



ND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN:

**ROBERT THOMAS SOFIELD III
EDUARDO BERNAL**

PLAINTIFFS

AND:

(1) KAREL MINNEBOO

DEFENDANT

WRIT OF SUMMONS

TO: (1) Karel Minneboo

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 (or, if leave is required to effect service out of the jurisdiction, such other period as is specified in the attached Acknowledgement of Service of Writ of Summons) 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, PO 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 Acknowledgement within the time stated, or if you return the Acknowledgement 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 ____ day of June 2023.

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.

This Writ of Summons was issued by KSG, attorneys for the Plaintiff, whose address for service is 4th Floor Harbour Centre, 42 North Church Street, PO Box 2255, Grand Cayman KY1-1107, Cayman Islands [JK/0197]

STATEMENT OF CLAIM

The Parties

1. At all material times:
 - 1.1. Thomas Sofield (**Sofield**) was employed as a building contractor by trade and was a resident of the Cayman Islands. Eduardo Bernal (**Bernal**) was employed as an Architect by profession and was a resident of the Cayman Islands.
 - 1.2. The Plaintiffs address for service is that of his Attorneys, 4th Floor Harbour Centre, 42 North Church Street, PO Box 2255, Grand Cayman KY1-1107, Cayman Islands.
 - 1.3. Karel Minneboo ("**Minneboo**") was a businessman and resident of the Cayman Islands.

The Land

2. At all material times Minneboo was the registered proprietor of a parcel of land located in the Cayman Islands known legally as West Bay Beach North Block 10A Parcel 321 ("**Parcel 321**") and remains the registered owner.

The Agreements

3. In or around September 2015, following an approach by Minneboo, the Parties agreed to participate in a joint venture for the construction and sale of a residential property at Parcel 321 ("**the JVA**").
4. The JVA was made partly orally and partly by conduct and/or as a result of a course of dealings between the parties. The oral agreements were made during a series of meetings taking place in 2015 and 2016.
5. The agreed conditions of the JVA were as follows:
 - 5.1 Bernal would design and ensure governmental approval for the construction of an approximately 8,000 square foot house ("**the House**") on Parcel 321 in accordance

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with plans and specifications agreed between the parties. Bernal would further provide architectural and design services during the course of the JVA with those services to be provided on the basis that the services would be provided at cost and with no profit element to Bernal.

- 5.2 Sofield would construct the House in a good, workmanlike manner and consistent with those plans and specifications with his construction services provided at cost and with no profit element to Sofield.
- 5.3 Bernal and the Plaintiff would each invest up to KY\$130,000 into the venture in order to partially fund the construction costs with the excess of costs to be paid by Minneboo.
- 5.4 Minneboo would permit the construction of the House on Parcel 321.
- 5.5 The Parties would provide an account to each other for all sums expended in relation to the construction of the House and the compliance with the obligations necessary to fulfil the terms of the JVA.
- 5.6 Upon completion of the construction of the House, and upon the grant of a certificate of occupancy, Minneboo would list the Property (being both the House and Parcel 321) for sale on the open market with a view to achieving the maximum price.
- 5.7 Minneboo would make reasonable efforts to realise a sale of the Property within a reasonable period of time and at the best price achievable.
- 5.8 From the proceeds of selling the Property there would be repaid to the relevant party the following sums:
 - 5.8.1. The cost of purchase of Parcel 321, to be returned to Minneboo.
 - 5.8.2. The actual capital investments of both Bernal and the Plaintiff described at paragraph 5.3 above.
 - 5.8.3. The repayment to each party all further properly expended sums in relation to the construction, maintenance and sale of the House and in complying with the obligations necessary to fulfil the terms of the JVA.

- 5.9 Following the satisfaction of the conditions at 5.8, the parties were to share the remainder of the sale proceeds of the Property in the following proportions:
- 5.9.1. 40% Minneboo
 - 5.9.2. 30% Sofield
 - 5.9.3. 30% Bernal
6. By a written Deed of Agreement dated the 17th November 2017 ("**the Deed of Agreement**"), Sofield and Minneboo acknowledged and agreed that:
- 6.1 Sofield, Minneboo and Bernal had entered into the JVA to fund the construction of a residential property at Parcel 321.
 - 6.2 The terms of the JVA included that the Plaintiff has injected KYD\$130,000 into the cost of construction and that on sale of Parcel 321 he is entitled to the return of the sum and 30% of the profit of the venture.
 - 6.3 This Deed of Agreement further acknowledged that Minneboo had paid on account the sum of \$130,000 and further sums as actually injected, back to Sofield and that this satisfied his right to those sum as set out at paragraph 5.8.2 but that he remained entitled to the sums as calculated pursuant to paragraph 5.9.
7. The parties complied with their obligations under the agreement and on the 17th of April 2018 the plaintiffs obtained a Certificate of Occupancy for the House which signified that that Minneboo was now required to list the Property (being both the House and Parcel 321) for sale on the open market with a view to achieving the maximum price.
8. Minneboo, being responsible for the sale process for the House, failed or refused to obtain a sale of the property in a timely manner and the by the middle of 2018 the property had not been sold and the relations between the parties became strained.

