

IN THE GRAND COURT OF THE CAYMAN ISLANDS

378
CAUSE NO. OF 2005.

IN THE MATTER OF A CONTRACT FOR THE PURCHASE OF LAND
DATED SEPTEMBER 2004

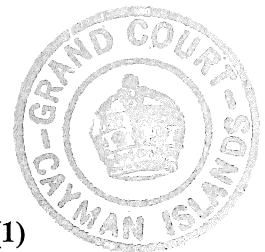
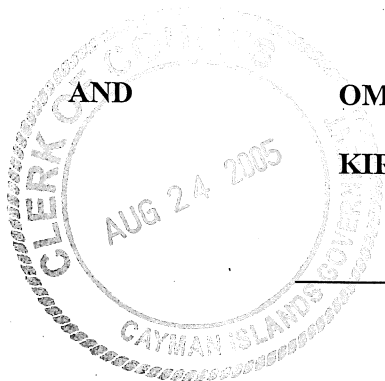
AND IN THE MATTER OF SECTION 37(2)(b) OF THE REGISTERED LAND
LAW (2004 REVISION)

AND IN THE MATTER OF AN ORDER FOR SPECIFIC PERFORMANCE

BETWEEN ROWAN MULLINGS PLAINTIFF

AND OMAR DUVAL DEFENDANT (1)

KIRK DUVAL DEFENDANT (2)



ORIGINATING SUMMONS

TO: Omar Duval, 3 Mona Complex, Mona Dam, Kingston 8, Jamaica

Kirk Duval, C/o Administrative Office, Chrissie Tomlinson Hospital,
George Town, Grand Cayman

LET THE DEFENDANTS and each of them within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgment of Service to the Courts office, P.O. Box 495G, George Town, Grand Cayman.

By this Summons, which is issued on the application of Rowan Mullings of P.O. Box 880 George Town, Grand Cayman, Cayman Islands, the Plaintiff seeks the determination of the Court on the following questions and seeks the following relief:

1. A Declaration that on or about September 2004 the Plaintiff and Defendant (1) acting for and on behalf of himself and Defendant (2) jointly entered into a written contract for the sale by the Defendants and each of them and the purchase by the Plaintiff of the property known as and identified as Block 25B Parcel 88/2 in the Spotts Registration Section of Grand Cayman;
2. Alternatively to the Declaration sought in paragraph 1 above, a Declaration that on or about September 2004 the Plaintiff and Defendant (1) acting for and on behalf of himself and Defendant (2) jointly entered into an oral contract for the sale by the Defendants and each of them and the purchase by the Plaintiff of the property known as and identified as Block 25B Parcel 88/2 in the Spotts Registration Section of Grand Cayman;
3. Alternatively a Declaration that the Plaintiff and Defendant (1) entered into a written contract for the sale by the Defendant (1) of all of his right and interest in, and the purchase by the Plaintiff of, the property known as and identified as Block 25B Parcel 88/2 in the Spotts Registration Section of Grand Cayman;
4. Alternatively to the Declaration sought in paragraph 3 above, a Declaration that the Plaintiff and Defendant (1) entered into an oral contract for the sale by the Defendant (1) of all of his right and interest in, and the purchase by the Plaintiff of, the property known as and identified as Block 25B Parcel 88/2 in the Spotts Registration Section of Grand Cayman (hereinafter the "Property");
5. A Declaration that from in or about the said September 2004 the Plaintiff was an intending purchaser of the lease of the said Property who had performed and was willing to perform his part of the said oral or written contract and who was already in possession of the said Property and continued in possession thereof in part performance of the said contract and who had done some other act in furtherance of the said contract;
6. An Order for Specific Performance as against the Defendants and each of them by an Order for the completion of such contract as the Court shall

declare pursuant to paragraphs 1 to 4 of this Originating Summons and the transfer to and registration of such of the Defendants' interests in such Property to the Plaintiff as the Court shall order;

7. Alternatively to the Declarations sought and relief claimed in paragraphs 1 to 6 of this Originating Summons a Declaration that the Defendants and each of them hold the said Property on resulting and/or constructive trust for sale for themselves and the Plaintiff in such amounts and in such shares as the Court thinks fit.
8. That the Defendants do pay the Plaintiff's costs of this Originating Summons to be taxed if not agreed;
9. Further or other relief.

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

Dated the 24 day of AUGUST 2005.

Filed the 24 day of AUGUST 2005.

Associated Advocates Chambers
[Signature of Plaintiff or his Attorney]

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 order of the Court.

IMPORTANT

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

This Originating Summons was issued by Associated Advocates Chambers, Attorneys-at-Law, Attorneys for the Plaintiff whose address for service is #196 Shedden Road, George Town, Grand Cayman.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

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 495G, George Town, Grand Cayman.

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. 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.
4. 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 Originating Summons)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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ACKNOWLEDGMENT OF SERVICE

| | | |
|---------|----------------|---------------|
| BETWEEN | ROWAN MULLINGS | PLAINTIFF |
| AND | OMAR DUVAL | DEFENDANT (1) |
| | KIRK DUVAL | DEFENDANT (2) |

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. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

-
- State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.
-
- State whether the Defendant intends to contest or otherwise participate in the proceedings (tick appropriate box)

| | |
|-----|----|
| yes | no |
|-----|----|
-

Service of the Originating Summons is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

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, 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 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.

Associated Advocates Chambers
#196 Shedden Road
Financial Integrated Services
Building
George Town
Grand Cayman

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

[Empty box for Defendant's Attorney indorsement]