

IN THE GRAND COURT OF THE CAYMAN ISLANDS

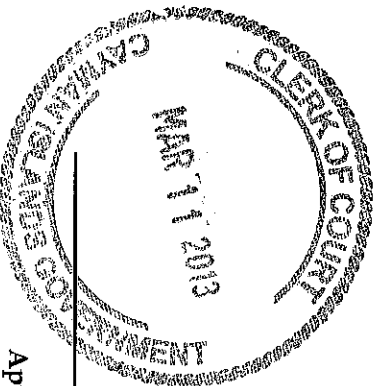
Cause No. 81 | 2013

BETWEEN:

(1) RC CAYMAN HOTEL HOLDINGS LTD.  
(2) RC CAYMAN PROPERTY HOLDINGS LTD.

AND

(1) THE REGISTRAR OF LANDS  
(2) THE CHIEF VALUATION OFFICER  
(3) THE PREMIER AND MINISTER OF FINANCE



Application for Leave to Apply for Judicial Review

To the Clerk of the Court, Law Courts, George Town, Cayman

Name, address and description of applicant(s)	RC Cayman Hotel Holdings Ltd. and RC Cayman Property Holdings Ltd., of c/o Codan Trust Company (Cayman) Ltd. Boundary Hall, Cricket Square P.O. Box 2681, Grand Cayman KY1-1111
Judgment, order, decision or other proceeding in respect of which relief is sought	<ol style="list-style-type: none"> <li>1. The failure of the Registrar of Lands to register the Land Transfers dated 5<sup>th</sup> November, 2012 made between RC Cayman Holdings LLC as transferor and RC Cayman Hotel Holdings Ltd. and RC Cayman Property Holdings Ltd as the transferees in respect of 56 parcels pertaining to the property colloquially known as the Ritz-Carlton Hotel and as more particularly described in Schedule A hereto (the "Transfers").</li> <li>2. The failure of the Chief Valuation Officer to adjudicate Stamp Duty on the Transfers in accordance with the valuation as agreed by him in October 2012.</li> <li>3. The unlawful threats by the Government of the Cayman Islands by the Premier and Minister of Finance that unless the Plaintiffs pay C\$6M to the government which they do not owe, the government will not process, licences, work permits or anything else required from government in order to operate the Hotel.</li> </ol>

**Relief sought**

1. An order of Mandamus to compel the Registrar of Lands to register the Transfers forthwith.
2. An order of Mandamus to compel the Chief Valuation Officer to adjudicate Stamp Duty in respect of the Transfers in accordance with the agreed valuation.
3. An Injunction to prevent the Premier and Minister of Finance from interfering with the Plaintiffs' peaceful enjoyment of their property and/or demanding US\$6M which they are not entitled to as a pre-requisite to administrative acts being carried out which are necessary for the operation of the Hotel.

<b>Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant</b>	Conyers Dill & Pearman (Cayman) Limited Boundary Hall, Cricket Square P.O. Box 2681, Grand Cayman KY1-1111; Telephone: 945-3901
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<b>Signed</b> <i>Conyers Dill &amp; Pearman (Cayman) Limited</i>	<b>Dated:</b> <i>11</i> March 2013
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### **Grounds on which Relief is Sought**

1. The Plaintiffs are the beneficial owners of 56 parcels pertaining to the property colloquially known as the Ritz-Carlton Hotel (the "Hotel") and as more particularly described in Schedule A hereto (the "Property").
2. The Property was purchased at a public auction on 31 October 2012 at a price of US\$177,500,000.
3. The valuation of the Property for stamp duty purposes had previously been expressly agreed between Mr. Simon Watson of Charterland Ltd. and the Chief Valuation Officer at a meeting on 15 October, 2012 as being a total of US\$181,500,000, less the value of the chattels. This agreement was confirmed in writing on 16 October, 2012 and a deduction of US\$6,129,350.00 for chattels was proposed as per a list then provided. The chattels list was checked and finally agreed by the Chief Valuation Officer on 31 October, 2012 (the "Agreement").
4. Under cover of a letter dated 20 December 2012, application was made to the Registrar of Lands for the registration of the Transfers and payment was made in the sum of CI\$9,567,100.76, being the amount of stamp duty payable upon the agreed valuation.
5. The Plaintiffs are entitled to the registration of the Transfers and the Registrar of Lands has wrongfully and unlawfully failed to register the Transfers whereby an order of Mandamus is required to compel her to do so.
6. It has been verbally suggested by the Registrar of Lands that the fault lies with the Valuation Office.
7. By reason of the Agreement, the Chief Valuation Officer ought to have adjudicated Stamp Duty in accordance with the Agreement, pursuant to his delegated authority under section 5 of the Stamp Duty Law. Pursuant to section 9 of the Stamp Duty Law he was required to do that within 15 days from the date of the presentation of the Transfers, being 20 December 2012.
8. The Chief Valuation Officer has wrongfully and unlawfully failed to adjudicate Stamp Duty in accordance with the Agreement whereby an order of Mandamus is required to compel him to do so.
9. The Government has publicly threatened to act unlawfully towards the Plaintiffs in relation to their peaceful enjoyment of the Property in breach of Sections 15 and 19 of Part I of Schedule II to the Cayman Islands Constitution Order 2009 (The Bill of Rights), in breach of the principles of Administrative Law. Such threats, if made directly to the Plaintiffs would constitute blackmail contrary to section 259 of the Penal Code (2010 revision). The acts threatened would, if carried out, be an offence under section 17 of the Anti-Corruption Law (2008 revision).
10. On 6 September 2012, Mr Michael Ryan ("Ryan"), an individual colloquially referred to as the "developer" of the Hotel, and who, by common reputation, is

