**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSSES**

**IN BERMUDA**

**CHAIRMAN**

**HON. WAYNE PERINCHIEF, JP**

**COUNSEL**

**MR. DIRK HARRISON**

**COMMISSIONERS**

**MS. MAXINE BINNS (via Zoom)**

**MS. LYNDA MILLIGAN-WHYTE**

**MS. FREDERICA FORTH**

**MR. JONATHAN STARLING**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: WARWICK CAMP**

**MONDAY, JANUARY 18, 2021**

**MORNING SESSION (b)**

**(**Continued from Morning Session (a)

**COUNSEL DIRK HARRISON** 0:00: Yes immediately in front of the arrow. that is the irregular shaped building you refer to, and that is the Spanish Point Boat Club. And in my words and not yours, you may adopt it or use your own. That is your point of contention here.

**MS. BRITNEY ROBINSON** 0:31: That's correct.

**COUNSEL DIRK HARRISON** 0:38: Now, just earlier, just before we, I asked those questions, you indicated that there is a period during which you're not certain that that irregular shapeD building was erected. Could you just remind what period are you saying that irregular shaped building was erected?

**MS. BRITNEY ROBINSON** 1:01: Yes, so it would be between 1962 because on the aerial view, we do not see that building being there. And then..

**COUNSEL DIRK HARRISON** 1:11: We’re back to 1962?

**MS. BRITNEY ROBINSON** 1:14: In 1892 the building was not there.

**COUNSEL DIRK HARRISON** 1:17: Just for a moment, what we see, what appears to be vegetation immediately in front of the arrow, then behind it, that is the Robinson premises that is in the middle of the vegetation?

**MS. BRITNEY ROBINSON** 1:31: That's correct.

**COUNSEL DIRK HARRISON** 1:34: You’re continuing and I interrupted you.

**MS. BRITNEY ROBINSON** 1:36: And then we see in 1973, a portion of that building being there. So it's somewhere in between that timeline. And I'm not exactly certain when it was actually built.

**COUNSEL DIRK HARRISON** 1:52: 1962 and 1973. Now can you just, not going about too far, based on your presentation so far, what was the year in which your great-grandfather, that the land was transferred to him?

**MS. BRITNEY ROBINSON** 2:13: That was in 1946.

**COUNSEL DIRK HARRISON** 2:21: And as far as your claim is being made, between 1946 and at the earliest 1962, to the outer band of 1973 the Robinson family had access to the beach?

**MS. BRITNEY ROBINSON** 2:43: Well, it would have been the Smith family and yes, we would have had access to the beach.

**COUNSEL DIRK HARRISON** 2:50: Well, the Smith family had access and the Robinsons eventually acquired property?

**MS. BRITNEY ROBINSON** 3:00: Yes, that's correct.

**COUNSEL DIRK HARRISON** 3:06: Thank you. You may proceed.

**MS. BRITNEY ROBINSON** 3:12: And this is just the overlay, our Bermuda Government Planning Overlay depicting the beach area being coastal reserve as well as our house being behind that area as a residential premises.

**COUNSEL DIRK HARRISON** 3:27: I am going to ask you to take us through that, what you just said. You're saying this depicts your residence? Is that where you have Residential 2?

**MS. BRITNEY ROBINSON** 3:41: Yes. Well sorry, it's a Residential 1. So if you go up just..

**COUNSEL DIRK HARRISON** 3:49: The Residential 1 is in the red area?

**MS. BRITNEY ROBINSON** 3:51: Yes.

**COUNSEL DIRK HARRISON** 3:52: What does that represent?

**MS. BRITNEY ROBINSON** 3:53: That's where our home is.

And if you go just westward, you would see the Spanish Point Boat Club shed right in front of that area. And then right in front of the Spanish Point Boat Club, you will see close towards our house, that's where the beach actually is.

**COUNSEL DIRK HARRISON** 4:13: I was going to ask you to guide us because in the red there, where it has Residential 1, what you have those irregular shapes, you're actually depicting houses there? That’s correct?

**MS. BRITNEY ROBINSON** 4:28: Yes.

**COUNSEL DIRK HARRISON** 4:30: Which one, which of those in the red Residential 1 do you say depicts your house? Which one of them?

**MS. BRITNEY ROBINSON** 4:39: Right where it's labelled Residential 1.

**COUNSEL DIRK HARRISON** 4:42: That actual one

**MS. BRITNEY ROBINSON** 4:44: That actual one is where my house is now.

**COUNSEL DIRK HARRISON** 4:47: Sorry, could I decide to take us back thank you. And in respect of the Spanish Point Boat Club, is it represented in this diagram?

**MS. BRITNEY ROBINSON** 5:01: Yes, it is. It's to the west of my house in, also in red colour with the shape.

**COUNSEL DIRK HARRISON** 5:08: So are you able to see the arrow, that’s where the arrow is now directed?

So your house is depicted where the word Residential 1 is the actual irregular shape, I'm sorry for calling it that, is your premises and the Spanish Point Boat Club is which one? Is it where the arrow is right now?

