

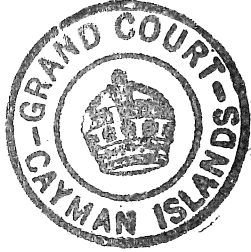
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 819 OF 2003 ✓

B E T W E E N:

CONDOCO GRAND CAYMAN RESORTS LTD.

Plaintiff



AND

MBI DIVECORP INC.



Defendant

WRIT OF SUMMONS

To: MBI Divecorp Inc.
Barclays House
PO Box 1990GT
Grand Cayman
Cayman Islands

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

Within *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 495G, 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 Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 19th day of December 2003.

NOTE - This Writ 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 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, whose address is at P.O. Box 1350 GT, 75 Fort Street, George Town, Grand Cayman, Cayman Islands.
2. The Plaintiff's principal business is as a developer and it has at all material times been engaged in developing the Ritz-Carlton project (which includes certain Condominiums), located at West Bay Road, Grand Cayman, Cayman Islands ("the Development").
3. The Defendant is a Cayman Islands company, the registered office of which is Barclays House, P.O. Box 1990 GT, Grand Cayman, Cayman Islands.
4. On 23 March 2000, the Plaintiff entered a written agreement ("the Agreement") with the Defendant to sell to the Defendant an apartment, to be known as apartment/suite number 311 ("the Apartment"), in the Development. The

Plaintiff and Defendant also entered into an addendum to the Agreement (“the Addendum”) on the same date.

5. The Agreement provided that the purchase price for the Apartment was US\$2,900,000.00 with a deposit of US\$363,500.00 (“the Deposit”) payable by the Defendant to the Plaintiff concurrently with the signing of the Agreement.
6. The Agreement also provided that the Defendant make additional instalment payments to the Plaintiff within the following time periods:
 - (i) US\$362,500.00 payable within seven (7) days after commencement of the casting of the second floor concrete slab of the Building (“Second Instalment”);
 - (ii) US\$362,500.00 payable within seven (7) days after completion of the roof structure of the Building (“the Third Instalment”); and
 - (iii) US\$1,812,500.00 payable on the Completion Date (“the Balance”).
7. By clause 2 of the Addendum, the Completion Date was defined to mean fourteen (14) days after the Plaintiff notified the Defendant that the following events had occurred and/or were currently in effect, namely (with capitalised words having the meanings provided in clause 24 of Schedule A to the Agreement):
 - (i) that the Plaintiff had obtained all necessary permission from Planning;
 - (ii) that the Plaintiff had completed construction of the Building containing the Strata Lot;
 - (iii) that the Plaintiff had completed registration of the Strata Plan;
 - (iv) that the Plaintiff had received the Register;
 - (v) that the Plaintiff had received the Certificate; and

(vi) that there was an agreement with the Ritz-Carlton Hotel Company, L.L.C. for the Resort to be managed as a Ritz-Carlton resort.

8. Clause 14 of Schedule A to the Agreement provided (inter alia) that inasmuch as time was of essence of the entire Agreement, in the event that the Defendant failed to make any instalment payment due under the Agreement, the Plaintiff would be entitled to serve a written notice concerning such default to the Defendant requiring such payment. The clause further provided that if the Defendant failed to make such payment within mean fourteen (14) days after service of such notice, the Plaintiff would thereafter be entitled without more to keep the Deposit (together with any interest accrued thereon) and to terminate the Agreement.
9. The Plaintiff will refer to and rely on the Agreement at the trial of this action for its full terms, true meaning and legal effect.
10. On 3 September 2002, APEC Consulting Engineers Ltd, providers of structural engineering site monitoring for the Development, confirmed that the casting of the second floor concrete slab of the Building had commenced.
11. By letter dated 12 September 2002, the Plaintiff gave notice to the Defendant that casting of the second floor concrete slab of the Building had commenced and that accordingly the Second Instalment was due and payable.
12. By letter dated 14 October 2002, the Plaintiff by its Attorneys gave further notice to the Defendant that casting of the second floor concrete slab of the Building had commenced and that the Second Instalment was due and payable.
13. By letter dated 5 November 2002, the Plaintiff by its Attorneys served a notice of default in respect of the Defendant's failure to pay the Second Instalment and gave notice that if the Second Instalment was not paid within 14 days of receipt of the notice by the Defendant, the Deposit would be forfeited and the Agreement would be terminated.

14. Notwithstanding its receipt of the foregoing three (3) notices, the Defendant did not pay the Second Instalment.
15. By letter dated 21 November 2002, the Plaintiff by its Attorneys gave notice that, pursuant to clause 14 of Schedule A to the Agreement, the Deposit was forfeited and the Agreement was terminated (“the Termination Notice”).
16. In the premises, the Plaintiff has retained the Deposit.
17. Notwithstanding the foregoing, the Defendant wrongfully denies that the Plaintiff was entitled so to act and has wrongfully demanded return of the Deposit.

AND THE PLAINTIFF CLAIMS

- (1) Declarations that:
 - (i) the Plaintiff was entitled to terminate the Agreement, pursuant to clause 14 of Schedule A thereto, by reason of the Defendant’s failure to pay the Second Instalment;
 - (ii) the Agreement was lawfully terminated with effect from receipt of the Termination Notice by the Defendant; and
 - (iii) the Plaintiff is entitled to retain the Deposit in accordance with clause 14 of Schedule A to the Agreement
- (2) Such Further and or other relief as the Court think fit
- (3) Costs

Dated the 19th day of December 2003


HUNTER & HUNTER

THIS WRIT was issued by Hunter & Hunter of The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref. JW/00022.029), Attorneys for the Plaintiff, whose registered office is at P.O. Box 1350 GT, 75 Fort Street, George Town, Grand Cayman, Cayman Islands.