F, which shows the subdivision application for the northern portion by Russell Pearman. And this application was submitted to the Central Planning Authority on March 6th, 1968. It is our position that the documentation that supports the application to sub-divide, has been tampered with by hand.

**COUNSEL DIRK HARRISON** 19:29: One moment

**MR. CHARLES BROWN** 20:10: And so when this application to sub-divide the northern portion of Uncle John's property was made by Russell Pearman, back in March 6, 1968, he had no legal claim authority or right to the property, he was not the owner, nor was he acting on behalf of the owner when this application to subdivide the property was submitted to Central Planning Authority.

So as far as we're concerned, this is false representation regarding ownership of the property at the time the subdivision application was made. It shows the character of a man who would go on to sell, (use that word carefully), the same piece of property on the same day. But before we get into that, we want to look at the date stamp that was attached to the application.

**COUNSEL DIRK HARRISON** 21:27: Could you take us to that page in CNLB4, exhibit your presentation where you have that. What page is it?

**MR. CHARLES BROWN** 21:35: Yes, this will be on page 34 and 35.

**COUNSEL DIRK HARRISON** 21:46: In exhibit CNLB4, the witnesses is making reference to page 34, please proceed.

**MR. CHARLES BROWN** 21:53: Sir. On page 34, as we saw in the presentation recently, the date stamp showing 1969. Not even a closer look, but just a good look would perhaps convince you that 9 in 1969 has been altered and we believed that that was altered by hand; in an attempt to demonstrate that Russell Pearman did not apply for this subdivision at a time he did not own. Our view is that the January, February, March April activities in 1969 are designed to demonstrate that Russell Pearman owned the property in 1969 when the application to subdivide was supposed to be made. But the plan of subdivision was attached. And that shows is 1968. So we see where in 1968, the application to subdivide went in. Now the letter that's attached and dated February 1, 1969, with the date stamp 19, February 1969. That is to create the impression that the application to sub-divide when in 1969. Now it was approved. As you can see from page 35 of your handout, in March 1969. March 7, 1969, it was granted. I've worked for the government just over 25 years, and you cannot have a subdivision for eight (8) lots, the land covering almost two acres approved inside of 30 days, it’s not going to happen.

**MR. CHARLES BROWN** 23:49:

But this is what is purported to have happened here, based on t-he submissions from the applicant, Mr. Pearman and the representation from the Planning Department to the police during the course of their investigation. They made representation effectively, that the application and its approval was completed in thirty (30) days, and we know from the date stamp in March 1968 that the application was made in 1968, which was a time when Russell Pearman did not have a legal claim to the property, neither was he acting on behalf of the owners. And so it was important to create the impression of not owning in 1968 but in fact owning in 1969 when the application went in.

**COUNSEL DIRK HARRISON** 24:40: Thank you.

So Mr. Brown you had mentioned earlier letter under The Department of Planning letterhead. The letter dated 19th October 1976, and signed by, well it is a subdivision into eight (8) lots, R Pearman. Do you see the document there?

**MR. CHARLES BROWN** 26:39: Yes I do.

**COUNSEL DIRK HARRISON** 26:42: That is the document that you're making reference to

**MR. CHARLES BROWN** 26:45: Yes.

**COUNSEL DIRK HARRISON** 26:48: I said that that document be tendered and admitted as Exhibit CNLB12, Madam Chair.

**JUSTICE NORMA WADE-MILLER** 27:00: Repeat that for me Counsel

**COUNSEL DIRK HARRISON** 26:56: Madam Chair, document on the letterhead of the Department of Planning. It has a designation PLNS/1180. It is dated 9th October 1976, with a heading in the title of sub-division into eight (8) lots are Russell Pearman, Scott’s Hill, Sandys as is known. This Application is documented and I tender and admitted as Exhibit CNLB12

**JUSTICE NORMA WADE-MILLER** 27:01: So entered Counsel as CNLB12

**COUNSEL DIRK HARRISON** 28:22: Also, Mr. Brown, you had indicated that you have some other documents there in aid of the documents.

You had made mention of a plan of subdivision of Lot 4 for a property of which I'm sure you have a document. An application to The Central Planning Authority by Mr. Russell Levi Pearman - Is that it, Sir?

