



CARIBBEAN COURT OF JUSTICE

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THE CCJ CLARIFIES EVIDENTIARY STANDARDS IN PRESCRIPTIVE TITLE AND FRAUD APPEALS FOR GUYANA

Port of Spain, Trinidad and Tobago. On Friday, 20 February 2026, the Caribbean Court of Justice (CCJ/Court) delivered judgment in *Eslene Vigilance v Roopnarine Persaud [2026] CCJ 1 (AJ) GY*. The CCJ dismissed the appeal, agreeing with both the Court of Appeal and High Court of Guyana that the application to amend a statement of claim and introduce further evidence made by counsel for the Vigilance estate on the date of delivery of judgment in the High Court, was too late and that to allow the application would be unfair to the defence.

This case is decades old and arose from the attempt of the Vigilance estate, the Appellant, to overturn prescriptive title granted to George Estrick and the subsequent transport of the land to Roopnarine Persaud, the Respondent. The estate alleged that Estrick obtained the land by fraud, but never pleaded or proved any fraud against Persaud, who purchased the land from Estrick.

The High Court dismissed the claim finding no evidence of fraud and holding that alleged irregularities in the Land Court process did not amount to fraud capable of invalidating a registered title. On the day set for judgment, new counsel in the matter made an oral application to amend the pleadings to include particulars of fraud and to present further evidence. The trial judge refused the application and on appeal, the Court of Appeal affirmed the decision of the trial judge.

Before the CCJ, the Vigilance estate sought to have the Court of Appeal's decision set aside, arguing that the refusal to allow amendments and admit further evidence amounted to a miscarriage of justice, and that the courts below erred in failing to properly assess the alleged fraudulent acquisition by Estrick and its impact on the subsequent sale to the Respondents, and claiming costs in this Court and the courts below.

In an opinion authored by the Honourable Mr Justice Barrow with Justices Jamadar, Ononaiwu, Eboe-Osuji, and Bulkan concurring, the Court held that the appeal was bound to fail because the estate's case rested on allegations of fraud against Estrick, which were dismissed and the claim against Estrick was not pursued on appeal. By the time new counsel sought to amend the pleadings,

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the trial judge had already determined that there was no evidence of fraud. Without proof of fraud by Estrick, there could be no basis for alleging fraud against Persaud, who acquired a derivative title from Estrick. Mr Justice Barrow further emphasised that even if there were irregularities in the prescriptive title proceedings, such defects cannot invalidate a registered title unless actual fraud is established.

In his opinion, the Honourable Mr Justice Bulkan, with Justices Barrow, Jamadar, Ononaiwu, and Eboe-Osuji concurring, went further in analysing the underlying defects in the prescriptive title proceedings. He stressed that prescriptive title requires proof of actual, exclusive, and undisturbed possession, and that applicants must provide full, frank disclosure of all material facts. He compared Guyana's system with the more structured approach used in Trinidad and Tobago and called for more stringent judicial oversight and legislative reform to combat the prevalence of land fraud and procedural failures.

Mr Teni Housty and Ms Sydney Fraser appeared for the Appellant and Mr C V Satram, Mr Mahendra Satram and Mr Ron Motilall appeared for the Respondent. The Court dismissed the appeal and awarded costs to the Respondent. The CCJ's full decision is available via www.ccj.org.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Winston Anderson. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, five states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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