**MS. BRITNEY ROBINSON** 5:46: That's correct. Yes that's the Spanish Point Boat Club shed.

**COUNSEL DIRK HARRISON** 5:50: Okay, just for general description, that’s the boat shed. What's that northerly of the boat shed? what is that? Could you just assist me with the cursor?

Crave indulgence, Chairman, just trying to get a geographic understanding of the layout. Okay, so the cursor is back. So the area depicted in, and forgive me for my colour representation, blue, that is water?

**MS. BRITNEY ROBINSON** 6:39: Yes, well sand and rocks.

**COUNSEL DIRK HARRISON** 6:41: You had just shown us the process…Okay, cursor has a mind of its own. You have indicated what the diagram illustrates as the boat shed. I’m asking, what is to the north of it? The cursor’s right there. What is to the north of it?

**MS. BRITNEY ROBINSON** 7:13: That would be the Spanish Point Boat Club.

**COUNSEL DIRK HARRISON** 7:17: What is directly in front of your premises in Residential 1, is it the shed? Could you just tell me, just immediately above the Spanish Point Boat Club shed, what is it, what building is that?

**MS. BRITNEY ROBINSON** 7:36: That is another individual's home.

**COUNSEL DIRK HARRISON** 7:38: Sorry, could you just take it up for me? Yes, that's another individual's home that the cursor is on there?

**MS. BRITNEY ROBINSON** 7:50: Yes.

**COUNSEL DIRK HARRISON** 7:54: Thank you. And you may proceed. Now, what is being illustrated here? This is now **Slide 20**.

**MS. BRITNEY ROBINSON** 8:06: So at **Slide 20** I inserted this slide just to give some reference as to what the land would have looked like when my great-grandfather acquired the land. It was pretty much undeveloped at the time.

**COUNSEL DIRK HARRISON** 8:19: And before I ask some further questions on **Slide 20**, **Slide 19**, you had a number of slides, was **Slide 19** which illustrated ***Exhibit F***. That’s correct?

**MS. BRITNEY ROBINSON** 8:32: Yes, that is correct.

**COUNSEL DIRK HARRISON** 8:33: So on **Slide 20**, you have a depiction of the aerial imagery at the time that your great-grandfather acquired the property

**MS. BRITNEY ROBINSON** 8:45: Around the time, yes. He acquired the land in 1946. And this area was in 1941.

**COUNSEL DIRK HARRISON** 8:55: Is there another aerial imagery closer in time to the time of acquisition because this is probably five years earlier?

**MS. BRITNEY ROBINSON** 9:05: Not that I was able to obtain

**COUNSEL DIRK HARRISON** 9:13: And the water, sand and rocks. Is it illustrated there, or?

**MS. BRITNEY ROBINSON** 9:21: Yes, it's a little bit faint. Because as you can imagine, in 1941, we didn't have the same technology as we have now, but you can see to the west of that irregular shape that I have I am now referring to as Lot 33-3, that would have been the waters of Peter Tucker Bay as well as the sand of the beach area.

**COUNSEL DIRK HARRISON** 9:44: I am just going to ask the cursor to be used just to illustrate the area you are referring to. The cursor is quite faint

**MS. BRITNEY ROBINSON** 9:57: So right there would be Lot 33-3 which is the land that my great-grandfather would have obtained in 1946. And right to the west of it, you would see the beach area, even though it's a little bit faint, and if you keep going a little bit westward, you will end up in Peter Tucker Bay.

**COUNSEL DIRK HARRISON** 10:22: Now you have taken us now to **Slide 21**?

**MS. BRITNEY ROBINSON** 10:27: Yes. So on **Slide 21**, I'm sharing a Royal Gazette Article dated June 10, 1946, page 12 that I was able to obtain from the Bermuda National Library digital collection. On this page, we have a notice that is circled or in a square coloured red, It says: To Whom It May Concern, any person or persons having anything on the land at Spanish Point, formerly owned by Adelia Robinson, kindly remove same by June 30, 1946. Signed: Bascome Smith.

**COUNSEL DIRK HARRISON** 11:12: And just to take us back, you had referenced earlier a transaction between Bascome Smith and Adelia Robinson, I think you had mentioned even that Adelia had been incorrectly listed and 'r' had been placed in the Christian name.

**MS. BRITNEY ROBINSON** 11:31: Yes, that's correct.

So, the reason why I put in this Royal Gazette article was to just show that my great- grandfather was putting it out there that he had acquired this land and any individual that had something on that parcel of land to remove it, because he had now acquired it and it was now in his possession. And this is ***Exhibit M*** in your packet. I am now on **Slide 22** and I have ***Exhibit N*** which is pictured on the bottom left-hand side of this slide. And it's a pictured 'Final Draft Copy' from Appleby Spurling, Appleby Spurling, if you remember…

**COUNSEL DIRK HARRISON** 12:25: Just repeat that you said 'a draft copy'?

**MS. BRITNEY ROBINSON** 12:27: Yes, a final draft copy. Yes. This is from Appleby Spurling. If you remember, Appleby Spurling had submitted to the Parish Vestry Clerk indicating this transfer of land in 1946. So they were his lawyers at the time. We were unable to find an actual filed copy anywhere. But we were able to find this 'final draft copy" in one of our neighbor's records, and it was dated June 7, 1946. And this is ***Exhibit N***. And if you read the description of the land, it gives that exact same description as the Parish Vestry assessment that I previously read, as well as the exact same description as the 1888 Deed of Gift between Jeremiah Hinson and William Brown.

