



1 IN CHAMBERS
2 IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 222 OF 2005

3
4 BETWEEN:

5 STACEYANN KELLY

Plaintiff

6
7 AND:

8 VICTOR LOOK LOY

Defendant

9
10
11 BEFORE: The Honourable Madam Justice Levers

12
13 APPEARANCES:

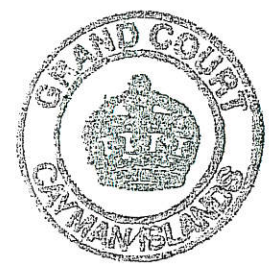
14 Counsels for Plaintiff: Mr. S. Hall-Jones instructed by Ms. S. Frederick-
15 Westerborg of Associated Advocates Chambers

16 Counsel for Defendant: Mr. N. Hill, Q.C. instructed by Ms. E. Nervik of
17 Nervik & Co.

18
19 Heard: May 12, 2005

20

JUDGMENT



21

22 Levers J,

23

24 In this case, Mr. Hill, Q.C., argues that the landlord has the right of re-entering on
25 the basis that the premises were unoccupied and a notice was served.

26 Occupation, he submits is an actual presence on the property. It is clear on the
27 evidence give by the Plaintiff in sworn testimony that the she in the course of her

28 professional duties was visiting abroad and therefore in my view was still in

1 occupation of the premises. As Chief Justice Smellie, Q.C. states in Cause No.
2 93/04, **Ann Marie Logan v Lighthouse Properties Limited:**

3

4 "Of particular application here, the Court of Appeal
5 held that section 55 (2) (a) of the R.L.L. did not create
6 a separate and distinct right of forfeiture for a lessor,
7 but was designed to ensure that direct re-entry in
8 exercise of the right created by section 55 (1) or by
9 the lease itself; was only allowed where the land was
10 unoccupied, and in other cases was enforceable only
11 by means of action through the Courts."
12

13 There is no evidence placed before me by the landlord that the premises were
14 unoccupied as envisaged by the law. I hold therefore that the premises being
15 occupied, the Defendant in this case would only have the right of re-entry through
16 the Courts. I extend the injunction till the hearing of this matter, on condition that
17 the rent due as stated by the Defendant is paid into Court. Costs to the Plaintiff
18 to be taxed or agreed.

19

20 The Defendant of course may wish to renew the application to set aside the
21 injunction after filing of additional affidavits, should he so desire.

22

23 Dated this 18th day of May, 2005

24

25

26 Judge of the Grand Court

