SAINT LUCIA

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

Claim No. SLUHCV 2005/0624

BETWEEN:

DOUBLOON BEACH CLUB LIMITED

Claimant

AND

DAVID SHIMELD
CARIBBEAN CONSULTANTS LIMITED
MARIGOT ESCAPES LIMITED
WATERHOUSE LIMITED
DOLITTLES LIMITED
MARIGOT INN LIMITED

Defendants

Appearances:

Mr. Anthony Astaphan SC and Mrs. Kim St. Rose for the Claimant
Mr. Peter Foster and **Ms. Renee St. Rose for the Defendants**

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2007: November, 7
2008: January, 31
April, 30
September, 26

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JUDGMENT

Mason J

[1] This Claim by the Claimant, a company duly incorporated under the laws of St. Lucia. Is for the specific performance of an agreement in writing made on 16th April, 2003 for the transfer by the first and second Defendants of all of the shares in the other Defendant companies which were owned by first and Second Defendants.

[2] These other Defendant companies were each holders as sub-lessees of different portions of land situate at Marigot Bay. The Claimant was seeking to acquire the rights to these leases as well as the head leases for the purpose of hotel operation.

[3] The Claimant is also claiming, further or alternatively, damages for breach of contract and interest on such damages, costs and other further or other relief. The Claimant is also seeking a declaration that the Letter of Credit to be issued by the First Citizens Bank of Trinidad and Tobago would fulfill the Claimant's obligations as set out in clause 7.2 of the agreement.

[4] Pursuant to the execution of the agreement, the Claimant paid a deposit to the Defendants.

[5] It is the Defendants' contention that the Claimant cannot maintain an action for specific performance, that having failed to fulfill all of its obligations under the agreement, the Claimant is in repudiatory breach of the agreement and as a consequence the Defendants refuse to be bound by the terms of the agreement.

[6] The Defendants have counterclaimed for a declaration that the First Citizens Bank of Trinidad and Tobago is not a major international bank in accordance with the agreement; a declaration that the agreement is null and void and alternatively, damages for breach of contract and costs.

[7] The agreement provided for two (2) conditions precedent to the payment of the balance of purchase monies:

> *4.1 The VENDORS shall have arranged to acquire the Head Leases by entering into an agreement for sale with the directors and shareholders of Marigot Des Roseaux Limited to purchase all of the issued shares therein and the PURCHASER shall contribute fifty percent (50%) of the actual acquisition cost of the Marigot Des Roseaux shares up to a maximum of THIRTY FIVE THOUSAND DOLLARS ($35,000.00)*
>
> *4.2. The VENDORS shall provide to the PURCHASER an opinion by the VENDORS' lawyer of the effect that the existing leases held by the VENDORS extend to cover the whole of the lands.*

[8] The Claimant discovered that parts of the land covered by the agreement did not form part of the leases held by the Defendants. The Claimant informed the Defendants that there was a portion of land in the middle of the hotel operation occupied by the Defendants in respect of which there was no lease. This piece of land formed part of the Queen's Chain (referred to as the Reclaimed Land) and is in the ownership and control of the Crown. The Defendants maintained that they had fulfilled the second condition precedent, relying on an opinion from their attorney at law. The Claimant contended that the Defendants had not fulfilled either of the conditions precedent although the second condition precedent was the more important.

[9] The matter was taken before the Court which on 20th September, 2004 determined that the second condition precedent as set out in clause 4.2 (supra) had not been fulfilled. This decision was never appealed.

[10] Subsequent to the judgment of the court, the Claimant was granted a lease over the Reclaimed Lands.

[11] By letter dated 11th July 200, the Claimant wrote to the Defendants as follows:

11th July 2005

David Shimeld

Managing Director

Marigot Beach Club & Dive Resorts

Marigot Bay

St. Lucia

Dear Mr. Shimeld,

Ref: Sale & Purchase Agreement dated 16th April 2003 between David Shimeld (and related parties) and Doubloon Beach Club Limited (the Agreement").

We have received confirmation that you now completed the purchase of Marigot des Roseaux Ltd, a company title to the Head Leases as defined in Clause 1 of the Agreement.

All the conditions for concluding the transfer under the Agreement have now been met. We therefore call on you to execute instrument of transfer.