**MR. CHARLES BROWN** 29:31: This is it. Yes.

**COUNSEL DIRK HARRISON** 29:35: That document Madam Chair, goes along with the previous exhibit, and I ask that this Exhibit be CNLB12a.

**JUSTICE NORMA WADE-MILLER** 29:54: So entered Counsel as CNLB12a.

**COUNSEL DIRK HARRISON** 30:01: The witness had also made mention of certain anomalies, my word, regarding the start that appears on the said letter regarding the date when the documents was received at The Central Planning Authority, and he spoke and normally we say 9 in year 1969. He's been shown some documents.

What do you have there, sir,

**MR. CHARLES BROWN** 30:53: I have a copy of a letter from Russell Pearman applying to sub-divide the northern portion of the property in question received by the Central Planning Authority on the 3rd of February 1969 - marked for their reference S1180.

**COUNSEL DIRK HARRISON** 31:17: How many pages does that document comprise of Sir

**MR. CHARLES BROWN** 31:24: This is actually three (3) pieces, not from one document. There are two copies of one, and then there are excerpts from other documents. On the third leaf, the third page.

**COUNSEL DIRK HARRISON** 31:42: Are they connected to the same document.

They are all connected indeed. It was all those three pages, Madam Chair with ten (10) admitted those three pages. The 10 admitted as exhibit CNLB12b.

**JUSTICE NORMA WADE-MILLER** 31:43: The three (3) pages entered as Exhibit CNLB12b

**COUNSEL DIRK HARRISON** 32:45: In respect of your Exhibit CNLB7, what's the purpose you place reliance on this document, Sir, Russell Levi Pearman, what you describe as mis-representation to the Central Planning Authority in March 1968.

**MR. CHARLES BROWN** 33:07:

We look to this document to show that Pearman did not own, neither was he representing anyone with a legal interest. We also want to show the character of the participants in as much as you would make false representation to government authority for this transaction. We also want to show that Russell Pearman was prepared to sell this property knowing that the title was not clear. So those are the main pieces.

**COUNSEL DIRK HARRISON** 34:02: Thank you.

**MR. CHARLES BROWN** 34:05: And importantly, we wish to show that Russell Pearman at this time was not representing the owner. We submit that he was representing others namely John Swan and others that would eventually show their interest in the property.

**COUNSEL DIRK HARRISON** 34:32: Thank you. The Item referenced as "J", what is that?

**MR. CHARLES BROWN** 34:47: This is a letter from David Wilkinson, I'm sorry from Robert Motyer to David Wilkinson dated February 16, 1969, that's a typo, it should be February 19, it is indicated in the handout. These sixes and nines are busy. It should be February 19 for the date of this letter.

**COUNSEL DIRK HARRISON** 35:31: Thank you. Heaven help us! Can I have a look at that document please Sir?

**MR. CHARLES BROWN** 39:10: This is a letter dated 19th of February 1969. Between Counsel, Robert Motyer writing to David Wilkinson

**COUNSEL DIRK HARRISON** 39:25: I would ask that the document be tendered and admitted as Exhibit CNLB13 and ask that the contents of that letter be read.

**JUSTICE NORMA WADE-MILLER** 39:39: This letter is dated

**COUNSEL DIRK HARRISON** 39:41: The 19th February 1969.

**JUSTICE NORMA WADE-MILLER** 39:53: Mr. Motyer to Mr. Wilkinson

**MR. CHARLES BROWN** 39:55: Correct

**JUSTICE NORMA WADE-MILLER** 39:56: Exhibit CNLB13. Excellent.

**COUNSEL DIRK HARRISON** 40:24: Could you read now.

**MR. CHARLES BROWN** 40:26: Certainly. The beneficiaries believe this to be a particularly poignant piece of information. And it reads as follows. Dear Sir, on the instructions of Mr. John Augustus Alexander Virgil we forward to you herewith the title deeds of a property in Sandy's Parish, which we understand that Mr. Virgil has contracted to sell to your client, Mr. Russell Levi Pearman, apparently, at a total price of 7,000 pounds. We have a copy of a form of contract for sale, signed by the parties dated 11th of January 1969, which mentions that the purchaser requires a mortgage in the amount of 5,000 pounds. Mr. Pearman has today confirmed to our Mr. Motyer, that no mortgage is required and that the full purchase price of 7,000 pounds will be paid in cash to Mr. Virgil, please sign and return to us the enclosed receipt card Yours faithfully, Robert Motyer,