**COUNSEL DIRK HARRISON** 13:29: Now you mentioned that this is what you have described as a final draft and not the original Deed and your slide even has in bold original 1946 Deed and you have a question sign beside it. Could you give us any further?

**MS. BRITNEY ROBINSON** 13:49: Yes, we are unsure as to why we are unable to find this filed 1946 Deed between my great-grandfather and Mrs. Robinson. And the reason why we put this as the radius on the slide is because later on in another court case, you will see that my great-grandfather's lawyers, who were at the time Appleby Spurling, later on became the lawyers for another court case, which went against my great-grandfather.

**COUNSEL DIRK HARRISON**  14:27: You may proceed.

**MS. BRITNEY ROBINSON** 14:31: So, pictured on **Slide 23**, *Exhibit O*, we have the Writ of Summons dated February 3, 1947. And this was the beginning of the 1947 Supreme Court case between Amelia Chiappa and my great-grandfather, Heman Montgomery Bascome Smith, which I have abbreviated here as Heman M.B. Smith. The Plaintiff's claim, which was Mrs. Amelia Chiappa, was for recovery of possession of the southern portion of a parcel of land at Spanish Point in Pembroke Parish in the Island of Bermuda which whole parcel of land is bounded northerly by the public road leading to the point known as Admiral's Landing Place, easterly by land of the Plaintiff, southerly in part by waters of Peter Tucker Bay and in part by land in possession of the Defendant and westerly by waters of the Great Sound, and for mesne profits and for damages and injuries caused to the said land by the Defendant. And the Defendant in this case would have been my great-grandfather, Heman.

**COUNSEL DIRK HARRISON** 15:56: Thank you.

**MS. BRITNEY ROBINSON** 16:04: So Exhibit O of your packet, you will see a number of documents, but I tried to cut down on the amount of time that we will be leafing through these documents. So I've created a timeline referring to what these documents will be in Exhibit O.

**COUNSEL DIRK HARRISON** 16:22: And you're now on slide number

**MS. BRITNEY ROBINSON** 16:24: **Slide 24**.

So on February 3, 1947, we have a **Writ of Summons** issued to Heman Montgomery Bascome Smith for possession of Amelia Chiappa's southern border of land and damages. On February 14 1947, we see Appleby and Spurling, who at the time were the attorneys for my late great grandfather, sent a letter to Conyers, Dill and Pearman the attorney for Mrs. Amelia Chiappa. The letter states that the Defendant requires a Statement of Claim to be delivered. On March 3, 1946, the Statement of Claim…

**COUNSEL DIRK HARRISON** 17:11: That says 1947,

**MS. BRITNEY ROBINSON** 17:12: On March 3 1947, the Statement of Claim was obtained from Conyers, Dill & Pearman. On March 19, 1947, Appleby and Spurling sent a letter back to Conyers Dill & Pearman stating that the Defendant is in possession of the premises referred to in paragraph 8 of the Statement Claim. And you can see this letter on the far right hand side of this slide. So, what was paragraph 8?

**COUNSEL DIRK HARRISON** 17:51: I’m sorry. you just indicated that what appears on the right is the…

**MS. BRITNEY ROBINSON** 17:59: What's on the right is the letter sent to Appleby and Spurling on behalf of my great- grandfather back to Conyers, Dill & Pearman stating that the Defendant, which would have been my late great-grandfather, is in possession of the premises referred to in paragraph 8 of the Statement of Claim.

**COUNSEL DIRK HARRISON** 18:22: Chair, I think what is referred to as a response is actually a court document that was sent in defense. That is exhibited on **Slide 24**, right corner. You may proceed.

**MS. BRITNEY ROBINSON** 18:39: So ***Exhibit 8*** states or about the early part...

**COUNSEL DIRK HARRISON** 18:43: You now on **Slide 25**.

**MS. BRITNEY ROBINSON** 18:45: Yes Slide 25. On about the early part of June 1946, the Defendant wrongfully took possession of the southern portion of land described in Paragraph 1, hereof and still wrongfully keeps possession thereof. If we read what paragraph 1 states, the southern portion of land is Mrs. Amelia Chiappa's land and she states in her Statement of Claim that it is bounded southerly in part by waters of Peter Tucker Bay.

**COUNSEL DIRK HARRISON** 19:25: I'm sorry, could you just show where are you reading from?

**MS. BRITNEY ROBINSON** 19:29: This is paragraph 1 on the left hand side of that page.

**COUNSEL DIRK HARRISON** 19:36: That starts ‘The Plaintiff is entitled to?’ Could I just ask you to start reading it there? I appreciate where you’re your reading from.