I attach a draft of the Terms and Condition of the Guarantee for the Deferred Consideration, as required under Clause 7.2 of the Agreement which will be

provided by First Citizens Bank of Trinidad and Tobago at Closing. As you have requested on several occasions, we have structured this Guarantee as an irrevocable Standby Letter of Credit for the full US$1.7 million of Deferred Consideration. I would be grateful if you would confirm to me that an irrevocable Standby Letter of Credit issued under these terms and conditions will be acceptable to you as required under Clause 7.2 of the Agreement.

[12] The agreement provides for a "handover" in the following terms:

5.1 Within 45 days of fulfillment of the condition precedent the VENDORS shall execute as transferors share transfer of the Shares in favour of the PURCHASER which act shall be deemed to be Handover

5.2 At Handover the VENDORS shall further:

(a) Deliver to the PURCHASER the seals and Statutory Books of the COMPANIES

(b) Deliver to the PURCHASER resignations of all directors and other Officers of the COMPANIES including a complete discharge and release of the COMPANIES from all liability to each person so resigning as a director;

(d) Procure the passing of a resolution by the COMPANIES appointing as directors of the COMPANIES, John Verity and John Jones

(e) Execute and perform all such other acts deeds documents and things

as the PURCHASER may require to vest the beneficial ownership of the Shares in the PURCHASER free and clear of all charges liens and other adverse interests

5.3 At Handover the PURCHASER shall pay to the VENDOR the First Instalment

5.4 The PURCHASER shall pay to the VENDOR the Deferred Consideration in five equal annual installments of THREE HUNDRED AND FORTY THOUSAND DOLLARS ($340,000.00) by way of certified bankers cheque or telegraphic transfer commencing on the second anniversary of Handover together with interest calculated annually on the reducing balance of the Deferred Consideration at the rate of U.S. Prime plus 3%.

[13] The Claimant posits that there are two (2) issues for determination:

1. *whether the Defendants can reasonably, within the context of the agreement, refuse to accept the letter of credit from the First Citizens Bank of Trinidad and Tobago and*
2. *whether the Claimant is entitled to an order of specific performance*

[14] Conversely the Defendants list the following to be resolved:

(A) Was the Claimant at the material time a subsidiary of Doubloon International Limited?

(B) Could the Claimant acquire an interest in the shares of the Defendants by virtue of the Agreement for Sale to enable them to maintain an action for specific performance?

(C) Did the Claimant waive the condition precedent in clause 4.2 by virtue of their acceptance of the lease of parcel 0443B 339 (the reclaimed lands) from the Government of St. Lucia?

(D) Was the condition precedent under clause 4.1 of the Agreement completed by the Defendants and was the Claimant aware of the Defendants' fulfillment of this condition?

(E) Is the Claimant in breach and or repudiatory breach of the Agreement by their failure to provide a guarantee from a major international Bank and to pay the installment under clause 5.2?

(F) Was the Claimant in breach of the Agreement by virtue of its failure to pay fifty percent of their contribution for the acquisition of the share of Marigot Des Roseau Limited?

(G) Is First Citizens Bank of Trinidad and Tobago a major international bank in accordance with clause 7.2 of the Agreement?

(H) Has the Claimant fulfilled their conditions under the Agreement?

(I) Has the Claimant satisfied the requirements for the remedy of specific performance?

[15] Although my initial reaction was to limit determination of this action to the issues raised by the Claimant, I consider it more prudent to seek to resolve the Defendants' concerns. It is possible to link some of the issues.

A & B - Claimant's entitlement to acquire interest in shares

[16] The Defendants in their Defence at paragraph 12, admit receiving a letter dated 11th July, 2005 not from the Claimant but from a company called Doubloon International Ltd. They assert that the Claimant at the time was not a subsidiary of Doubloon International Ltd because a subsidiary is a company controlled by another company and Doubloon International Limited and another company each hold 500 shares in the Claimant. The Defendants maintain that the Claimant is a shell company set up for the purpose of entering into the agreement with the Defendants. They claim that there is no legal relationship between Doubloon International Ltd., which is not a party to these proceedings, and the Claimant.

