

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 1 OF 1981

BEFORE:

THE HON. MR. JUSTICE ZACCA, ~~J.A.~~ PRESIDENT

THE HON. MR. JUSTICE ROWE, J.A.

THE HON. MR. JUSTICE WHITE, J.A.

BETWEEN

HORISON MANAGEMENT LTD. APPELLANT

AND

BEACH CLUB COLONY ENTERPRISES LTD. RESPONDENT

Mr. R. Alberga, Q.C. )

Mr. P. Dougherty ) for the Appellant

Mr. I. Miller

for the Respondent

16th November, 1981

PRESIDENT:

The Court has given anxious consideration to this matter and is of the view that the following order which is being proposed is the proper one to be made in this matter.

Conditional leave to appeal to HER MAJESTY IS/COUNCIL is granted on the following conditions:..

- (1) The appellant do within 30 days enter into good and sufficient security in a sum of £300.00 (sterling) for the due prosecution of the appeal and the payment of all costs.
- (2) The record be prepared and dispatched within 90 days of the receipt of the written judgment of the Court of Appeal for Jamaica (sitting on the Court of Appeal for the Cayman Islands).

The Court orders that the judgment of the Court delivered on June 18, 1981 be carried into execution on the following terms and conditions:-

- (1) Guinness Mahon Ltd. to pay to the Respondent the principal sum of U.S. \$235,000.00, together with all accrued interest to the date of payment.
- (2) That the Respondent Company be restricted and inhibited from any further borrowings or charges in respect of the lands and property mentioned in the agreement, the subject of the action.
- (3) In the event of a sale of the lands and property, the principal sum of U.S.\$235,000.00, together with the accrued interest paid to the Respondent, shall be paid into Court by the Respondent forthwith, and in addition the Respondent shall pay into Court interest on the above sums at the rate of 15% per annum from the date of payment out to the Respondent to the date of payment into Court to await any order of HER MAJESTY IN PRIVY COUNCIL.

It is further ordered that these restrictions and inhibitions shall be recorded by the Registrar of Lands at the Land Registry and a copy of the Order be served upon Barclays Bank International Ltd., provided, however, the Respondent may elect within 14 days hereof by written notice to the Appellant not to demand execution by the payment to him of the amounts now held by Guinness Mahon Ltd., in which event the conditions at 1,2, and 3 above may not apply and the money shall remain with Guinness Mahon Ltd., till further order of HER MAJESTY IN COUNCIL.

Costs should be cost in the cause. Formal Order to be drawn.