**MS. BRITNEY ROBINSON** 19:47: This is Mrs. Amelia Chiappa's Statement of Claim. It says in paragraph 1: The Plaintiff is entitled to possession of a parcel of land situated in Pembroke Parish in the Islands of Bermuda bounded northerly by the public road leading from Clarence Hill to a spot on Spanish Point Shore, commonly called the Admirals Landing Place, southerly in part by the waters of Peter Tucker Bay, in part by land of the Defendant, and in part by a strip of land three (3) feet wide reserved for a right-of-way separating the land now being described for other land of the Plaintiff. And we will get back to this description in another slide.

**COUNSEL DIRK HARRISON** 20:38: I interrupted you, and even though we'll come back to it, you say this to say that this represents..

**MS. BRITNEY ROBINSON** 20:45: This represents this southern portion that Mrs. Amelia Chiappa said that my great- grandfather took possession of.

**COUNSEL DIRK HARRISON** 20:55: Thank you.

**MS. BRITNEY ROBINSON** 20:58: So the 1947 court case continued. On December 9, 1947, Conyers, Dill & Pearman issues a Notice of Trial.

**This is Slide 26**. Conyers, Dill & Pearman issues a Notice of Trial to Appleby & Spurling indicating the trial was set for December 19, 1947. On December 15, 1947, E.T. Richards sends a letter to Conyers, Dill & Pearman stating that he now represents my great-grandfather in place of Appleby & Spurling. I think it's to note that Mr. Richards at the time had only been employed or called to the Bar for less than a year. In December 19 1947, the Registrar issues a letter for all parties to attend the Chief Justice’s Chambers on December 30, 1947 concerning an application for Heman Montgomery Bascome Smith, to have the court case tried with a jury. On March 15 through 19, 1948, the court case was heard by the Honourable R.C. Hollis Hallett, the Assistant Chief Justice, and eight (8) jurors. And I believe that this judge, the Honourable R.C. Hollis Hallett, is an important name to note.

**COUNSEL DIRK HARRISON** 22:36: Share with us shortly why this is so?

**MS. BRITNEY ROBINSON** 22:38: Yes. And then on **Slide 27** I have a clipping of a Royal Gazette article dated March 16, 1948 on the first page. And the article's title was 'Dispute over land at Spanish Point’. A portion of this article states, which is depicted in the excerpt that I put in the middle part of the slide. It says: Mr. Robert H Clark, Surveyor. was called to identify a plan of the property and adjoining land which he had prepared in information given him by Mr. John Peter Chiappa. Mr. John Peter Chiappa was the grandson of Mrs. Amelia Chiappa. So to the far right hand side, we see a picture of that map that Mr. Robert H. Clarke developed for this court case on behalf of the Chiappa family. I know it's a little bit hard to see but the plan is supposed to be coloured in pink, green and blue.

**COUNSEL DIRK HARRISON** 23:58: And he area next to the pink, just below it and to the right of it, what colour, what colour is depicting the original document? What looks like yellow to me, you are saying that area is supposed to be?

**MS. BRITNEY ROBINSON** 24:13: That’s supposed to be green.

**COUNSEL DIRK HARRISON** 24:16: And the general area, what appears to be the perimeter, is in blue. If you understand the extremities, as one goes towards the pink and the green, it is supposed to be blue.

**MS. BRITNEY ROBINSON** 24:33: That's correct. And on **Slide 28** we have Mrs. Amelia Chiappa's Abstract of Title but the plan, for the portion of the plan coloured green and as you have noted, it looks a little bit yellow in the picture. It is important to note that in this Abstract of Title, Mrs. Amelia Chiappa recites her title and how she acquired this land. She states that she had gotten it from Mr. Peter Tucker. Mr. Peter Tucker conveyed it to Mrs. Richard Samuel Joel in 1880. And the description of that conveyance says that it was bounded southerly by waters of the ocean, forming a bay. But if we look back at Mrs. Amelia Chiappa's Statement Claim, she states that her southern border is in part by waters of Peter Tucker Bay, in part by land of the Defendant and in part by a strip of land three (3) feet wide, reserved for a right-of-way. There was a bit of discrepancy in her recitation of title versus her Statement Claim.

**COUNSEL DIRK HARRISON** 26:09: And also what appears on the document in the diagram.

**MS. BRITNEY ROBINSON** 26:17: So in the recitation of title, it states that it was only bounded southerly by the waters of the bay, whereas with her Statement Claim and in the plan it indicates that it was not only bounded southerly by the bay, but it was also bounded southerly by another portion of land.

**COUNSEL DIRK HARRISON** 26:44: At the foot of your slide next to 28, you have some words there. Might I just direct you to that?

**MS. BRITNEY ROBINSON** 26:56: It says ‘Description of the land is inaccurately depicted in their plan’.

**COUNSEL DIRK HARRISON** 27:06: And just to repeat, you say that because, what exactly should be represented?

**MS. BRITNEY ROBINSON** 27:15: It should have only been bounded southerly by the waters of the bay, and it should not have continued all the way to be bounded to another piece of land southerly.