[17] The Defendants also contend that by virtue of the Aliens Licensing Act of St. Lucia, the Claimant cannot acquire an interest in land, that the Claimant intended to require the immovable property by way of purchasing shares in the company that owned the property By section 7 of the Aliens Act it is necessary for an alien to first obtain a licence before and interest in land can vest in that alien and consequently the Claimant not being in possession of a licence could not purchase the property and its only remedy would be for damages for breach of contract and not for specific performance of the agreement.

[18] Both parties accept that Doubloon International Ltd is the holder of 50% of the issued shares of the Claimant. The Claimant is managed and controlled by Doubloon International Ltd and considers itself a subsidiary of Doubloon International Ltd. I accept this and therefore deem it of marginal significance the Defendants' argument with respect to the relationship between the Claimant and Doubloon International Ltd since it does not impinge upon the exercise of the court's discretion whether to make an order for specific performance of the agreement.

[19] Section 7 of the Aliens Licensing Act No. 20 of 2002 provides:

> *"An agreement to hold land shall not vest an interest in the land in the purchaser, where the purchaser is an Alien unless a license to hold the land is first obtained but nothing in this section shall prevent a person, who has paid a deposit under an Agreement for Sale of the land, from placing a caution against the land in accordance with the Land Registration Act No. 12 of 1984".*

[20] I am guided by the decision of Byron CJ in the case of Spiricor of Saint Lucia Ltd v The Attorney General of St. Lucia and Hess Oil St. Lucia Ltd CA No. 3 of 1996. Byron CJ determined that the Aliens Act provides that land held by an unlicensed alien shall be liable to forfeiture. This means that an unlicensed alien can hold land subject to the right of the Government to forfeit it. He continued:

"The existence or non existence of a licence is therefore quite irrelevant to the issue of the appellant's title. If title had passed to the appellant the title would be good even in the absence of a licence, until the Crown exercised its discretionary power to forfeit it. Nothing in the Act invalidates the deed. In my view even if there was an illegality in obtaining the licence, it could have no effect on the deed of sale".

[21] I therefore find myself persuaded by the Claimant's deduction that the Aliens Act does not prohibit ownership of land , leases of land or control of companies that own land or leases off land by non St. Lucians, that it merely makes a requirement that such persons must obtain a licence under the Act. A breach of the Act could result in the unlicensed alien forfeiting his interest in land to the Crown. The Act therefore does not, nor is it intended to interfere with the rights of aliens to enter into contracts pertaining to land.

[22] However while at first blush there might appear to be consonance with the Defendants' argument that the only right existing for the Claimant is by way of the placing of a caution against the land, there is in evidence a letter dated 15th November 2002 from the Permanent Secretary, Ministry of Tourism addressed to the Cabinet in which it is stated in part:

"The Ministry of Tourism is pleased to inform you that Cabinet, via Cabinet Conclusion No. 1036 dated 4th November 2002 approved the following:

"The developer be declared an exempt alien for the purpose of this project under the provisions of the Aliens (Licensing) Act 1999 Section 25 (1) (d)"

[23] This letter was followed albeit some almost four (4) years later by the following.

"*The developer be declared an exempt alien for the purpose of the Marigot Bay developments, under the provision of the Aliens Licensing Act, No. 20 of 2002, Section 19 (1) (d). The developer shall mean Doubloon International Ltd., and its group of companies, namely Doubloon Hotel Ltd., Doubloon Marina (St. Lucia) Ltd., Doubloon Docks Ltd., Doubloon Beach Club Ltd., Doubloon Services Ltd., and Discovery at Marigot Bay Ltd".*

[24] I am therefore satisfied by the Claimant's entitlement to acquire an interest in the shares.

[25] <u>C & D The Conditions Precedent</u>

[26] The Defendants argue that by their letter of 13th May 2004 the Claimant had been advised of the fulfillment of the first condition precedent under clause 4.1 of the agreement (see para 7 supra). Secondly with respect to clause 4.2 the Defendants contend that because on 25th August 2004 prior to the delivering of the court's decision in September 2004 the Claimant had already obtained a lease of the property, it had frustrated and therefore

waived this condition precedent. In the Defendants' view the 45 day period commenced from said 25th August 2004.