an associate of the then Premier, McKeever Bush ("Bush"), sent an email in which he threatened that according to the then Premier, it was a pre-requisite of any discussions taking place with government by a new owner of the Hotel that a settlement be reached in the litigation then underway with Ryan. This was alleged to have resulted from discussions directly between Ryan and the then Premier.

11. At the material time the current Premier was the Deputy Premier.

12. During the time that companies associated with Ryan owned the Hotel, the then Premier (Bush) had, since entering office, permitted those companies not to pay monies owed to the government by way of deferred Duty in the sum of C\$6M. The liability to pay such stamp duty is personal to the companies who incurred such liability, and to whom such concessions was made.

13. On 22 November 2012, the then Premier stated publicly:

*"Government will continue to demand its due payment of the deferred stamp duty and will expect it to be paid before any consideration is given to any request for new licenses, work permits or any other of the things that Government does on a day-to-day basis in relation to the operation of the hotel".*

14. Such public statement was in simple terms a threat that unless the Plaintiffs, as the new owners of the Hotel, discharged a liability incurred by the previous owners and which the government had allowed Bush's associate Ryan not to pay, they could expect that government would thwart them in the operation of the Hotel.

15. Such statement was accordingly:

- a. A threat to use administrative powers for an improper purpose;
- b. A threat to act irrationally in breach of section 19 of the Bill of Rights 17;
- c. A threat to abuse public office in breach of section 17 of the Anti Corruption Law (2008 revision);
- d. If made directly to the Plaintiffs would constitute blackmail, contrary to section 259 of the Penal Code (2010 revision).

16. Ryan was either the author of such speeches or the then Premier had conspired with him in making such speeches which were written on a computer at Stingray Construction, a company owned or controlled by Ryan.

17. The involvement of Ryan in the making of public statements by the Premier on behalf of government was improper, showed that the government was biased in favour of Ryan who was engaged in legal proceedings with companies under common interest with the Plaintiffs, and is prima facie evidence of an apparently corrupt relationship between Ryan and government.

18. The Premier was at all material times acting as part of the Government of the Cayman Islands and supported by the then Deputy Premier, now the Premier.

19. On 28 November 2012 the Financial Secretary wrote a letter to the Plaintiffs' attorneys stating that the Government intended to obtain an independent valuation for the Property.
20. On 29 November 2012, the Plaintiffs' attorneys replied pointing out that the value had been agreed and that Government had no right to interfere, and that if it did persist then an application would be made for Judicial Review.
21. On 30 November 2012 the Solicitor General stated by email in response to the letter that "our office is taking full instructions" and "will get back to you with a full response".
22. No response has ever been received.
23. On 19 February 2013 the Plaintiffs' attorneys wrote to the Premier and Minister of Finance asking for notification by return as to when the Transfers would be registered.
24. No reply was received to that letter.
25. On 25 February 2013 a further letter was sent to the Premier and Minister of Finance putting her on notice that unless registration took place forthwith, proceedings would be issued without further notice.
26. No reply was received to that letter.
27. It is to be inferred that the failure to register the Transfers is in fulfilment of the Government's threats made on 22 November 2012.
28. Unless restrained by injunction, the Government by the Premier will continue to act unlawfully and in breach of the Bill of Rights.
29. Further details are set out in the affidavit of Jim Glasgow sworn in support of the application.