

IN THE GRAND COURT OF THE CAYMAN ISLANDS

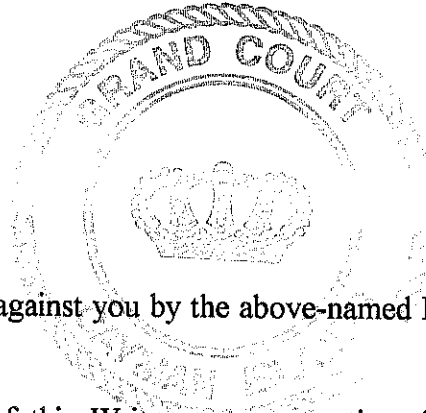
CAUSE NO. 76 OF 1997

BETWEEN: PINCO LTD Plaintiff

AND: SOUND HARBOUR LTD Defendant

WRIT OF SUMMONS FEB. -3.1997

TO: Sound Harbour Ltd
P.O. Box 1371 GT
Grand Cayman
Cayman Islands
B.W.I.



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claims set out on the next pages.

Within fourteen (14) days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 3rd day of February, 1997.

NOTE - This Writ may not be served later than four (4) calendar months beginning with the date of issue unless renewed by order of the Court.

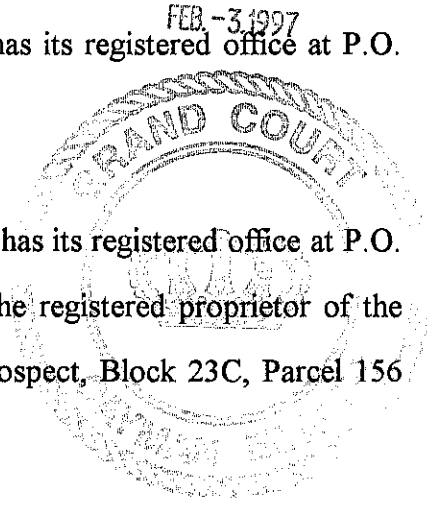
IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

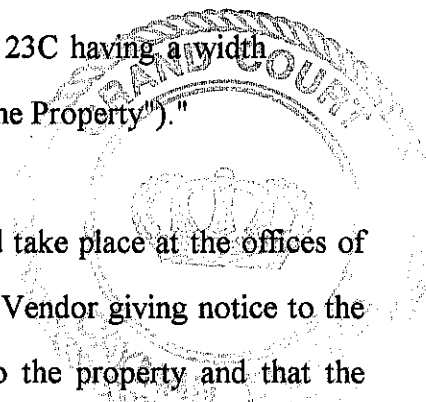
1. The plaintiff is a Cayman Islands company which has its registered office at P.O. Box 2075, George Town, Grand Cayman.
2. The defendant is a Cayman Islands company which has its registered office at P.O. Box 1371, George Town, Grand Cayman. It is the registered proprietor of the land officially described as Registration Section Prospect, Block 23C, Parcel 156 ("Parcel 156").
3. By an agreement entered into on 1st August, 1996 ("the agreement"), the defendant agreed to sell to the plaintiff, and the latter agreed to purchase from the former, the real property described in the schedule thereto ("the land") for a price of US\$218,000.00, of which a sum of US\$21,800.00 was paid, on or before that date, to Thompson Realty Ltd as stakeholder pending completion and the balance, US\$196,200.00, was payable at completion. The plaintiff will refer, at the trial of the action, to the agreement for its full terms and legal effect.
4. The land is thus described in the schedule to the agreement:

"The Lot currently forming part of the land in Grand Cayman, British West Indies comprised in the title to Parcel 156 in Block 23C in the Prospect Registration Section of Grand Cayman,



