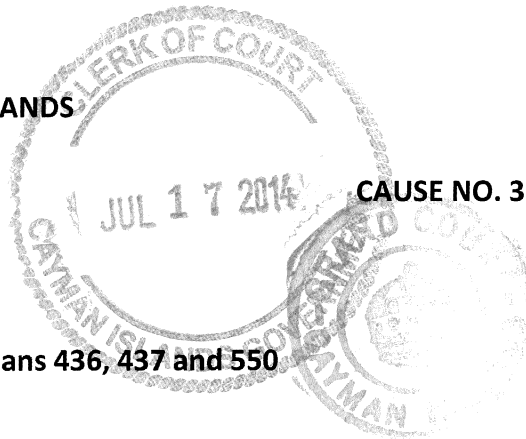


Amended this 16th day of July 2014 pursuant to the Order of Mr Justice Henderson filed the 10<sup>th</sup> day of July 2014

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**



**CAUSE NO. 358 OF 2013**

**IN THE MATTER OF the By-Laws of Strata Plans 436, 437 and 550**

**AND IN THE MATTER OF:**

- (1) The Schedule ("Schedule 1") to an Agreement of Purchase and Sale entered into between Condoco Grand Cayman Resort Ltd, as Vendor, Cesar Hotelco (Cayman) Ltd and the First and Second Plaintiffs, as Purchaser, and dated 31 July 2004;**
- (2) The Schedule ("Schedule 2") to an Agreement of Purchase and Sale entered into between Condoco Properties Ltd, as Vendor, Cesar Properties Ltd and the Third Plaintiff, as Purchaser, and dated 12 May 2008;**
- (3) The Schedule of Covenants ("Schedule 3") attached to a Transfer of Lease made between Condoco Grand Cayman Resort Ltd and the First and Second Plaintiffs and dated [ 2004];**
- (4) The Schedule of Covenants ("Schedule 4") attached to a Transfer of Lease made between Condoco Properties Ltd and the Third Plaintiff and dated 1 July 2008**

**AND IN THE MATTER OF section 21(4) of the Strata Titles Registration Law (2005 Revision)**

**BETWEEN:**

- (1) SCOT FOITH**
- (2) PAULA FOITH**
- (3) MARSHA LTD**

**Plaintiffs**

**-and-**

- (1) THE PROPRIETORS, STRATA PLAN 436**
- (2) THE PRORIETORS, STRATA PLAN 437**
- (3) THE PROPRIETORS, STRATA PLAN 550**
- (4) RC CAYMAN PROPERTY HOLDINGS LTD**
- (5) RC CAYMAN HOTEL HOLDINGS LTD**

**ORIGINATING SUMMONS**

**LET** The Proprietors, Strata Plan 436, The Proprietors, Strata Plan 437 and the Proprietors, Strata Plan, 550, all of whose address for service as shown on their respective Strata Plans as PO Box 32319, Grand Cayman, KY1-1209 and RC Cayman Property Holdings Ltd, whose registered office is c/o Codan (Cayman) Ltd, Hutchins Drive, Cricket Square, George Town, Grand Cayman, Cayman Islands, and is believed to be claiming that the benefit of the provisions contained in Schedules 1 to 4 inclusive in favour of Condoco Grand Cayman Resort Ltd and Condoco Properties Ltd are now vested in RC Cayman Property Holdings Ltd (but which claim is not admitted by the Plaintiffs).

**LET THE DEFENDANTS**, within 14 days after service of this Summons on them respectively, counting the day of service, return the accompanying Acknowledgment of Service to the Court Office, PO Box 495, Grand Cayman KY1-1106, Cayman Islands.

By this Summons, which is issued on the application of Scot and Paula Foith, both of 6800 High Gate Road, Plano, Texas 75024, United States of America, the registered proprietors of Unit 104, Ritz Carlton Residences, South Tower (West Bay Beach South, 12C 451/3H2H4) being part of Strata Plan 437, Scot Foith of 6800 High Gate Road aforesaid, the registered proprietor of Deckhouses Unit 10 (West Bay Beach South, 12C 451/3H10H10) being part of Strata Plan 550 and Marsha Ltd, whose registered office is c/o FCM Ltd, Unit 2-105, Governor's Square, West Bay Road, Grand Cayman, the registered proprietor of Unit 510, Ritz Carlton Residences, North Tower (West Bay Beach South, 12C 451/3H1H34) being part of Strata 436, the Plaintiffs claim against the Defendants the following relief, namely:

1. Declarations that:
  - (1) Clause 9 (other the sub-clause 9.9) of the By-Laws of Strata Plans 436 and 437 and clause 8 (other than sub-clause 8.9) of the By-Laws of Strata Plan 550 are null and void on the ground that they contravene section 21(4) of the Strata Title Registration Law (2005 Revision) ("the Law");
  - (2) Clauses 9 and 10 of Schedules 1 and 2 are null and void on the ground that they contravene the public policy reflected in section 21 (4) of the Law;
  - (3) Clauses 3 and 4 of Schedules 3 and 4 are null and void on the ground that they contravene the public policy reflected in section 21(4) of the Law.

2. To the extent that the Court grants the declarations sought in paragraph 1 of this Summons, an Order that all entries in the Incumbrances Section of the Plaintiffs' respective titles which are inconsistent therewith be deleted.
3. An Order that the costs of and incidental to this Summons be paid by the Fourth Defendant.

If any Defendant does not acknowledge service, such judgment may be given or order made against or in relation to that Defendant as the Court may think just and expedient.

Dated: 21 October 2013

Re-dated: 16 July 2014



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HSM Chambers

Attorneys-at-law for the Plaintiffs

NOTE: This Summons may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with that date unless renewed by the Court.

**IMPORTANT**

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

This Originating Summons was issued by HSM Chambers, Attorneys-at-law for the Plaintiffs, whose address for service is Suite 3, Buckingham Square, PO Box 31726, 720 West Bay Road, Grand Cayman KY1-1207, Cayman Islands.