

Libarson 19/1/07

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 296 OF 1994

BETWEEN:

**BRIDGE TRUST COMPANY LIMITED**

Plaintiff

AND

- (1) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS
- (2) EVEN WAHR-HANSEN
- (3) COMPASS TRUST COMPANY LIMITED  
TRANSWORLD TRUST COMPANY
- (5)-(73) AALL TRUST AND BANKING CORPORATION  
LTD & OTHERS



Defendants

Before: Hon. Justice Henderson

Heard: January 19, 2007



JUDGMENT

The third defendant, Compass Trust Company Limited, appeals from a decision of the Taxing Officer given on August 7, 2006 denying to Compass an extension of time within which to commence a taxation.

A proceeding for the taxation of costs must be commenced within three months after the judgment is filed or within three months after the right to taxation arose, whichever is the later: *Grand Court Rules*, Order 62, Rule 28 (2). The Taxing Officer may summarily dismiss any application for taxation which is made out of time: *Grand Court Rules*, Order 62, Rule 28 (3).

1

2 By order pronounced July 31, 2003 and filed August 7, 2003, Compass Trust was  
3 awarded its costs of an application to be paid by the second defendant, Even Wahr-  
4 Hansen, in any event of the cause. By order pronounced August 28<sup>th</sup>, 2003 and filed  
5 September 4<sup>th</sup>, 2003, Compass Trust was awarded its costs of another application, to be  
6 paid by Mr. Wahr-Hansen in any event of the cause.

7

8 The case was settled; a final order in the usual terms was pronounced on November 26,  
9 2003 and filed December 3<sup>rd</sup>, 2003. Nothing was done by Compass Trust to pursue its  
10 entitlement to costs until well after the three month deadline. Because of an oversight, no  
11 step was taken by Compass Trust to recover its costs until September 12, 2005.

12

13 After the respondent made it clear in correspondence that he would not agree to an  
14 extension of time for the taxation, an application was finally made to the Taxing Officer  
15 (in July, 2006) for an extension of time. The extension was refused, without reasons.

16 Order 62 Rule 29 (6) provides that a Taxing Officer shall not give reasons for any  
17 decision.

18

19 In opposing the application for an extension, Mr. Wahr-Hansen argued that he would  
20 suffer prejudice from the delay if the Taxing Officer embarked upon a taxation  
21 proceeding three years after the events in question. The Taxing Officer (by letter dated  
22 July 20<sup>th</sup>, 2006) asked for particulars of the prejudice, demonstrating an awareness that

1 this was an important element to be considered. A number of grounds of prejudice were  
2 advanced, which I need not repeat here.

3

4 The Taxing Officer was also told that the respondent was awarded certain costs to be paid  
5 by the applicant. The respondent, also, took no steps to claim his costs. They could have  
6 been set off against the costs awarded to the applicant.

7

8 The decision to grant or refuse an extension of time is pre-eminently a matter of  
9 discretion. In general, this court will interfere with the exercise of a Taxing Officer's  
10 discretion only when it is clear that he has erred in law or in principle: see *Gorfin v.*  
11 *Odhams Press Ltd.* [1958] 1WLR 314 (Court of Appeal). Such occasions are rare.

12

13 The record before me demonstrates that the Taxing Officer was alive to the critical issue  
14 (prejudice). In light of what was said to him by the respondent, his decision that the  
15 respondent would be prejudiced by the granting of an extension of time was within the  
16 realm of reasonableness. With that conclusion, I would not interfere.

17

18 The appeal from the Taxing Officer is dismissed.

19

20 Dated this 19<sup>th</sup> day of January, 2007

21

22

*Henderson, J.*

23

Henderson, J.

24

Judge of the Grand Court