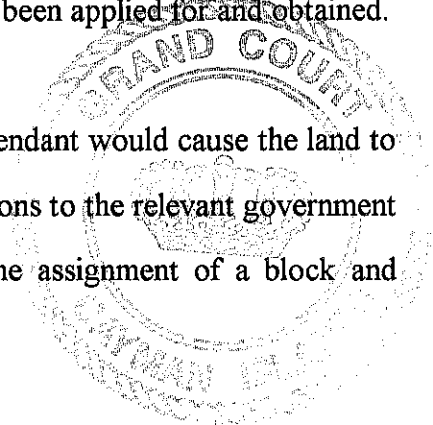
Cayman Islands which for identification purposes is bordered in red in the diagram marked A attached hereto. The said Property lies to the southern boundary of Parcel 153 in Block 23C having a width of approximately 100 feet (hereinafter called "the Property")."

FEB - 3 1997

The seal of the Grand Court of the Cayman Islands is visible in the background. It features a crown at the top, surrounded by the words "GRAND COURT" and "CAYMAN ISLANDS".

5. It was a term of the agreement that completion would take place at the offices of Nelson & Company "within fourteen (14) days of the Vendor giving notice to the Purchaser that a parcel number has been assigned to the property and that the Vendor is (in) a position to transfer to the Purchaser registerable title to the Property".
6. It was a term of the agreement that, at completion and in exchange for the payment of the sum of US\$196,200.00, the defendant would deliver to the plaintiff or to its attorneys-at-law a duly executed and valid form of transfer of absolute title to the land and all other documents necessary to transfer title to the land to the plaintiff free from all encumbrances and charges whatsoever, subject to the terms and conditions of the agreement.
7. It was a term of the agreement that the defendant would give the plaintiff vacant possession of the land immediately upon completion.
8. It was a term of the agreement that the defendant would use its best endeavours "to obtain the assignment of a block and parcel number" for the land "as soon as possible".

9. It was an implied term of the agreement that the defendant would use its best endeavours to be in a position to apply to the Registrar of Lands for the division of Parcel 156 into two or more parcels, one of which would correspond to the land, that there would be no legal impediment to the said subdivision and that all necessary prior governmental approvals would have been applied for and obtained.
10. It was an implied term of the agreement that the defendant would cause the land to be surveyed and would make the necessary applications to the relevant government departments and/or authorities "so as to obtain the assignment of a block and parcel number" for the land.
11. It was an implied term of the agreement that the defendant would file the aforementioned application for the division of Parcel 156 into two or more parcels, one of which would correspond to the land, sufficiently in advance of 9th December, 1996 in order to allow the Registrar of Lands to effect the said division by the said date.
12. It was a term of the agreement that the defendant would pay the cost of the necessary survey of the land and of any application for the division of Parcel 156 into two or more parcels, one of which would correspond to the land.
13. The defendant executed the agreement "subject to review by Michael Parkinson, Esq and his approval as to wording and performance".



14. The defendant caused the land to be surveyed and the land surveyors which it engaged ("the land surveyors") prepared the necessary applications to the relevant government departments and/or authorities in order that Parcel 156 be subdivided, that the subdivision be effected by the Registrar of Lands, that the land become a separate parcel and that a new register be opened with respect to it.
15. The defendant, however, refused to sign the necessary applications to the relevant government departments and/or authorities for the proposed subdivision and to instruct the land surveyors to file such applications.
16. The agreement was submitted to Mr. Parkinson and the latter reviewed and approved it "as to wording and performance" by, *inter alia*, preparing and submitting to the plaintiff an addendum to the agreement which was entered into by the parties on 8th November, 1996 ("the addendum"). The plaintiff will refer, at the trial of the action, to the addendum for its full terms and legal effect.
17. It was a term of the addendum that the agreement was subject to the defendant obtaining a variation of an order of interlocutory injunction made by this Honourable Court, in Cause No. 207 of 1995, on 22nd May, 1995 and the removal of an inhibition which was alleged, in the addendum, to have been registered on the same date in order to permit completion.
18. No inhibition appears on the register of Parcel 156.

