

Michaelmas Term
[2026] UKPC 45
Privy Council Appeal No 0107 of 2025

JUDGMENT

Martin Phillip Revenales (Appellant) *v* Eric Charles and 5 others (Respondents) (Trinidad and Tobago)

From the Court of Appeal of the Republic of Trinidad and Tobago

before

Lord Lloyd-Jones
Lord Briggs
Lord Stephens

JUDGMENT GIVEN ON
25 November 2026

Heard on 26 October 2026

Appellant
Colvin Blaize
(Instructed by C E Blaize and Company)

1st and 2nd Respondents
Zeik Ashraph
Shirvan Ramdhanie
(Instructed by Shirvan Ramdhanie)

3rd and 4th Respondents
Gail A Persad
(Instructed by Gail A Persad)

LORD BRIGGS:

1. On 22 November 2006 the first respondent Mr Eric Charles entered upon land in Tabaquite, Montserrat Ward and with the assistance of a bulldozer felled trees and demolished a house situated thereon. The appellant Mr Martin Phillip Revenales claimed to have been in undisturbed possession of land including the site of the trees and the house since 1972, and sued Mr Charles for damages for trespass together with an injunction against further trespass.

2. Those proceedings ("the 2006 Claim") were tried by Dean-Armorer J and in a judgment handed down in July 2011 ("the 2011 Judgment") she found for Mr Revenales, ordered Mr Charles to pay TT$107,750 in damages and granted the injunction sought. In her judgment she noted in passing that Mr Revenales had been in possession of the land for long enough to have extinguished the title of its owner by 1998. She rejected Mr Charles' defence that he had only acted as agent for the owner of the land, the second respondent to this appeal, Stress Free Real Estate & Construction Company Ltd ("Stress Free") which had (in fact) acquired the land in 2005. There was no investigation or dispute about the boundaries of the land of which Mr Revenales had been in possession. All that mattered was that it included the site of the house and the felled trees. Although his possession was challenged (and that challenge was rejected) it was not in issue that such land as he had possessed included the site of the house and the trees. Its boundaries did not matter for the purposes of his trespass claim.

3. Mr Charles paid the damages to Mr Revenales, and there is no suggestion that he did not comply with the injunction. But in March 2016 Mr Revenales commenced fresh proceedings ("the 2016 Claim") against Mr Charles, Stress Free, four members of the Moonassar family and one other, seeking a declaration that he had extinguished the registered title of the owners of the land, an order under section 48 of the Real Property Act for the vesting of the land in himself, damages for trespass and an injunction against two members of the Moonassar family. In his Amended Statement of Case he alleged that Mr Charles and Stress Free had instigated, and the other defendants been privy to, the fraudulent procurement of certificates of title to various parts of the land in favour of the third to seventh defendants, when Mr Charles and Stress Free well knew, from the judgment in the 2006 Claim, that Stress Free had no title to the land at all.

4. After a trial in January 2023, Seepersad J dismissed the 2016 Claim in its entirety. He held (i) that Mr Revenales had not deployed evidence sufficient to prove adverse possession of a sufficiently clearly defined parcel of land to satisfy the requirements of sections 49 and 50 of the Real Property Act; (ii) that the 2011 Judgment could not bind Stress Free since (a) it was not a party to the 2006 Claim, (b) because the trial judge's statements about extinguishment of the legal title were obiter, because no declaration of title had been sought in the 2006 Claim, and (c) because it was not clear that the land the subject matter of the 2006 Claim was the same as that claimed in 2016.

5. Mr Revenales appealed to the Court of Appeal. In a judgment handed down in November 2024 the Court of Appeal (Boodoosingh, Mohammed and Wilson JJA) dismissed the appeal, substantially for the reasons given by Seepersad J. In outline, the Court of Appeal concluded that the 2011 Judgment did not give rise to res judicata or issue estoppel in the 2016 Claim. The only matter which was finally determined by the 2011 Judgment was Mr Charles' personal liability to Mr Revenales in trespass. The trial judge's finding that Mr Revenales' claims against all the defendants failed due to the paucity of the evidence could not be faulted.

6. On Mr Revenales' appeal to this court, the issues fall into two parts. First there are the essentially factual questions about whether Mr Revenales had proved his claim to have extinguished Stress Free's title to the land. Secondly there are the essentially legal questions about the effect of the 2011 Judgment upon the resolution of the issues in the 2016 Claim, whether by res judicata or issue estoppel. There is in addition an issue raised by the third to sixth respondents, namely whether the fact that the 2011 judgment had not been endorsed on Stress Free's registered title, nor had they had notice of its contents when they acquired their parts of the land, meant that for that reason alone they could not be bound by it, even if all else failed. As will appear, it is not necessary for the Board to address that issue.

7. It is convenient for the Board to address the factual questions first. It is very well established that the Board will not in the absence of special circumstances enter into the merits of an appeal against concurrent findings of fact by the courts below. The leading authority is *Devi v Roy* [1946] AC 508. It was recently applied to an appeal from Trinidad and Tobago in *Gormandy v Trinidad and Tobago Housing Development Corpn* [2022] UKPC 55, and needs no elaboration. No sufficient special circumstances have been advanced for departing from that settled practice of the Board.

