

ADR/KN/103584

November 29, 2024

Mr. Paul Lamb
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534 Broadhollow Road
Suite 210, Melville, New York
11747-9034, USA

Dear Sir:

Re: CIV284 of 2023 – Lambchop Properties LLC et al v Apes Hill Club Homeowners Association Inc et al

By way of update, the captioned matter came on for hearing today before Justice Bryan Weekes. Akeem Rowe and Khayyam Nakhuda of Lex Caribbean appeared on behalf of the Claimants, with Paul Lamb being present as a representative of the Claimants. Rene Forde appeared holding papers for Roger Forde KC on behalf of the First to Fourth Defendants, and Ruan Martinez appeared in association with Malcolm Deane on behalf of the Fifth Defendant.

Prior to the hearing, counsel for the First to Fourth Defendants, Roger Forde KC, emailed the court requesting an adjournment due to him being before the High Court in another matter that could not be moved. When this matter came on for hearing, the court acknowledged this request for an adjournment and indicated that it had reviewed the submissions of all parties filed in relation to the application for specific disclosure and the application for a trial on preliminary issues, filed on April 23 and June 13, 2024 respectively. Just as a reminder, the issues which the claimants are requesting to be tried as “preliminary issues” are as follows:

1. Whether the Fifth Defendant is the “Developer” within the meaning of the By-Laws of the First and Sixth Defendants, namely, Apes Hill Club Homeowners Association Inc. and Garden Wall Villa Association Inc., respectively; and
2. Whether the “Turnover Date” within the meaning of the By-laws of the First and Sixth Defendants (Apes Hill Club Homeowners Association Inc. and Garden Wall Villa Association Inc., respectively), has passed, in circumstances where:
 - a. The Claimants allege the Turnover Date has passed by way of Republic Bank’s Conveyance, through the exercise of its power of sale as mortgagee, on February 3,

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2020, at which time it sold and transferred all of the remaining properties to Plantation Sanctuary Inc.; and

- b. The Defendants allege that that the Turnover Date did not pass on February 3, 2020 by virtue of the Assignment dated February 3, 2020 between Apes Hill Development SRL and Plantation Sanctuary Inc.

The court noted that the submissions indicated the Defendants' position that the application for a trial on preliminary issues should not be granted. However, it was observed that the Defendants had failed in their submissions to substantively address the merits of the respective preliminary issues.

As such, and given Mr. Forde KC's expressed desire to address the court on these matters, the judge indicated that the matter would be adjourned until February 4, 2025. On that date, the Defendants would face the "challenging task" of convincing the court why the issues should not be determined preliminarily, as at this stage, the court indicated it was inclined toward having the issues heard preliminarily. The judge also indicated that the parties are at liberty to file any supplemental submissions, provided they are submitted at least seven days before the adjourned hearing.

In relation to the specific disclosure application, since today's hearing was an adjournment, the judge did not address it substantively. Given that both the specific disclosure application and the application for a trial on preliminary issues are before the court, the court must provide directions for both applications at the adjourned hearing in February. At that hearing, the judge should indicate how he intends to proceed with the specific disclosure application, especially since submissions have been filed by both parties on it.

It is possible that he may decide to prioritize the application for a trial on preliminary issues, as a successful outcome on that application could render the specific disclosure application unnecessary. We await the adjourned hearing date which should shed some light on how the matter will proceed.

Yours sincerely,



Khayyam Nakhuda
Associate