



IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

GC CAUSE OF 2023

BETWEEN:

SAMANTHA HENNINGS

Plaintiff

AND:

(1) OASIS BEACH BAY DEVELOPMENTS

(2) AURA WELLNESS DEVELOPMENTS LTD.

Defendants

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STATEMENT OF CLAIM

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1. The Plaintiff is an individual, resident in Grand Cayman.
2. The First and Second Defendants (together “the Defendants”) are, and were at all material times, ordinary resident companies registered in the Cayman Islands.
3. The First Defendant is, and was at all material times, the legal owner and registered proprietor under the Registered Land Act of land known as Registration Section Lower Valley, Block 38C, Parcel 72 (“the land”)

**The Agreements**

4. On 4<sup>th</sup> September 2019, the Plaintiff and the Defendants executed two agreements, the combined purpose of which was for the Plaintiff to buy part of the land (“Lot 35”) from the First Defendant (“the Purchase Agreement”) and to construct a dwelling thereon (“Unit 503”) using the services of the Second Defendant (“the Development Agreement”).

5. The terms of the Purchase Agreement were, *inter alia*:
  - a. The purchase price of Lot 35 was \$10,000;
  - b. A deposit of \$5,000 was to be paid by the Plaintiff to the Second Defendant upon execution of the agreement;
  - c. The balance of \$5,000 was to be paid on or before the completion date at which time the First Defendant would provide the Plaintiff with the Transfers of Land;
  - d. In the event that the Second Defendant had not completed construction of Unit 503 as per the Development Agreement by 30<sup>th</sup> June 2022, either party could by notice in writing rescind the agreement whereupon the Plaintiff would be entitled to the return of all monies paid under the agreement at which time the agreement would be considered terminated.
  
6. The terms of the Development Agreement were, *inter alia*:
  - a. The Second Defendant agreed to develop Unit 503 on Lot 35 at the development price;
  - b. The development price was \$302,888;
  - c. An initial deposit of \$5,000 was to be paid to the Second Defendant upon execution of the agreement;
  - d. A further deposit of \$21,289 was to be paid on 1<sup>st</sup> November 2019;
  - e. The balance was to be paid by the completion date;
  - f. In the event that the Second Defendant had not completed construction of Unit 503 as per the Development Agreement by 30<sup>th</sup> June 2022, either party could by notice in writing rescind the agreement whereupon the Plaintiff would be entitled to the

return of all monies paid under the agreement at which time the agreement would be considered terminated.

7. The Plaintiff duly paid to the Second Defendant via ReMax the deposit monies under the Purchase Agreement and the initial and further deposits under the Development Agreement, totaling \$31,289.

#### **The Attempted Termination**

8. On 13<sup>th</sup> June 2022 Jan Gupta, a director of both the Defendants, wrote to the Plaintiff advising that the Second Defendant would be unable to abide by the completion date of 30<sup>th</sup> June 2022 as per the Development Agreement. Two options were presented to the Plaintiff:
  - a. Agree to a new completion date of 30<sup>th</sup> December 2023 and to a price increase;
  - b. Cancel the agreements and receive a full refund by 31<sup>st</sup> August 2022.
9. On 26<sup>th</sup> June 2022 the Plaintiff replied to the Defendants confirming that she wished to cancel her agreement and have her deposit monies returned to her.
10. As a result, on 1<sup>st</sup> July 2022 the parties executed a further written agreement setting out the terms upon which the Purchase Agreement and Development Agreement would be terminated (“the July Termination Agreement”).
11. Under the terms of the July Termination Agreement, the Purchase Agreement and Development Agreement were to be considered terminated with all parties released from their obligations under same, if the deposit monies of \$31,288.80 were refunded to the Plaintiff within 60 days of the signing of the agreement.
12. This deadline expired on 2<sup>nd</sup> September 2022 without any monies being refunded to the Plaintiff. The Purchase Agreement and Development Agreements were therefore never validly terminated and remain binding on the parties.

**Undertakings to Make Payment**

13. Written promises of an imminent full refund have been made by the Defendants or their representatives to the Plaintiff on the following dates:

- a. 16<sup>th</sup> August 2022
- b. 30<sup>th</sup> August 2022
- c. 5<sup>th</sup> September 2022
- d. 13<sup>th</sup> September 2022
- e. 18<sup>th</sup> September 2022
- f. 27<sup>th</sup> September 2022
- g. 4<sup>th</sup> October 2022
- h. 7<sup>th</sup> October 2022
- i. 13<sup>th</sup> October 2022
- j. 15<sup>th</sup> October 2022
- k. 26<sup>th</sup> October 2022
- l. 11<sup>th</sup> November 2022
- m. 21<sup>st</sup> November 2022
- n. 30<sup>th</sup> November 2022

14. To date, the Plaintiff has still not received any money from the Defendants.

15. The Plaintiff has suffered loss and damage as a direct result of the Defendant's breach of the agreements.

**AND THE PLAINTIFF CLAIMS:**

- (i) A Declaration that the Defendant is in breach of the Purchase Agreement and the Development Agreement;
- (ii) An Order that the defendant refund the sum of \$31,289.00 to the Plaintiff;

- (iii) Interest at a rate of  $2^{3/8}$  % in accordance with section 24 of the Judicature Act (2021 Revision) and the Judgment Debts (Rates of Interest) Rules (2021 Revision), as amended from time to time;
- (iv) Such further and other equitable relief as this Honourable Court may consider just, and;
- (v) Costs.

DATED at Grand Cayman this 16<sup>th</sup> day of May 2023



**Samson Law**

Attorneys for the Plaintiff

**TO:** The Clerk of the Court

**AND TO:** The Defendants

**INDORSEMENT**

The amount claimed in respect of the Purchase Agreement is CI \$5,000 and in respect of the Development Agreement is CI \$26,289. The amount of the filing fees to commence the proceeding is CI \$200 plus *ad valorem* fees of CI \$212.89. If, within the time for returning the acknowledgement of service, the defendants pay the Plaintiff or its attorneys-at-law the total amount claimed in principal, interest and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the Plaintiff or her attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The prescribed rate of interest is  $2^{3/8}$  % in accordance with section 24 of the Judicature Act (2021 Revision) and the Judgment Debts (Rates of Interest) Rules (2021 Revision);
2. The date from which interest is payable is 4<sup>th</sup> September 2019;
3. The total amount of interest claimed at the date of the issue of this writ is CI \$2,751.78.
4. The amount of interest accruing each day is CI \$2.04.

DIRECTIONS FOR ACKNOWLEDGMENT 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 if 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 Acknowledgment 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**

**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 (or 28 days in the case of a writ served outside the jurisdiction pursuant to an order of the Court), 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.

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Plaintiff

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(2) AURA WELLNESS DEVELOPMENTS LTD.

Defendants

**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give that Attorney this form IMMEDIATELY.

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

Delay may result in judgment being entered against a Defendant whereby the Defendant may have to pay the costs applying to set it aside

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

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

Yes  No

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

Yes  No

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Service of the Writ is acknowledged accordingly

Signed.....

Attorney for

Address for service:

**Please complete overleaf**

**Notes on address for service**

Attorney: where the Defendant is represented 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, the Defendant must give the Defendant's post office box number and the physical address of the Defendant's residence or, if the Defendant does not reside in the Cayman Islands, the Defendant must give an address in Grand Cayman where communications for the Defendant 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 that Plaintiff's name, address and reference, if any, in the box below.

Samson Law  
PO Box 2425  
The White House  
20 Genesis Close  
Grand Cayman KY1-1105  
CAYMAN ISLANDS  
Attn: J Hughes

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