8. There remains the appellant's attempt to challenge the rejection by the courts below of his reliance upon the 2011 Judgment as establishing an estoppel against the respondents from denying the extinguishment of legal title to the land by his adverse possession. The relevant law may be summarised in the following way. It is encapsulated in the following passage from *Nana Ofori Atta II v Nana Abu Bonsra II* [1958] AC 95, at 101 per Lord Denning, giving the judgment of the Board:

> "The general rule of law undoubtedly is that no person is to be adversely affected by a judgment in an action to which he was not a party, because of the injustice of deciding an issue against him in his absence. But this general rule admits of two exceptions: one is that a person who is in privity with the parties, a 'privy' as he is called, is bound equally with the parties, in which case he is estopped by res judicata: the other is that a person may have so acted as to preclude himself from

> challenging the judgment, in which case he is estopped by his conduct."

9. For the appellant Mr Colvin Blaize submits that both exceptions apply. First he submits that Mr Charles and Stress Free were privies. Secondly he says that Stress Free is estopped by its conduct in standing by and allowing Mr Charles to defend the claim to have extinguished its legal title to the land, knowing that it was alleged in the 2006 Claim. In his oral submissions he placed his main emphasis on the second of those exceptions, but the Board will address both of them, taking privity first.

10. The *Ofori Atta* case was about estoppel by conduct, not privity, so the Board has to look elsewhere to find reliable authority about privity. The Board was referred by Mr Blaize to *House of Spring Gardens Ltd v Waite* [1991] 1 QB 241, 252, per Stuart-Smith LJ, approving a dictum of Megarry V-C in *Gleeson v J Wippell & Co Ltd* [1977] 1 WLR 510 at 515 and, more generally, *Carl Zeiss Stiftung v Rayner & Keeler Ltd (No 2)* [1967] 1 AC 853, 910 per Lord Reid. Of the ancient privity trio of blood, title and interest, the candidate here relied on by the appellant is privity of interest.

11. The principle which emerges from those authorities may be summarised in this way. It is not enough that the non-party (here Stress Free) has a concern about the outcome of the litigation (here the 2008 Claim). There must be a sufficient degree of identity between the non-party and the party to make it just that the non-party should be prohibited from re-litigating the relevant issue. That identification need not require that one should be the alter ego of the other.

12. Estoppel by conduct is explained in the *Ofori Atta* case, mainly by reference to the following dictum of Lord Penzance in *Wytcherley v Andrews* (1871) LR 2 P & D 327 at 328-329:

> "there is a practice in this court, by which any person having an interest may make himself a party to the suit by intervening; and it was because of the existence of that practice that the judges of the Prerogative Court held, that if a person, knowing what was passing, was content to stand by and see his battle fought by somebody else in the same interest, he should be bound by the result, and not be allowed to re-open the case. That principle is founded on justice and common sense, and is acted upon in courts of equity, where, if the persons interested are too numerous to be all made parties to the suit, one or two of the class are allowed to represent them; and if it appears to the Court that everything has been done bonâ fide in the

> interests of the parties seeking to disturb the arrangement, it will not allow the matter to be re-opened."

13. Even where privity or standing-by are sufficiently shown to enable a person who was not in fact a party to previous litigation to be treated as if they were, there are nonetheless significant restrictions upon the ambit of the estoppel which may follow. In *Skatteforvaltningen v MCML Ltd (formerly ED&F Man Capital Markets Ltd)* [2026] UKSC 19; [2026] 3 WLR 219 the parties to the claim in which the issue estoppel was (unsuccessfully) relied upon had been the same as the parties in earlier proceedings. In allowing an appeal against a judgment of the Court of Appeal which had upheld the estoppel, Lord Sales DPSC and Lord Doherty JSC (with whom the other justices agreed) set out the following limits upon the doctrine, at paras 41 to 48:

> (i) The issue decided in the previous proceedings must have been necessary and fundamental to the decision if it is to give rise to an issue estoppel.
>
> (ii) An issue estoppel has a narrow focus, being concerned with facts that necessarily had to be established to make good the cause of action being alleged (or defence put forward).
>
> (iii) Whether an issue arose on the parties' pleadings in the earlier action is critical to the question whether the issue is sufficiently necessary and fundamental to give rise to an estoppel.
>
> (iv) It would be potentially unjust for a party to be estopped by elements of judicial reasoning which went wider than necessary for the determination of the case. A party should not be prejudiced by the court having chosen to decide a point that did not need to be decided in the earlier proceedings.

14. If these limitations on the scope of issue estoppel apply where the parties to the earlier proceedings were the same as in the later proceedings, they must apply a fortiori to the position between a party to the earlier proceedings and a non-party who is treated as a party by reason of privity or conduct. Furthermore where a particular matter of fact is neither pleaded as an issue nor necessary for the decision in the earlier proceedings, that may be good reason why the non-party should not be treated as a privy, or as someone who ought in justice to be treated as a party by reason of their conduct in standing-by.