**COUNSEL DIRK HARRISON** 27:29: So you are you're using, I may go on to say, the plan that is shown on **Slide 28**. You don't wish the Commissioner's to make reference to that as a true depiction of the layout?

**MS. BRITNEY ROBINSON** 27:51: It's not a true, well it's a true geographically depiction of the land, but it's not a true depiction of who owns those parts of land.

**COUNSEL DIRK HARRISON** 28:02: Just a moment please. Just now you said ‘not a true depiction of who owns the land’. What appears on the, is it illustrated on the document who owns the land?

**MS. BRITNEY ROBINSON** 28:41: So in Mrs. Amelia Chiappa's Statement Claim, we got her Abstract of Title and in each portion of this plan, she refers to the plan coloured in whichever colour, so this slide is depicting what her Abstract of Title was for the colour green of that plan. I'm going to go through each one of the colours

**COUNSEL DIRK HARRISON** 29:08: Sure, let me not interrupt you anymore.

**MS. BRITNEY ROBINSON** 29:14: No, that’s fine. So then for **Side 29**, we have the Abstract of Title coloured pink on the plan and it’s marked 'A'. And so it says on the far left hand side: the Abstract of Title of land coloured pink on the plan marked 'A'. In July 1913 John Calder and Julia Calder his wife conveyed the land to John Peter Chiappa.

And the way that she stated that she was able to get this piece of land was through Mr. Rupert Carlyle Hollis Hallett. And I know it's a little bit difficult to see, but in the middle image just below where it says John Calder and Julia Calder, 2 is where it says Rupert Carlyle Hollis Hallett. And if you can remember, the Hon. Rupert Carlyle Hollis Hallett was the Presiding Judge over this case. And I believe that at this point, he should have recused himself as he would have acted on the Plaintiff's behalf previously.

**COUNSEL DIRK HARRISON** 30:51: Just going to ask you before you go any further, just to return to the previous slide and take us back through that slide and this one. I have heard quite clearly and forcefully your point in respect of the judge recusing himself, but you made mention, and I am aware having read it, that the name Hallett which appears as a Presiding Judge over this case, he may have appeared as a lawyer in a lead up to this case. Can you just take us through that?

**MS. BRITNEY ROBINSON** 31:34: Yes. So what we were able to find was a conveyance between Mr. John Calder and Mrs. Julia Calder which, if you remember a few slides ago, there was a plan that showed Mrs. Julia Smith and I indicated that, sorry, said Julia Holder on the slide. And it is through this conveyance that the Chiappa family state that they were able to acquire Lot 'A'. If you read through the conveyance which I have actually put into the PDF document, it was through Mr. Rupert Carlyle Hollis Hallett.

**COUNSEL DIRK HARRISON** 32:21: But specifically as it relates to the document, the Abstract that you are drawing our attention to in the middle of **Slide 29**, the name Rupert, you're saying that what is represented there is that he is representing someone or there is, what role is it that you are saying he plays that is represented in the document in the middle/

**MS. BRITNEY ROBINSON** 32:55: He would have intervened in the transaction between the Calder family and Mr. and Mrs. Peter Tucker

**COUNSEL DIRK HARRISON** 33:07: Thank you. And you have a copy of this document which you will come to later?

**MS. BRITNEY ROBINSON** 33:15: Yes.

**COUNSEL DIRK HARRISON** 33:17 You may proceed.

**MS. BRITNEY ROBINSON** 33:18: And then we have the Abstract of Title.

**COUNSEL DIRK HARRISON** 33:21 You’re now on **Slide 30**?

**MS. BRITNEY ROBINSON** 33:23: **Slide 30**. Yes. And now this is the Abstract of Title coloured blue on the plan. And if I draw your attention down to the markings, where it is underlined in red.

**COUNSEL DIRK HARRISON** 33:44: Chairman, I'm not certain if the named person Rupert Carlyle Hollis Hallett, if he is living or any family member or the estate of Rupert Carlyle Hollis Hallett is. My application, I'm sorry, is that an Adverse Notice is sent to the estate if he's not with us.

**MR. WAYNE PERINCHIEF** 34:20: Yes Counsel, I agree entirely. The party should be sent an Adverse Notice. There seems to be some conflict of interest in this case.

**COUNSEL DIRK HARRISON** 34:33: Thank you, you may proceed.

**MS. BRITNEY ROBINSON** 34:38: I’m on **Slide 30** and if I can redirect you to the portion of the picture on the far left hand side where it is underlined in red. It says, Spanish Point Road.

**COUNSEL DIRK HARRISON** 34:56: I'm sorry, what document underlined in red are about to read to us before we go on? What document are you actually reading from?

**MS. BRITNEY ROBINSON** 35:04: The Abstract of Title, coloured blue on the plan.

**COUNSEL DIRK HARRISON** 35:10: And it's an Abstract of Title in respect of what?

**MS. BRITNEY ROBINSON** 35:14: Mrs. Amelia Chiappa's Statement Claim and it says that it's founded… I will start from the beginning.