[27] In the letter of 13th May 2004 the Defendants wrote to the Claimants as follows:

> *"In regard to the other pre-condition that I make all necessary arrangements to acquire the first and second Head Leases from Marigot Des Roseau . You are fully aware that I have done so. My Lawyer drafted the Agreement for Sale which you and your lawyer approved of. You are also aware of the numerous meetings that my lawyer has convened between all the respective parties and efforts made towards securing the first and second Head Leases from Marigot Des Roseau. You also know that the Agreement for Sale was vetted and approved by Mr. Tyrone Chong, (the lawyer for Marigot Des Roseau Limited").*
>
> *"An update on this entire position is as follows. Mr. Kentigen Louis has written to me informing me of the Crown's intention to grant me a Lease back dated to 1994 over the reclaimed land area for reasons similar to or for reasons more or less as opined by Mr. Foster. In regard to the acquisition of the first and second Head Leases, not only were all arrangements made to acquire the Leases but I have signed the Agreement for Sale to acquire the said Leases"*

[28] In my view that section of the contents of the letter is merely an indication of the Defendants' efforts towards fulfillment and not definitive proof of having secured the leases. In fact I am satisfied by the evidence of the letter of Alex Fuller dated 5th November 2005, that the acquisition of the leases took place on 25th May 2005:

> *John Verity*
>
> *Discovery*
>
> *Marigot Bay*
>
> *9th November, 2005*
>
> *Dear John.*
>
> *I confirm that Marigot Des Roseaux was a wholly owned subsidiary of Fuller Developments Limited and that this company owned Crown Leases over land parcels 0443B 07 and 0443B 19 covering a portion of the Queens Chain on the north side of Marigot Bay.*
>
> *Fuller Development's Limited entire shareholding of Marigot Des Roseaux were sold to David Shimeld on 25th May, 2005.*
>
> *Yours sincerely.*
>
> *Alex Fuller*
>
> *Director*

[29] In my judgment therefore fulfillment of the condition precedent could not have been possible at 13th May 2004 as suggested by the Defendants but would have been achieved only at 25th May 2005 if the Claimant had been appraised by the Defendants of the acquisition.

[30] With respect to the condition precedent in clause 4.2, I cannot accept the Defendants' surmise that it was not open to the Claimant to attempt to fulfill the condition precedent on their own and that on realizing that the condition precedent in relation to the reclaimed lands had not been fulfilled, the Defendants considered the agreement at an end.

[31] First let me say that I consider it a "non issue" by what means the lease of the reclaimed lands came into the hands of the Claimant. Their acquisition is separate to the determination of title to the land under the agreement There has been adduced no evidence of skulduggery on the part of the Claimant. By appearing to have activated the process, the Claimant was merely acting in self interest – given the value of the acquisition of the leases to their operations – and with no perceived detriment to the Defendants. Insistence on compliance with the agreement cannot amount to a waiver of the agreement.

[32] In the circumstances the Defendants are not at liberty to consider the conditions precedent waived and the agreement at an end.

E & F Claimants' purported breech of the Agreement

[34] The Defendants contend that the Claimant is in breach of the agreement because of the failure to pay the first installment of the purchase price within 45 days of the first condition precedent being fulfilled, that handover as defined by clause 5.1 of the agreement could not occur until such time as the Defendants were provided with a guarantee in a form satisfactory to them, and the Claimant had evinced an intention to pay the first installment. That was when according to the Defendants, any obligation on their part to execute the share transfer would take effect.

[35] The Claimant is of a different view a view with which I am in agreement. The Claimant argues that within 45 days of 25th May 2005 – date of the acquisition of the shares in Marigot Des Roseaux – the Defendants one and two were obligated to execute share transfer of the shares they held in the other Defendants as well as do the things set forth in clause 5.2. Once this was done the Claimant was obligated to pay the first installment as defined by the agreement. The Claimant would also be required to pay the Defendants one and two 50% of the cost of the acquisition of the shares of the Marigot Des Roseaux.

[36] The evidence discloses that it was the Claimant's own discovery that the acquisition of the shares in Marigot Des Roseaux had taken place and as a consequence of which the Claimant wrote to the Defendants on 11th July 2005 (see para. 11 above).

[37] Thus to make short shrift of the Defendants' contention that the Claimant is in breach of the agreement by virtue of its failure to pay 50% of the contribution of the acquisition of the shares in Marigot Des Roseaux: it would appear to me that it was incumbent upon the Defendants to first notify the Claimants of the acquisition and request the 50% contribution. Not having done so, they cannot plead a breach, In any event, as indicated, by the Claimant, non payment/non compliance by the Claimant was not pleaded by the Defendants either in their Defence or their amended Defence.