19. Michael Parkinson was, at all relevant times, the attorney-at-law for the plaintiff for the purposes of the agreement and of the addendum.

FEB. -3.1997

20. Mr. Parkinson advised the attorney-at-law for the plaintiff, by a letter of 16th September, 1996, that the plaintiff in the said Cause No. 207 of 1995 had agreed that the court should vary the said order of interlocutory injunction to permit the defendant to transfer the land to the plaintiff. The plaintiff will refer, at the trial of the action, to the said letter for its full terms and legal effect.

21. The defendant never applied to this Honourable Court for a variation of the said order of interlocutory injunction in order to permit it to transfer the land to the plaintiff.

22. The defendant has received, since 1st August, 1996, offers from third parties to purchase the land at a price higher than US\$218,000.00.

23. By a letter to Mr. Parkinson of 21st January, 1997, the attorney-at-law for the plaintiff formally put the defendant on notice:

- a) To execute and deliver to the land surveyors the documentation referred to in paragraphs 14 and 15 hereof duly executed, with instructions and payment of any necessary funds, to apply for a block and parcel number within seven (7) days thereof, time to be of the essence.

- b) To obtain a block and parcel number for the land and to be in the position to transfer it, free of any registered charge, lien or other encumbrance, by signing and executing the prescribed transfer forms, upon payment of the balance of the purchase price, within eight (8) weeks thereof, time to be of the essence.

The plaintiff will refer, at the trial of the action, to the said notice for its full terms and legal effect.

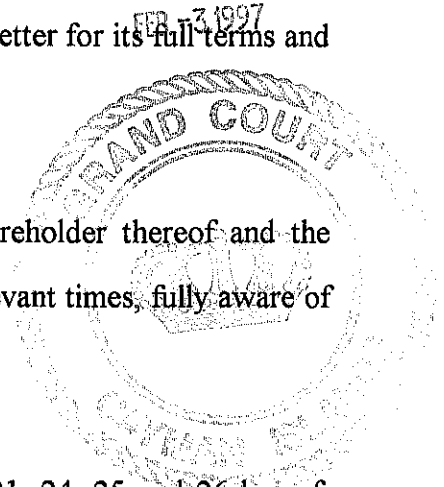
24. John P. Hall, a director of the defendant and the manager thereof, who executed the agreement and the addendum for and on its behalf, wrote the attorney-at-law for the plaintiff, on 20th January, 1997, that there was no valid and binding agreement between the parties for the sale and purchase of the land. The plaintiff will refer, at the trial of the action, to the said letter for its full terms and legal effect.
25. The said Thompson Realty Ltd returned the cheque in the amount of US\$21,800.00, which the attorneys-at-law for the plaintiff had given it on or about 1st August, 1996, to the latter under cover of a letter of 21st January, 1997. The plaintiff will refer, at the trial of the action, to the said letter for its full terms and legal effect.
26. The said Michael Parkinson wrote the attorney-at-law for the plaintiff on 23rd January, 1997 that the defendant did not intend to sell the land to the plaintiff.

The latter will refer, at the trial of the action, to the said letter for its full terms and legal effect.

27. The attorney-at-law for the plaintiff is a beneficial shareholder thereof and the defendant and the said Michael Parkinson were, at all relevant times, fully aware of that fact.
28. By reason of the matters set out in paragraphs 14, 15, 21, 24, 25 and 26 hereof, the defendant is in breach of the agreement and of the addendum.
29. The plaintiff has, by reason of the said breaches, suffered loss and damage and expects that it will continue to suffer such loss and damage until the land is transferred to it in accordance with the terms of the agreement.
30. The plaintiff is ready, willing and able to complete and to pay to the defendant the above sum of US\$218,000.00.
31. It is the Registrar of Lands' practice not to register instruments to which a company is a party without being furnished with a current certificate of good standing with respect to such company.

AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT:-

- (a) A DECLARATION that the defendant is contractually bound towards the plaintiff to execute and deliver to the land surveyors which the defendant has engaged to



survey the land ("the land surveyors") the necessary documents and instructions, and to pay the necessary fees, in order that they apply, on the defendant's behalf, for the division of the land officially described as Registration Section Prospect, Block 23C, Parcel 156 ("Parcel 156") into two or more parcels, ^{FEB - 3 1997} one of which would represent the land described as follows.

"The Lot currently forming part of the land in Grand Cayman, British West Indies comprised in the title to Parcel 156 in Block 23C in the Prospect Registration Section of Grand Cayman, Cayman Islands which for identification purposes is bordered in red in the diagram marked A attached hereto. The said Property lies to the southern boundary of Parcel 153 in Block 23C having a width of approximately 100 feet (hereinafter called "the Property")." ("the land")

- (b) A DECLARATION that the defendant is contractually bound towards the plaintiff to file an application with the Registrar of Lands and with any other necessary government department and/or authority for the division of Parcel 156 into two or more parcels, one of which would correspond to the land.
- (c) A DECLARATION that the defendant is contractually bound towards the plaintiff to transfer to it, free from all encumbrances and charges whatsoever, a new parcel corresponding to the land against the payment by the plaintiff to the defendant of the total sum of US\$218,000.00.

(d) A DECLARATION that the defendant is in breach of the essential terms and conditions of the agreement entered into between the parties on 1st August, 1996 whereby the plaintiff undertook to purchase, and the defendant undertook to sell, the land for the total consideration of US\$218,000.00 ("the agreement") and of the addendum to the said agreement of 8th November, 1996 ("the addendum") in that, *inter alia*, it has failed to apply for the above division of Parcel 156 into two or more parcels, one of which would correspond to the land, and for a variation of the order of interlocutory injunction made in Cause No. 207 of 1995 on 22nd May, 1995 and in that it has advised the plaintiff that it did not intend to carry out the said essential terms and conditions.

FEB. -3.1997

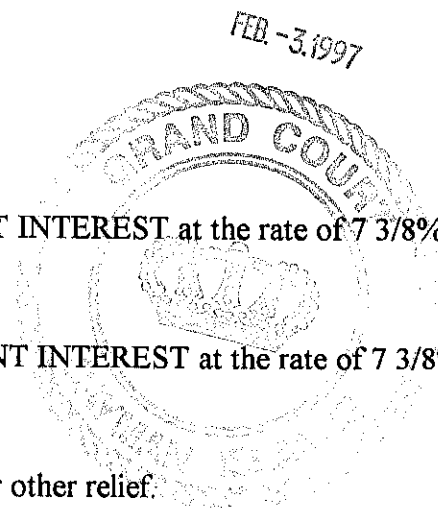
(e) AN ORDER that the defendant execute and deliver to the land surveyors the documents necessary for an application to be made for the division of Parcel 156 into two or more parcels, one of which would correspond to the land, together with instructions to them to do so, and that it pay all necessary fees for that purpose, within fifteen (15) days from the date of the final judgement sought herein.

(f) AN ORDER that, should the defendant fail to carry out the terms of the order sought in paragraph (e) above within the time set out therein, the clerk of the court be authorised and directed to execute the documents and issue the instructions referred to therein.