**COUNSEL DIRK HARRISON** 35:26: Description, please.

**MS. BRITNEY ROBINSON** 35:27 Yes.

**COUNSEL DIRK HARRISON** 35:28: I am going to ask you just for completeness, just read from the very top of the document, I know we'll come to it when I make an application for it to be made an Exhibit. Please just start at the very top of the document.

**MS. BRITNEY ROBINSON** 35:44: So the very top of the document says: In the Supreme Court of Bermuda 1947, No. 18, between Amelia Chiappa, Plaintiff, and Heman Montgomery Bascome Smith, Defendant. Abstract of Title of Land coloured blue on the Plan the 20th of August 1889. Julius Smith conveyed the land to Julius Astwood Smith and Mary Jane Dallas subject to certain obligations to be assumed by the said Julius Astwood Smith and Mary Jane Smith. The description was all that certain parcel of land at Spanish Point in Pembroke Parish aforesaid is bounded on the north by land of the devisees or signs of the above mentioned Peter Tucker, on the south, by land now or late in the possession of Richard Sherwood, on the east by land by the public road running to the last mentioned land from the main Spanish Point Road. And I want to bring your attention to this portion of the Abstract ofTitle. It says, it's founded westerly by the land devised by the said Peter Tucker, and now in possession of Jeremiah Hinson. And if you can remember that 1888 Deed of Gift that we have was between Mr. Jeremiah Hinson and Mr. Wayne Brown. So basically, Mrs. Amelia Chiappa is stating that she owns a portion of that blue part just below where the red or the pink, sorry, is depicted on the plan. So she's stating that her western boundary is that of Mr. Jeremiah Hinson. But if you remember, Mr. Jeremiah Hinson owned the entire portion that encompasses blue and a part of what is coloured green and that was also depicted in that 1934 parish map of Lot 33-3.

**COUNSEL DIRK HARRISON** 38:13: And this is what you're referring earlier also to the fact that Mrs. Chiappa in your pronunciation has incorrectly stated the description of the layout. Is that what you're referring to?

**MS. BRITNEY ROBINSON** 38:29: She has incorrectly stated what she owns.

**COUNSEL DIRK HARRISON** 38:33: And I am just saying this is a further illustration of the point you're making?

**MS. BRITNEY ROBINSON** 38:36: Correct. The fact that she is actually acknowledging that Jeremiah Hinson would have bordered her blue portion of the land to the west.

And so the evidence on **Slide 31,** the evidence produced on behalf of my great-grandfather, was that 1888 Deed of Gift between Jeremiah Hinson and William Brown that we previously showed as well as Mr. and Mrs. Brown's wills that we previously showed as well, as well as the newspaper clipping with the Notice of Purchase of Land.

On **Slide 32**, to the far right, I have an article from the Royal Gazette dated March 20, 1948, page one, in which the verdict in the Spanish Point Land was written about. So as you can remember, the judge was the Hon. R.C. Hollis Hallett. There were 8 jurors and after one hour and 22 minutes of a Special Jury and verdict, it ruled in favour of Mrs. Amelia Chiappa.

**COUNSEL DIRK HARRISON**  40:01: Could I just ask you, you had indicated that the judge, the point you had made earlier and I know the Chairman had accepted my request for an Adverse Notice to be issued to Mr. Hallett, the judge, can you just read that extract on the left because you have said it is there, but I've seen it, but I just ask you to read it.

**MS. BRITNEY ROBINSON** 40:28: Yes. So it says: The verdict in Spanish Point land dispute. Jury finds in favour of Mrs. Amelia Chiappa after deliberating 1 hour. and 22 mins. A Special Jury yesterday returned a verdict in favour of Mrs. Amelia Chiappa who had been acting. I'll start from the beginning with a clearer version.

It says after deliberating 1 hour and 22 mins., a Special Jury yesterday returned a verdict in favour of Mrs. Amelia Chiappa who has been suing Mr. Bascome Smith for possession of a disputed piece of land on the joint boundary of their properties at Spanish Point. Cost for damages to the property by Mr. Smith will be decided later. Mrs. Chiappa is asking for 150 pounds in damages, after Mr. Smith deposited the soil from excavation on the land which it was decided belongs to Mrs. Chiappa. The Assistant Chief Justice the Honourable R.C. Hollis Hallett who had heard the action complimented the two counsels for their able handling of a case which involved a complicated legal technicality. Mr. James E. Pearman, MCP appeared for Mrs. Chiappa and Mr. E. T. Richards represented Mr. Smith. The land in question is a portion of the south shore of Peter Tucker Bay in Spanish Point. The hearing of the case occupied three and a half days. Mrs. Chiappa did not appear in court in person, but was represented by her grandson, Mr. John Peter Chiappa.

