

*ex parte* ROBERT LEPPER.

[Civil Jurisdiction (Young, C.J.) May 27, 1925.]

*Real Property Ordinance, 1876<sup>1</sup>—joint tenancy—one registered proprietor in sole occupation for prescriptive period—whether entitled to be registered as sole proprietor—procedure for registration.*

The petitioner, Robert Lepper, had since June, 1888, been registered proprietor jointly with one Hirons on three certificates of title. In the present proceedings Lepper filed an affidavit to the effect that Hirons left the Colony in 1889 and had communicated with him in 1894 that it was his intention not to return to Fiji—that he, Lepper, had been in continuous and uninterrupted possession of the land comprised in the three titles since 1889. In February 1925 Lepper applied by letter to the Registrar of Titles to be registered as sole proprietor; this the Registrar refused to effect on the ground that he could discover no statutory provision enabling him to register an entry of the right or interest so acquired.

**HELD.**—Continuous occupation for the prescriptive period by one of two previous registered as joint tenants adverse to that of the other person so registered creates a title by adverse possession.

[**EDITORIAL NOTE.**—The issue in this application was essentially the question of the procedure to enable registration; no written judgment was delivered.]

PETITION under s. 96<sup>2</sup> of the Real Property Ordinance, 1876. The facts are set out above.

*H. M. Scott, K.C.*, for the petitioner.

**YOUNG, C.J.**—Granted an order *nisi* in the first instance declaring that “the said petitioner has become entitled through adverse possession to all those pieces of land—of which he is at present the registered proprietor of one undivided moiety—unless cause to the contrary be shewn before the 22nd day of September, 1925”<sup>2</sup> and ordering further that notice of the declaration be advertised in the *Fiji Times and Herald*, *Fiji Royal Gazette* and *Sydney Morning Herald*.

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<sup>1</sup> Repealed. *Vide Land (Transfer and Registration) Ordinance, Cap. 120.*

<sup>2</sup> Repealed. *Vide Cap. 120, s. 179, Revised Edition, Vol. II, p. 1264.*