FEB. - 3. 1997

- (g) AN ORDER that, should the defendant fail to comply with the order sought in paragraph (e) above to pay all necessary fees within the time set out therein, it pay the plaintiff all fees and costs paid or to be paid by the latter to obtain the division of Parcel 156 into two or more parcels, one of which would correspond to the land.
- (h) AN ORDER that, after a separate register has been opened with respect to the land, the defendant duly execute a transfer of the land to the plaintiff in the prescribed form in triplicate, free from all encumbrances and charges whatsoever, and provide the plaintiff with a current certificate of its good standing issued by the Registrar of Companies ("the certificate of good standing") against payment by the plaintiff to the defendant of the sum of US\$218,000.00, within fifteen (15) days from service upon the defendant of a notice that such separate register has been opened.
- (i) AN ORDER that, should the defendant fail to comply with the order sought in paragraph (h) above within the time set out therein, the clerk of the court be authorised and directed to execute the said transfer in the prescribed form and the plaintiff be authorised to obtain the certificate of good standing from the Registrar of Companies against payment by the plaintiff of the sum of US\$218,000.00.
- (j) AN ORDER that, should the payment of any fees to the Cayman Islands Government be required in order that the certificate of good standing be issued, the plaintiff be authorised to pay the same and the defendant reimburse such fees to the plaintiff.

- (k) AN ORDER that the plaintiff be authorised to deduct any of the fees referred to in paragraphs (g) and (j) above from the said sum of US\$218,000.
- (l) AN ORDER that the plaintiff be authorised to apply to this Honourable Court for a variation of the order of interlocutory injunction made in Cause No. 207 of 1995 on 22nd May, 1995 in order to permit the transfer of the land from the defendant to the plaintiff.
- (m) AN ORDER that compliance by the plaintiff with any direction given, or conditions set, by this Honourable Court with respect to the payment, by the plaintiff to the defendant, of the said sum of US\$218,000.00 for, or on the occasion of, any variation of the said order of interlocutory injunction be the equivalent, for the purposes hereof and of the carrying out of the terms of the agreement and of the addendum, of the payment of the said sum of US\$218,000.00 to the defendant.
- (n) DAMAGES.
- (o) PRE-JUDGMENT INTEREST at the rate of $7 \frac{3}{8}\%$ on the said damages.
- (p) POST-JUDGMENT INTEREST at the rate of $7 \frac{3}{8}\%$ on the said damages.
- (q) FURTHER and/or other relief.



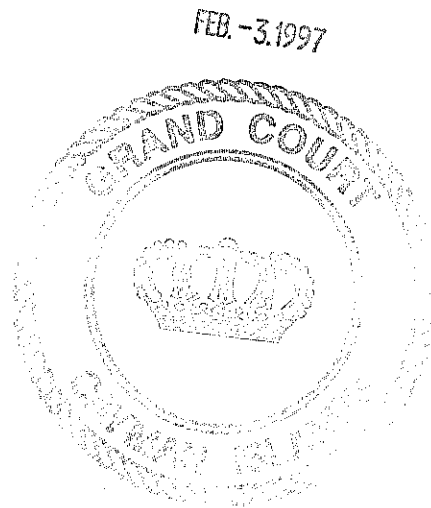
(r) AN ORDER that the defendant pay the plaintiff's costs of the action and of the execution of the final judgment sought herein.

Dated this 3rd day of February, 1997

Nelson & Company
Nelson & Company
Attorneys-at-law for the plaintiff

To: The Clerk of the Courts

And to: The defendant



THIS WRIT OF SUMMONS was issued by Nelson & Company, the attorneys-at-law for the plaintiff, whose address is the West Wind Building, P.O. Box 2075, George Town, Grand Cayman, Cayman Islands, B.W.I.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

76
CAUSE NO: OF 1997

BETWEEN: PINCO LTD. Plaintiff
AND: SOUND HARBOUR LTD. Defendant

**ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you give him this form **IMMEDIATELY**.

Important. Read the accompanying directions and notes for guidance carefully before completing this form any information required is omitted or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

Delay may result in judgement being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)
_____ YES _____ NO

3. If the claim against the Defendant is for a debt or liquidated demand, **AND** he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgement entered by the Plaintiff (*tick box*)
_____ YES

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:
Notes on address for service

Attorney: where the Defendant is presented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

***Nelson & Company
P.O. Box 2075, GT
4th Floor, West Wind Building
Grand Cayman
(809) 949 9710***

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.