**COUNSEL DIRK HARRISON** 42:26: Thank you.

**MS. BRITNEY ROBINSON** 42:31: When I went to the Bermuda Archives, I was actually able to locate the entire case file of the Supreme Court. This 1947 Supreme Court No. 18. And in this court case file, I found this document and I will actually read it.

**COUNSEL DIRK HARRISON** 42:49: You’re on slide?

**MS. BRITNEY ROBINSON**  42:51: I'm still on **Slide 32**. The document says:

**1.** From the evidence you have obtained from the title deeds and the witnesses, has the Plaintiff proved that the Title Deeds that describe the lands described in her title deeds are correctly shown and coloured green and pink on the plan ***Exhibit A***. It was agreed upon as Yes. And it was signed off by the foreman, the freeman sorry.

**2.** Has the Defendant and his predecessors in title of any of them had continuous possession of any part of the property shown in green and pink on ***Exhibit A***, for a period of twenty (20) or more years prior to the 3rd February, 1947. And they said no.

**COUNSEL DIRK HARRISON** 43:47: I'm sorry. Could I just ask you to, you may proceed.

**MS. BRITNEY ROBINSON** 43:55: I want to draw your attention to this statement, because if we look at the lineage of that piece of property that would have been depicted in a portion of green as well as a portion of blue, almost Amelia Chiappa's ***Exhibit A*** of her plan. If we look at 1888, the deed of gift between Jeremiah Henson and William Brown, and then we look at the wills for Mr. and Mrs. Brown in 1915 and 1924, respectively, that in of itself was more than twenty (20) years. And then to add to that, we then saw the transaction between Mrs. Adelia Robinson and my great-grandfather in 1946.

**COUNSEL DIRK HARRISON** 44:38: But I’d like to ask you to take us back to this point because you have...Please take us back through this point because I wish to make no assumptions, but the area that you have rectangled in red, I am thinking that you're saying that something there is not accurate because it says 20 years and you make reference to the documentation going back to the 1880s. You're saying, please just go very slowly because I think it's a very important point that you're making that…

**MS. BRITNEY ROBINSON** 45:22: Sure so question No 2, is basically stating,

**COUNSEL DIRK HARRISON** 45:28: I'm sorry, Just take us back to the actual document, based on the research done. This actually is what has been signed and it is the verdict between the parties.

**MS. BRITNEY ROBINSON** 45:45: That's correct. So on No. 2 of this document, it states: Has the Defendant and his predecessors in title, or any of them, had continuous possession of any part of the property, shown in green and pink on ***Exhibit A*** for a period of 20 or more years. And I would like to draw your attention to the fact that we saw that 1888 Deed of Gift between Jeremiah Hinson and William Brown, and then Mr. and Mrs. Brown's will dated from 1915 and 1924. And that this in of itself was more than 20 years. So I believe this statement to be incorrect.

**COUNSEL DIRK HARRISON** 46:33: This statement actually says, if I may, has the Defendant and his predecessors in title or any of them had continuous possession of any part of the property shown in green and pink on ***Exhibit A*** for a period of 20 or more years prior to the 3rd of February 1947. But the Defendant in this matter is your great-grandfather.

**MS. BRITNEY ROBINSON** 47:10: Yes, and the answer was No.

**COUNSEL DIRK HARRISON** 47:14: And this is dated the 19th of March, 1948.

**MS. BRITNEY ROBINSON** 47:22: Yes, that’s correct.

**COUNSEL DIRK HARRISON** 47:24: And you're saying that, in fact, your grandfather was in occupation, was in possession how long?

**MS. BRITNEY ROBINSON** 47:33: The question would have asked is the Defendant and his predecessors, were they, did they have title or continuous possession? And the lineage of that property spanned more than 20 years.

