

**ELLSWORTH B. JONES, Trustee of the
Ellsworth B. Jones and Ursula E. Jones
Revocable Trust**

Plaintiff,

v.

**JEAN A. CHARLES, and all other persons
Unknown claiming any right, title, estate
Lien or interest in the real property
Described in the complaint adverse to
Plaintiff's ownership, or any cloud on
Plaintiff's title**

Defendants,

ACTION FOR ADVERSE POSSESSION AND FOR QUIET TITLE

THIS MATTER came on before this Court for a default judgment hearing on May 21, 2018. The Plaintiff, **ELLSWORTH B. JONES**, personally appeared and was represented by Counsel, **Clive Rivers, Esq.** The Defendant did not appear. The Court, sitting without a jury, having heard the evidence as presented from testimony of the Plaintiff and the Plaintiff's witness, Charles A. Hamilton, Licensed Surveyor, and having examined the evidence introduced by the Plaintiff, and having further heard and considered the arguments of Counsel, makes the following findings of fact and conclusions of law.

1. That, on December 13, 2016, the Plaintiff, Ellsworth Jones, trustee of the

Ellsworth B. Jones and Ursula E. Jones¹ Revocable Trust, filed a complaint against the Defendants, Jean A. Charles and all other persons unknown claiming any right, title, estate liens or interest in the real property described as: 2,871 U.S. Square Feet, more or less, of **Parcel No. 57J Estate Smith Bay, Nos. 1, 2 and 3 East End Quarter, St. Thomas, Virgin Islands.**

2. That the Defendants were duly served by publication in the Virgin Islands Daily Newspaper on May 19, 2017, May 26, 2017, June 2, 2017, and June 9, 2017.
3. That the Defendants failed to answer the complaint or otherwise plead to the complaint and the Clerk of the Court entered an entry of default against the Defendants on February 1, 2018. Thereafter, the Court scheduled a default judgment hearing for May 21, 2018.
4. That, from the evidence at trial, the Court further finds that, in 1972, the Plaintiff and his late wife, Ursula Jones, came into actual possession of the real property described as Parcel 57 X-20, No. 57 X-20 Estate Smith Bay Nos. 1, 2 and 3, East End Quarter, St. Thomas, Virgin Islands.
5. That although the Plaintiff and his wife acquired Parcel 57 X-20 from Emile Francis and Robert Francis by warranty deed on February 28, 1980, he and his wife have occupied the premises from 1972.
6. That, in 1972, the Plaintiff and his late wife built a dwelling, the marital home, on Parcel No. 57 X-20 Estate Smith Bay, and that house extended over the boundaries of Parcel No. 57 X-20 unto the adjacent property No. 57J Estate Smith Bay.
7. That the extension unto Parcel No. 57J Smith Bay is approximately one

¹ Ursula E. Jones died.

hundred forty-three square feet (143 sq. ft.).

8. That, since 1980, the Plaintiff has claimed an additional two thousand, seven hundred twenty-eight square feet (2,728 sq. ft.) of Parcel No. 57 J Estate Smith Bay for a total of 2,871 square feet. That the Plaintiff has claimed both portions of Parcel No. 57J Estate Smith Bay exclusively as his own. Further, the Plaintiff has claimed these portions openly and notoriously as Plaintiff's own property, adversely to the world and especially to the Defendant, Jean A. Charles, in as much as Plaintiff's property/house extends over onto Parcel No. 57J since 1972 until present. Additionally, Plaintiff fenced off an additional 2,728 square feet of Parcel No. 57J Smith Bay, cultivated the area by planting fruits trees and flowers and maintained the area as his.
9. That, since 1972, neither the Defendant, Jean A. Charles, nor the Defendant's predecessors in interest, possessed any portion of Parcel No. 57J Estate Smith Bay or any part of the property.
10. That, a summons directed to Jean A. Charles and all others claiming an interest in Parcel No. 57J Estate Smith Bay, St. Thomas, V.I., and notifying them that they are required to appear before the Court and answer Plaintiff's complaint for adverse possession and quiet title was published in the Virgin Islands Daily Newspaper on May 19, 2017, May 26, 2017, June 2, 2017, and June 9, 2017.
11. That no person appeared in this action to challenge Plaintiff's claims of uninterrupted and notorious possession of the property under claim of ownership.
12. That, based on the presentation of clear and convincing evidence, Plaintiff, Ellsworth Jones, has established that he has uninterrupted, exclusive, actual physical, and continuous and notorious possession of two thousand, eight