[38] Despite the Defendants' protestations of absurdity that it could not have been meant by the parties that handover take place prior to the putting in place of the guarantee and despite their contention that it must have been an implied term of the agreement that clause 7.2 had to have been satisfied prior to the handover of the companies, I cannot give this construction to the clauses or come to a similar conclusion, i.e. that the requirement to provide a guarantee is a condition precedent.

[39] In my opinion handover and guarantee do not go hand in hand. It might have made good and practical sense for the Claimant to have put such arrangements in place prior to the handover but I cannot construe from the reading of the clauses that is was made a condition precedent or even that it was implied. As suggested by the Claimant and in the absence of any clear agreement or prior discussion, the court prefers to construe clause 7.2, as an intermediate term, only a substantial breach of which entitles rejection.

[40] From my understanding, at handover there are three specific matters to be dealt with:

1. *shares to be transferred to the Claimant;*
2. *the Defendant to undertake specific obligations with respect to the operation of the companies; and*
3. *the Claimant to pay the first instalment of purchase price*

[41] As I read it that is the extent of what takes place at handover.

[43] The balance of the purchase price – the deferred consideration – is made payable in five equal instalments in a specified form (see clause 5.4 at para 12 above). It is my view that when it is stated in clause 7.2 that the Claimants warrants that it:

> *"will arrange a Guarantee from a major International Bank in support of the payments of the deferred consideration in a form satisfactory to the VENDORS (the Defendants)*

that it is for these deferred payments that the parties intend the guarantee to be arranged coming after the handover and payment of the first installment. It does not appear to me that the Claimant was compelled to have arranged the guarantee prior to the handover or even at handover. All the Claimant has to do is satisfy the Defendants as to the form of the guarantee from a major international bank. The court cannot be expected to imply an intention to the parties since "the general presumption is that the parties would have expressed every material term which they intended should govern their agreement".

[43] I therefore do not accept the Defendants' assertion that the Claimant is in breach of the agreement and they are discharged from any liability.

[44] G - Guarantee from a major International Bank

[45] It is the Defendants' submission that clause 7.2 was specifically included to provide the Defendants with sufficient security for the conveyance of their shares to the Claimant and that it could only be fulfilled to the subjective satisfaction of the Defendants. Thus neither the Claimant nor the court could cause the Defendants to accept a guarantee from a third party that is not satisfactory to the Defendants.

[46] While this submission can be regarded as plausible, there remains the matter of the Defendants' action or rather inaction pursuant to the Claimant's letter of 11th July 2005 in which the Claimant indicated readiness to complete the transaction by enclosing the draft Guarantee and requesting confirmation of the acceptability of an irrevocable standby Letter of Credit. To this there was no response.

[47] The Claimant followed this up on the expiration of the calculated 45 day timetable on 26th August 2005 again indicating its unqualified willingness:

David Shimeld

Managing Director

Marigot Beach Club & Dive Resort

Marigot Bay

St. Lucia

Dear Mr. Shimeld,

Ref: Sale & Purchase Agreement dated 16th April 2003 between David Shimeld (and related parties) and Doubloon Beach Club Limited (the "Agreement).

With reference to my letter of 11th July 2005, I am now writing to advise that the 45 days provided for Handover under Clause 5 of the Agreement has now expired. None of the actions required under Clauses 5.1 or 5.2 has been performed and we therefore consider the VENDORS to be in breach of contract.

We are in position to close. Michelle Anthony, attorney for my bankers, First Citizens Bank of Trinidad and Tobago has advised Colin Foster that the funds are available on our side for closing. A draft of the Standby Letter of Credit to be issued by First Citizens Bank to fulfill our obligations under Clause 7.2 was submitted with my letter of 11th July, 2005 for your review.

We have attempted to meet with you and your attorneys to progress these matters on two occasions. A meeting arranged at the offices of Peter Foster at 3:00 p.m. on Thursday 18th August was aborted when Colin Foster, your Lawyer, had failed to appear by 3:40 p.m. The meeting was re-arranged for 3;00 p.m. on Tuesday 23rd August at the offices of Hilford Deterville, my counsel, but cancelled by Peter Foster shortly beforehand.