15. Applying those principles to the present case, and in agreement with the courts below, the Board does not consider that the appellant can make out a case in these proceedings that Stress Free is estopped from denying that Mr Revenales had extinguished its legal title to the land by adverse possession. Nor are any of those

defendants to the 2016 Claim who claim title through Stress Free. The Board's reasons follow.

16. First, the 2006 Claim did not attack or put in issue Stress Free's registered legal title to the land. Although there were no detailed Particulars of Claim in the 2006 Claim, Mr Revenales put his case in his supporting affidavit fairly and squarely as a claim in trespass based upon his acts of possession on the land prior to Mr Charles' invasion with his bulldozer. When Mr Charles pleaded in para 1 of his Defence that Mr Revenales was not the registered owner of the land, Mr Revenales responded in paragraph 1 of his Reply that "the subject matter of this action is not the ownership of the land". In para 5 he made it clear that his claim was based only on his possession of the land.

17. Secondly, this was well understood by Dean Armorer J. In the opening paragraph of the 2011 Judgment she said that the claim was based upon possession, and that the Claimant had not sought a declaration as to his entitlement to the land. At paras 50 and 51 she said that it was sufficient for a claimant in trespass to prove his occupation at the date of the trespass without proving his title to the land, citing this passage from Cockburn CJ in *Asher v Whitlock* (1865) LR 1 QB 1, at 5:

> "But I take it as clearly established, that possession is good against all the world except the person who can shew a good title..."

18. At para 55 she recorded that there was nothing to suggest that Mr Revenales enjoyed other than undisturbed occupation of the land until 2006 when Mr Charles entered the land. That was all that Mr Revenales needed to succeed in his claim of trespass.

19. The high point of the appellant's case derives from the fact that the judge then went on to say, at paras 57-58, that since Mr Revenales had demonstrated undisturbed possession of the land from 1968 to 1998, he would have satisfied the 16 year requirement of the Real Property Limitation Act and would have been able to resist any actions brought by the title owner of the property. This might have mattered if Mr Charles had proved that his entry onto the land was as agent of Stress Free, which then held the paper title, but at paras 60 to 63 she roundly rejected Mr Charles' case (and his evidence) that he was indeed acting as agent for Stress Free. She held that he had not proved any relevant link with Stress Free.

20. The result of that finding was that the question whether Mr Revenales had extinguished Stress Free's title by adverse possession was entirely unnecessary to her decision that Mr Charles was liable in trespass. No such claim had been made, and the judge's observation that he "would have" succeeded in such a claim was really no more

than an aside. It follows that the basis for an allegation of issue estoppel, as set out in the *Skat* case, was not to be found in the 2011 Judgment, even if Stress Free had been a defendant to the 2006 Claim.

21. Thirdly, the assertion of privity as between Stress Free and Mr Charles in relation to the 2006 Claim must also fail, even if he was then a director of the company and its registered office was his home. The question is not one of close links in the abstract, but links in the context of the 2006 Claim. There has not been demonstrated the degree of identity between them to make it just that Stress Free should be affected by the chance remarks of the judge about adverse possession, in a claim which was (emphatically) about trespass, not ownership.

22. Fourthly and finally, there can be no suggestion that Stress Free stood by and allowed Mr Charles to fight its corner in the 2006 Claim, in circumstances where that conduct would make it unjust for it to defend the 2016 Claim, which was in terms primarily a claim to ownership. There was simply no corner for Stress Free to fight, or good reason for it to have intervened in the 2006 proceedings, in which Mr Revenales in his pleaded Reply abjured any claim to ownership of the land.

23. It will by now be apparent why it is unnecessary for the Board to grapple with the third to sixth respondents' separate defence based upon lack of notice of Mr Revenales' claim when they purchased their parts of the land. Since they claim ownership by virtue of Stress Free's prior registered title, its successful defence insulates them from any liability to Mr Revenales. Whether they enjoyed any such separate defence in law is a question best left to an occasion when it might matter.

24. The Board does not leave its examination of this case without a feeling of some sympathy for Mr Revenales, and a concern that he has not been well-served by the law. It does seem likely that, despite Mr Charles' opposition, he would have succeeded in a claim to title to some part of the land by adverse possession against Stress Free, if he had pursued such a claim in the 2006 proceedings and joined Stress Free for that purpose. But when he did decide to pursue exactly that claim in 2016, with the apparent support of Dean Armorer J's observations in the 2011 Judgment, he fell short, both in deployment of the necessary witnesses and in focussing with sufficient clarity upon the precise boundaries of the land which he was claiming to own. It may be that he or his advisors were lulled into a false sense that the battle had already been won. But it had not. Stress Free and the other defendants (apart from Mr Charles) were entitled to require him to prove his case all over again, and in this task he failed.

25. Nonetheless for the reasons already given, this appeal must be dismissed.