**COUNSEL DIRK HARRISON** 47:53: Thank you. Just one moment. You may proceed.

**MS. BRITNEY ROBINSON** 48:23: So on **Slide 33** and ***Exhibit P*** in your packet. I have my great-grandfather's pen letter. And I know it's not signed or dated, but the letter is addressed in the first person. So it states: The property in question was purchased by Mr. Peter Tucker in 1830. It contained three (3) cottages. In June 1876, Peter Tucker sold a lot to Mr. James Nelson, measuring 65 x 102. The house he lived in, which is now the Spanish Point Boat Club, he conveyed to Samuel Joel. His eastern boundary is the second wall east of the house, which is about 70 feet, and on the south by a stone wall, separating the waters of the bay. The rest of the property was conveyed to Jeremiah Hinson who lived in the second house. Mrs. Julia Smith had her life interest only in the third house, which was to go to Mr. Hinson, also at Mrs. Smith's death. The property was conveyed by Jeremiah Hinson, the same matter to William Brown who in turn conveyed it to his wife Anne Elizabeth Brown; who in turn conveyed the same property to Mrs. Adelia Anne Robinson. Adelia Robinson paid taxes from 1915 to 1921 for Mrs. Brown. From 1921 to 1946, Mrs. Robinson paid taxes for herself without any dispute. In 1946, I purchased the same property from Mrs. Robinson, who is my aunt, for the sum of 400 pounds. The first year the Vestry taxed me for the property, then a dispute arose which Mr. Chiappa who was trying to claim a portion of the property, which started a court procedure, and he's referring to that 1947 Supreme Court case that we just went through. So he goes on to give his view of how the court case went. He says: I then went to Mr. E.T. Richards to represent me. Whilst preparing the case, I told Mr. Richards not to have Mr. Hallett as the judge as he had been involved in making out some of the documents for Mr. Chiappa. So after going back to his office a couple of times, he told me that he had a meeting in the Chief Justice’s Chambers and the Chief Justice said that Mr. Hallett had to try the case. I told him I could not see how Mr. Hallett could try the case, when I knew that he had been involved in making out of some of the papers. Every time I went back to Mr. Richards, he told me it still stood the same. The day the case began, and Mr. Hallett came in to sit on the bench, he told the court that it had been just brought to his attention that he was involved in the making out of some of the papers, and no doubt you would hear my name mentioned several times. But of course, it's only a minor something, although I thought I would draw it to your attention, as you have the option of objecting to me sitting on the bench if you feel so disposed to do so. Mr. Richards then arose to his feet and said No Your Honour, it is not necessary to object. I is alright for the case to proceed. From then on, all proceedings went against me because Mr. Richards failed to put forward any of my evidence to prove my case.

**COUNSEL DIRK HARRISON** 52:21: I just pause there. Mr. Chairman. I just ask that an Adverse Notice be issued to the Estate of E.T. Richards.

**MR. WAYNE PERINCHIEF** 52:35: Yes Counsel, I hear what you are saying and I agree that an Adverse Notice should be sent to the Estate of E.T. Richards now deceased.

**COUNSEL DIRK HARRISON** 52:49: Thank you. You may proceed.

**MS. BRITNEY ROBINSON** 52:59: When the case closed, I was not told anything by the Judge. But coming out of court, Mr. Richards said to me, while the case has gone against you, so I will have to get an itemized bill of the cost for Mr. Pearman, who was Chiappa's lawyer, and when I do I will send for you. My reply to him was I am not satisfied with the way the case went and I would like to appeal to England. He told me it did not make sense as it will cost over 300 pounds. So in eight (8) days, he sent for me concerning the bill. I was expecting him to say 300 pounds or over, as I knew Mr. Chiappa was claiming 150 pounds in damages, but when he read the bill off to me, he said everything included 62 pounds and some shillings. I told him that I understood all of that and he could tell Mr. Hallett, Mr. Pearman or whoever he needed to tell that I say if it’s 63 cents, I am not paying it, (excuse my great-grandfather's little spiciness). He is not paying it because I have not had any justice. He then handed me a bill from Mr. Clark for three (3) pounds 10 cents for giving evidence. I told him I knew nothing about that. He then asked me about his fee. Itold him I had paid him so much. He said in a case like that it costs 60 pounds. You bring me so much more which amounted to 55 pounds. So I told him to get my paper straight, and I will bring him his money and that's all I have ever paid.

**COUNSEL DIRK HARRISON** 54:40: Now, Ms. Robinson, for this **Slide 33** you have there as a heading ‘H.M.B. Smith Penned Letter’. However, this document is unsigned. Why do you say this is a letter penned by your great-grandfather?

**MS. BRITNEY ROBINSON** 55:02: Because it tells us about the court case exactly how it went as well as he states I in the letter referring to himself.

**COUNSEL DIRK HARRISON** 55:10: Where was this document retrieved?

**MRS. GENA ROBINSON** 55:14: This is Gena speaking. We actually found it a brown paper bag at the homestead that my grandfather stayed at.

**COUNSEL DIRK HARRISON** 55:21: And you say a brown paper bag, but it could have been, was there anything else in that brown paper bag?

**MRS. GENA ROBINSON** 55:26: It was the original Deed of Gift that was also in this brown paper bag.

**COUNSEL DIRK HARRISON** 55:32: And the homestead is where you are now or somewhere else?

**MRS. GENA ROBINSON** 55:35: No, this would have been at my grandfather's homestead. That was at Seagull Lane, in Pembroke.

**COUNSEL DIRK HARRISON** 55:46: So in that brown paper bag you found this two-paged page penned letter and you also found the Deed of Gift. anything else in that brown paper bag?

**MRS. GENA ROBINSON** 56:00: Not pertaining to this case, It was different clippings that he had, random items.

**COUNSEL DIRK HARRISON** 56:07: Okay and this brown paper bag which had the Original Deed of Gift and this penned letter, where exactly at the homestead was this found?

**MRS. GENA ROBINSON** 56:16: So, to be very honest, my aunt actually inherited the homestead from my grandfather, and I had spoken to her daughter and my aunt had passed away to say that I was actually looking for any documentation pertaining to that area; and when she passed and her daughter was clearing out this stuff, she actually found this documentation, and they believed that quite a few other documents had already been destroyed before she had gotten this particular document.

**END OF TRANSCRIPTION JANUARY 18 (MORNING b) AT 56:29**