**COUNSEL DIRK HARRISON** 41:48: What is the purpose of this document, Sir?

**MR. CHARLES BROWN** 41:51: We share this with the commissioners so that they are aware that Mr. Motyer was prepared to misrepresent his client, my great uncle in saying that he received instructions to sell his northern portion of his property to Russell Pearman. And it also shows the connection between Robert Motyer, David Wilkinson and Russell Pearman regarding the northern portion. And so this this letter here connects the parties to the northern connects David Wilkinson, Robert Motyer and Russell Pearman to the northern portion with the claim that it was on instructions from John Augustus Alexander Virgil.

**COUNSEL DIRK HARRISON** 42:48: Thank you.

The next document you mention of. Is a statement of a witness Emmanuel Augustus to the police.

**MR. CHARLES BROWN** 43:28: Yes. Emmanuel Augustus, are you asking me something, Sir.

**COUNSEL DIRK HARRISON** 43:40: Share with us the source and purpose of which you seek to ask the commissioners to place hands on this document.

**MR. CHARLES BROWN** 43:47: Okay. The beneficiaries in their pursuit of justice, filed a complaint with the police. And as a result of that complaint,

**COUNSEL DIRK HARRISON** 44:05: Complaint regarding what?

**MR. CHARLES BROWN** 44:09: Theft, as it was described at the time of the northern portion of the property in question.

**COUNSEL DIRK HARRISON** 44:21: This statement represents what?

**MR. CHARLES BROWN** 44:24: Which statements, Sir.

**COUNSEL DIRK HARRISON** 44:28: The statement of John Emmanuel Augustus

**MR. CHARLES BROWN** 44:32: John Emmanuel Augustus was the gentleman that purchased the northern portion from Russell Levi Pearman, the same day that Russell supposedly purchased it from my uncle. The investigation into that caused the police to interview John Emmanuel Augustus and it is his witness statement that we draw reference to here.

**COUNSEL DIRK HARRISON** 45:01: Madam Chair the documents headed Bermuda Police Statement of Witness. Statement of John Emmanuel Augustus, dated 25th October, 1976. And it has signature witness by T. Cassim Sgt. 55

I will tender this Exhibit CNLBxiv.

**JUSTICE NORMA WADE-MILLER** 46:30: Bermuda Police Statement and Witness Statement dated 25th October, 1976

**COUNSEL DIRK HARRISON** 46:37: That is correct, Madam Chair

Signed by John Augustus and Signature Witness by T. Cassim, Sgt 55.

**JUSTICE NORMA WADE-MILLER** 46:50: John Augustus and Signature Witness by T. Cassim, Sgt 55. Yes

Now entered as Exhibit CNLBxiv, Yes

**MR. CHARLES BROWN** 47:07: Sgt 55

**COUNSEL DIRK HARRISON** 47:58: Now ask you to read the document.

**MR. CHARLES BROWN** 48:04: Statement of Witness: Statement of John Emmanuel Augustus. Age 21. Occupation Mason. Address Lighthouse Hill, Southampton. Phone: 80043. This statement is true to the best of my knowledge and belief. And I make it known that if is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true, dated 25th day of October 1976 Signed John Augustus witnessed by Thomas Cassim, Sgt. 55.

I am a mason by trade and I live at the above address. Prior to 1969, I was working on four (4) lots of land at Granaway Heights, Southampton. I was in business with John W. Swan working on a 50 50 basis. I believe sometime in November 1968, Russell Levi Pearman approached me about some property at White Hill. He said to me, "I have a nice piece of land up Somerset, up by White Hill, it would suit you well". I asked him what he would want for it and he said 18 to 20,000 pounds. Next day I agreed to go up with him in my car to look at the property. When we got there he showed me the boundaries, but there were no stakes there, just wild land. He walked through bushes showed me the area and generally pointed out the boundaries. He seemed to know the layout of the land and did say he was the owner of it. I told him, I would like to get the property and would see John Swan, as he had my money invested. Pearman said, "Okay." I did see John Swan after this. John Swan and a man who work for him Stanford Richardson went with me to have a look at the property. John said, “It’s a good buy, you take it." I went back to Russell Peaman told him I had spoken to John Swan, and it was okay. Pearman said, "John, I'll have to do this thing my way." I said, "What do you mean?" He said, "Well, John Swan likes to keep everything in his office." So what I'm going to do is make a bill of sale so I can protect you. Pearman made out what I thought was a bill of sale on a yellow sheet of paper, and I took this to John Swan to get him to okay it. John did not like it and wanted it to be done at his office any properly. But if that's what Pearman wanted, it was okay with him. I did not sign this yellow sheet of paper. Shortly after this. It was arranged that Pearman would go to John Swan's office with me to make arrangements.