hundred seventy-one square feet (2,871 sq. ft.) of the southern most part of Parcel No. 57J Estate Smith Bay, St. Thomas, Virgin Islands, adverse to any claims of Jean A. Charles and all other persons since February 28, 1995.²

On the basis of the foregoing, the Court makes the following:

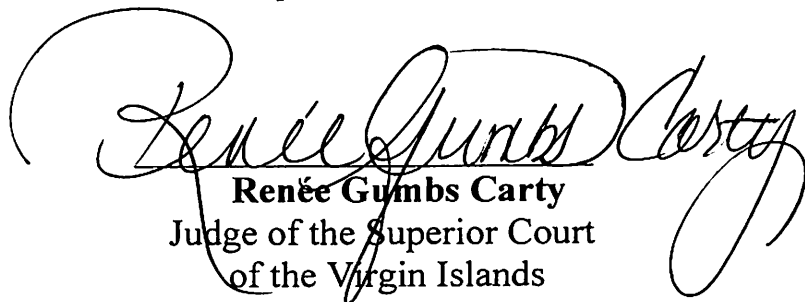
CONCLUSIONS OF LAW

1. The Plaintiff has established the elements of adverse possession to two thousand, eight hundred seventy-one square feet (2,871 sq. ft.) of the southern portion of Parcel No. 57J Estate Smith Bay, St. Thomas Virgin Islands, by clear and convincing evidence. Further, Plaintiff's possession of two thousand, eight hundred seventy-one square feet (2,871sq. ft.) of the southern portion of Parcel No. 57J Estate Smith Bay, St. Thomas, Virgin Islands is adverse, uninterrupted, exclusive, actual, physical, continuous and notorious, under claim of color of title for more than fifteen (15) years such that, pursuant to V.I. Code ANN. Tit. 28 §11, title was conclusively established in his name as of December 31, 1987. However, even if the date from which adverse possession commenced is not 1972, but in 1980 when he acquired the warranty deed to Parcel No. 57 J Estate Smith Bay, Virgin Islands. Plaintiff still has met and satisfied his claim pursuant to Title 28 V.I.C. §11 as Plaintiff continues, as of today's hearing, to adversely possess two thousand, eight hundred seventy-one square feet (2,871 sq. ft.) the southern most portion of Parcel No. 57J Estate Smith Bay, St. Thomas, Virgin Islands.

² Fifteen (15) years after Parcel No. 57 X-20 was acquired by warranty deed from Emile and Roberts Francis dated February 28, 1980.

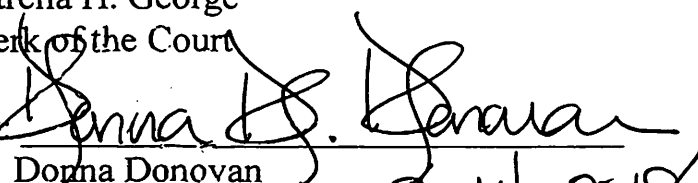
A Judgment order consistent with this memorandum opinion will be issued herewith.

Dated: August 13, 2018


Renée Gumbs Carty
Judge of the Superior Court
of the Virgin Islands

ATTEST:

Estrella H. George
Clerk of the Court

By 
Donna Donovan
Court Clerk Supervisor 8, 14, 2018