



**IN THE COURT OF APPEAL  
TURKS AND CAICOS ISLANDS**

**CL-AP 17/18**

**BETWEEN:**

**CG MANAGEMENT LTD (1)**

(Suing as assignee of all rights, interests and claims under rental and management agreements to which the 2nd to 7th Plaintiff and others and the Defendants are parties)



**CARIBBEAN ORANGE LTD (2)**

**CORAL SANDS LTD (3)**

**CAICOS ISLE PROPERTIES LTD (4)**

**BAREFOOT TRADING PARTNERS LTD (5)**

**CORAL PALMS LTD (6)**

**BAGLEY LTD (7)**

(the 2nd to 7th Plaintiffs suing on their own behalf and on behalf of all condominium owners at Coral Gardens who have entered into management and rental agreements with the Defendants)  
**(Plaintiffs)/Appellants**

– and –

**THE SEAGATE MANAGEMENT COMPANY LTD (1)**

**RAHUL LAKHANI (2)**

**(Defendants)/Respondent  
(By Original Action)**

**AND BETWEEN:**

**THE SEAGATE MANAGEMENT COMPANY LTD.**

**(Plaintiff)/Respondent**

**And**

**CG MANAGEMENT LTD. (1)**

**CAICOS ISLE PROPERTIES LTD. (2)**

**BAREFOOT TRADING PARTNERS LTD. (3) CARIBBEAN ORANGE LTD. (4)**

1712 HOLDING LTD. (5)  
CORAL SANDS LTD. (6)  
MARIAH INTERNATIONAL LTD. (7)  
LA COSTA PROPERTIES LTD. (8)  
CAMELOT LTD. (9)  
CORAL PALMS LTD. (10)  
SPORTZ R US LTD. (11)  
BAGLEY LTD (12)  
ISLA CASTILLO LTD (13)

(Defendants)/Appellants  
(By Counterclaim)

**BEFORE:**

THE HON. SIR ELLIOTT MOTTLEY	PRESIDENT
THE HON. MR JUSTICE HUMPHREY STOLLMEYER	JUSTICE OF APPEAL
THE HON. MR JUSTICE NEVILLE ADDERLEY	JUSTICE OF APPEAL

**APPEARANCES:**

Mr Ariel Misick QC and with him Ms. Deborah John-Woodruffe for the Appellants  
Mr Stephen Wilson QC for the Respondents

**Delivered: 31 December 2020**

**JUDGMENT ON COSTS**

**ADDERLEY JA**

1. When delivering judgment on 26 September 2019, we awarded the costs of the appeal and below to the Appellant, but invited submissions on this issue. We have received and considered the written submissions of the Respondents dated 17 October 2019, and the

submissions of the Appellants in reply dated 14 November 2019. We do not need to hear Counsel further.

2. We acknowledge, as agreed in the submissions made by both the Respondents and the Appellants that “Advance Reservations” extended to bookings made prior to notice of termination, and not only to those defined in the judgment as “reservations made between service of notice of termination and the 90-day period to the effective date of termination for stays that occurred after the effective date of termination”.
3. We have also considered each of the two protective offers made pursuant to Order 22 rule 14 on behalf of the Appellants to the Respondents before action and after the start of proceedings which were made known to the Court in the submissions, and note that there is no dispute between the parties that, as accepted they can be taken into account in awarding the costs (**Big Blue Un Limited v Kathleen De Bruyne** (2019) CL-AP No 4 of 2018).
4. When stripped to its essence the judgment below was on liability: whether or not Seagate was liable to return any part of the remuneration which it held in respect of Advanced Reservations as properly defined (namely, whether or not secured by rental deposits or whether or not owner generated). This Court held that they were liable. No application was made to us to do an assessment. The reasonable sum, if any, which they are entitled to retain, and the amount, if any, they must return to CG Management Ltd for the Proprietors is the subject matter remitted for the judge’s assessment.
5. We agree with Mr Wilson QC’s statement at paragraphs 17 and 19 of his submissions that no determination can be made at this stage whether the Appellants or any of them ought reasonably to have accepted any of the protective offers until the amounts due to each of them has been determined. This can only take place after the judge determines after the assessment what reasonable fee should be retained by Seagate. This court ought not to encroach on the assessment exercise it has remitted to the judge.
6. For the above reasons we vary our costs order of 26 September 2019, and substitute the following:

1. the costs of the appeal shall be paid by the Respondents to the Appellants to be taxed if not agreed;
2. the costs below shall be determined by the judge carrying out the assessment.

**Dated this 31<sup>st</sup> day of December, 2020**

**Neville Adderley JA**



I agree

**Sir Elliott Mottley P**

I also agree

**Humphrey Stollmeyer JA**