**COUNSEL DIRK HARRISON** 51:33: I am sorry, I ask you to read it just as it is.

**MR. CHARLES BROWN** 51:43: I repeat, shortly after this, it was arranged that Pearman go to J. W. Swans's office with me to make the arrangements. I believe there was an agreement made at J. W. Swan's office

**COUNSEL DIRK HARRISON** 51:57: J. W. Swan

**MR. CHARLES BROWN** 51:57: John W. Swan's

**COUNSEL DIRK HARRISON** 51:57 J. W. Swan's office. Because it is a statement, I just have to read it as it appears. Please read as it is verbatim.

**MR. CHARLES BROWN** 52:09: I believe there was an agreement made in J. W. Swan's office and Russell Pearman said something about leaving 8,000 pounds for a year and he needed money then. John Swan paid him some money by cheque. I don't know how much. I didn't sign any agreement in John Swan's office. I have been shown a sales agreement, copy dated 19th of February 1969, and it appears to have my signature on it. I did not sign this agreement at Wilkinson’s office, because I only went there once, and that was on the 15th of April 1969. I didn't sign it at John Swans office, because the witness W. G. Brown was not there when I went to J. Swan's office with Pearman. W.G. Brown, the witness is a friend of Russell Pearman, and most of the time hangs around Pearman's place. After this meeting at John Swan's office, a few months later, Pearman asked me to go to Mr. Wilkinson's office to sign the conveyance of the property. That's the final sale of the property to me.

**MR. CHARLES BROWN** 53.38

I remember it was in the morning time, and I picked up Pearman and took him to Wilkinson's office on Church Street. Wilkinson was not there, and some pictures where brought out by a Chinese looking girl. Pearman signed then I signed, both in the presence of this lady. I remember space on the Conveyance for three people myself, Pearman and Wilkinson. Only me and Pearman signed. I have been shown a conveyance dated 15th of April 1969. And I believe this is the document I signed. I signed my name John Augustus. I was in the office only 10 minutes. I signed only once and the girl kept the papers. I never gave Pearman any money during any part of this transaction. I had no idea that the land belonged to a John Virgil. Pearman told me he was the owner of the property. He did not read the conveyance for sale to me I just signed. I did know John Virgil, but never realized it was his property I was buying from Pearman. Peaman never at any time, showed me any deeds, sales agreements or anything else showed that he owed the property. I accepted that John Swan was dealing as agent for me. And he would know this. When I went to the property, there was nothing there. There were no sticks there, which would show that the property was divided up. And Pearman did tell me at the time that the property would be divided into eight (8) lots. And he gave me an idea where the lot would be on each side of a road, which would be built there. The road wasn't there then, the whole area was just wilderness. I'm sure this was in November and before December 1968, when Pearman approached me and showed me the property.

**MR. CHARLES BROWN** 55.54:

When John Swan went with me to the property, that was before Christmas, before anything was put on the land. There was trees and nothing else. I would further say that with regard to the sales agreement, dated 19th to February 1969, I don't remember ever signing such agreement, because this man Brown was never present at any time. I do remember the yellow sheet of paper, I took to John Swan. This was a small sheet of yellow paper. On the 25th of October 1976, I obtained from Peter Smith, Barrister, a copy of Conveyance dated 21st of May 1970. And a sketch plan of the property. I have handed these documents to Sgt. Cassim. I have also handed to Sgt. Cassim a letter copy, dated April 15, 1969 from Russell Pearman, April 25

**END OF TRANSCRIPTION NOVEMBER 30, 2020 AFTERNOON (b) AT 56:56**