I understand that my attorneys are attempting to re-arrange the meeting for Monday 29th – which is likely to be the last opportunity to resolve this matter without resorting to further legal action. I hope your team will make the effort to attend on this occasion.

Yours sincerely,

John B Verity

Managing Director

[48] Again there was no response from the Defendants, no intimation that the Claimant's proposals were unacceptable, no repudiation of the Claimant's position. In fact it was only when the threatened legal action became a reality that the Defendants were moved through their Defence to present an objection to the proffered bank.

[49] As suggested by the Defendants within a different context: it could not be contemplated that the wait for a determination of the suitability of the bank and the letter of credit would go on and ad infinitum or until such time as the Defendants would determine that their subjective wishes were fulfilled.

[50] I find that the Defendants' raising of an objection at such late stage to the bank and letter of credit constituted no more that an attempt to extricate themselves after having unilaterally determined the agreement.

[51] That having been said the Defendants state that the Claimant alleges that the First Citizens Bank of Trinidad and Tobago is a major International Bank and it is therefore incumbent upon the Claimant to prove this assertion by adducing sufficient evidence to establish that assertion. By the same token, the Claimant quite rightly suggests that no names had been specifically mentioned by the parties as to who should be considered a major international bank. The sole purpose of the description "a major International Bank" was to ensure that the Claimant secured a letter of credit from a bank with adequate funds to meet the intended payments, and a bank capable of transacting business beyond its geographical borders.

[52] This suggestion by the Claimant is in my opinion inherently more satisfactory than that of the Defendants that a major international bank is one whose name is instantly recognizable such as Bank of America, Lloyds, Bank of England, Barclays, Chemical Bank. The

uncertainty of the viability of today's so called international financial institutions demands that one look askance at what poses for major and international.

[53] I am of the view that if the financial institution is proved to be capable of underwriting the liability in question, then it ought to be acceptable to the parties and this in spite of the Defendants' adamant assertion that only they can agree to the institution. The Claimant has provided proof that the First Citizen Bank's equity is in excess of one billion dollars.

[54] It is accepted that it is within the Defendants' province to object to the form of guarantee offered by the Claimant. It is therefore contemplated that should that "form" be found to be reasonable, the Defendants cannot contrarily procrastinate in accepting under the guise of the form not being acceptable to them. In the present circumstances it was adduced in evidence that the Defendants agreed that an irrevocable letter of credit was an acceptable form of guarantee and so they must be made to stand by it.

[55] In the premises I find that the First Citizens Bank of Trinidad and Tobago can be termed a major international bank within the context of the agreement thereby preventing the Defendants from refusing to accept the proffered letter of credit .

I – Specific Performance

[56] It has been established that damages are considered to be an adequate remedy where the Claimant can readily get what he contracted from another source. It has also been

established that damages cannot adequately compensate a party for breach of a contract for the sale of an interest in a particular piece of land.

[57] Consequently if as has been stated by the Claimant , the shares of the Defendants are not listed on any stock market and the assets of the Defendants consisting of leaseholds, lands and physical assets have an incalculable value to the Claimant because ownership of the shares gives the Claimant control of very valuable and unique lands integral to the development in which they are presently engaged, then damages cannot readily compensate the Claimant.

[59] In my judgment, the Claimant having fulfilled the requirements under the agreement and declared itself ready, willing and able to conclude the agreement, ought to be granted the order for specific performance and I so order.

Counterclaim of the Defendants

[60] Having determined the matter in favour of the Claimant, I must dismiss the counterclaim of the Defendants.

ORDER

Judgment is hereby entered for the Claimant.

The counterclaim of the Defendants is hereby dismissed.

That an order for specific performance be and is hereby granted to the Claimant for the transfer by the Defendants one and two of all the shares in the other Defendants;

That the Claimant pay the Defendants 50% of the acquisition costs of the Marigot Des Roseaux shares up to a limit of US$35,000 in accordance with clause 4.1 of the agreement upon proper proof of the acquisition costs.

That the Letter of Credit to be issued by the First Citizens Bank of Trinidad and Tobago be and is hereby declared as fulfilling the Claimant's obligations as set out in clause 7.2 of the agreement.

Costs to the Claimant prescribed in accordance with Part 65.5 CPR.

SANDRA MASON QC

High Court Judge