

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 535 OF 2005

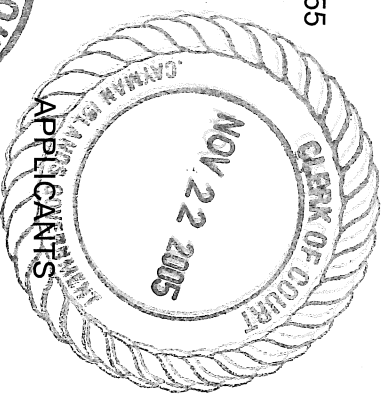
IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)

AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF THE REGISTRAR
OF LANDS PURSUANT TO SECTION 102(1) OF THAT LAW

AND IN THE MATTER OF THE GRAND COURT RULES ORDER 55

BETWEEN:

(1) AINSLEY SELBOURNE LAZZARI
(2) TONRY MILAN LAZZARI



AND:

(1) HELEN-MAE LERNER LAZZARI
(2) PEDRO LAZZARI



RESPONDENT

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved on at 1st February 2006 @ 9³⁰ AM as soon thereafter as counsel can be heard, by counsel on behalf of Ainsley Selbourne Lazzari and Tony Milan Lazzari for an Order that that part of the decision of the Registrar of Lands dated 17 October 2005 and delivered on 25 October 2000 ordering compensation as a condition to the ordering of the partition of CBE Block 109A, Parcel 84 as applied for by the Applicants be set aside;

AND for the following relief, namely a declaration that the partition of Block 109A, Parcel 84 be ordered to be effected pursuant to section 102 of the Registered Land Law (2004 Revision) in the manner specified in the application made to the Registrar of Lands by the Applicants and heard on 13 July 2005;

AND for an order that the costs of and incidental to this appeal may be paid by the Respondents.

AND FURTHER TAKE NOTICE that the grounds of this appeal are that the decision of the Registrar of Lands was erroneous in law and in fact and is unreasonable, in particular:

- 1) The Registrar misdirected herself and erred in law in concluding that she had jurisdiction: -
 - a. To consider any claim for compensation or any other monetary claim in determining whether to order the partition of jointly owned land under the Registered Land Law
 - b. To consider and seek to determine questions of the financial position between the parties to a partition application;
 - c. To consider that questions of compensation or financial or other civil claims are relevant to the question of the manner in which a parcel of land may be ordered to be partitioned;
 - d. To determine that liability in respect of an alleged civil claim relating to the use of and or occupation of and or improvements to land subject to the application had been established;
 - e. To determine the question of the quantum of an alleged civil claim relating to the use of and or occupation of and or improvements to land subject to the application had been established;
 - f. To seek to attach any condition to the partition of the land in relation to the payment of compensation by one of the parties to the partition application to the other; and
- 2) The Registrar misdirected herself and erred in law in concluding that section 102(1)(b) of the Registered Land Law (2004 Revision) gave her the power to order the partition of land conditional upon compensation payments being made from one joint proprietor of the land to another. The Registered Land Law (2004 Revision) does not give her such power.

- 3) The Registrar failed to properly take account of the respective shares in which CBE Block 109A, Parcel 84 and any buildings or other constructions on that property are held by the Applicants and Respondents respectively;
- 4) The Registrar erred in law in holding that she would refuse to register a partition that was approved by her for the purposes of the Registered Land Law save where she had received evidence of payment of compensation by the Applicants to the Respondents

Dated the 22nd day of November 2005



WALKERS

Attorneys at Law for the Appellants

TO: The Clerk of the Court

AND TO: Helen-Mae Lerner Lazzari and Pedro Lazzari, Stake Bay, P O Box 174,
Cayman Brac, the Respondents

AND TO: The Registrar of Lands, Lands and Survey Department, Cayman,
Corporate Centre, Hospital Road, P.O. Box 1089 GT, Grand Cayman.

TIME ESTIMATE: Time estimate for the hearing of this Motion is two hours.

This Notice of Originating Motion is filed by Walkers, Attorneys-at-Law, P.O. Box 265 GT, Walker House, Mary Street, George Town, Grand Cayman for the Applicants whose address for service is care of their said Attorneys-at-Law.