Agreement to rent

9. Minneboo, citing an inability to obtain an attractive price for the property and a shortage of liquid funds approached the plaintiffs in or around October 2018 and asked that he be permitted to vary the JVA to allow him to rent the House pending a sale and allowing him an increased share of the rent for one year in order to cover his short term financial needs and the plaintiffs agreed.

10. It is believed that Minneboo secured rental of the House in the sum of US\$10,000 per month for one year from the 1st of December 2018.

11. This oral agreement was made in late October 2018 ("**the Rental Agreement**"), and the Parties agreed that:
 - 11.1. Mineboo could rent the Property pending sale.

 - 11.2. In the first year of any rental agreement being conclude, the proceeds of the rental income would be divided between the Parties in the following shares:
 - 11.2.1. Minneboo 80%

 - 11.2.2. Sofield 10%

 - 11.2.3. Bernal 10%.

 - 11.3. In any years after the first year, the rental income would be divided in the following shares:
 - 11.3.1. Minneboo 40%

 - 11.3.2. Sofield 30%

 - 11.3.3. Bernal 30%.

Performance of the Agreements

12. Pursuant to the terms of the JVA, the Parties complied with their obligations under paragraphs 5.1 through 5.6, Parcel 321 being listed for sale after its construction in 2017.
13. Pursuant to the Rental Agreement, Minneboo rented the Property on the 1st December 2018 at a rate of USD\$10,000 per month.

PARTICULARS OF BREACH OF CONTRACT

14. Minneboo has acted in breach of the terms of the JVA in that he has:
 - 14.1 Failed to make reasonable efforts to sell the property within a reasonable period of time and at the best price achievable.
 - 14.2 Failed to sell the House at all.
15. Minneboo has breached the terms of the Rental Agreement in that he has:
 - 15.1 Failed to pay the Plaintiff the rental income due to him.
 - 15.2 Failed to account for that rental income.

PARTICULARS OF LOSS AND DAMAGE

16. As a result of Minneboo's breaches of the agreements, the Plaintiffs have sustained loss and damage, namely:
 - 16.1. The monies due to them under the JVA from the sale of the Property.
 - 16.2. The rental income from the Property.

CLAIM FOR INTEREST

17. The Plaintiff claims pre- and post- judgment interest pursuant to section 34 of the Judicature Act (2021 Revision) and the Judgment Debts (Rates of Interest) Rules (2021 Revision) at the rate of 8 3/8 %.

18. AND the Plaintiff claims:
 - (1) Specific Performance of the JVA by way of delivery up of possession of the House and Sale of the Parcel 321 further to directions of the Court pursuant to GCR Order 31.
 - (2) An account of the dealings between the parties to give effect to the JVA.
 - (3) An Order for payment to the parties of the sums due upon Sale and taking an account consistent with the JVA;
 - (4) Payment of the Plaintiffs' share of the rental income from the House owed to date, calculated by reference to paragraphs 9-11 above;

 - (5) Costs;

 - (6) Interest, and

 - (7) Such further or other relief as counsel may advise or the Court thinks appropriate



KSG

Attorneys for the Plaintiffs

**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 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 3), 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 Acknowledgement 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

Please complete overleaf

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, 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN:

**ROBERT THOMAS SOFIELD III
EDUARDO BERNAL**

PLAINTIFFS

AND:

KAREL MINNEBOO

DEFENDANT

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

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.

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

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

2. State whether the Defendant intends to contest or otherwise participate in the proceedings (tick appropriate box)

yes no

3. If the claim against the Defendant is for a debt or liquidated demand, AND he 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

Service of the Writ is acknowledged accordingly

(Signed).....
Attorney for

Please complete overleaf

This Writ of Summons was issued by KSG, attorneys for the Plaintiff, whose address for service is 4th Floor Harbour Centre, 42 North Church Street, PO Box 2255, Grand Cayman KY1-1107, Cayman Islands [JK/MR/01914]

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 or principal office.

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

KSG
4th Floor Harbour Centre
42 North Church Street
PO Box 2255
Grand Cayman KY1-1107
Cayman Islands

Endorsement 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 endorsement]