**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**IN THE CIVIL DIVISION**

**CLAIM NO** C. L. M-095 of 2002

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| BETWEEN | **HUGH MAXFIELD** | CLAIMANT |
| AND | **SKYLINE APARTMENT HOTEL LIMITED** | DEFENDANT |

Consolidated with:

**CLAIM NO** C.L. M-166 of 2002

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| BETWEEN | **CAROLYN MOO-YOUNG** | 1ST CLAIMANT |
| AND | **SKYLINE APARTMENT HOTEL LIMITED** | 2ND CLAIMANT |
| AND | **HUGH MAXFIELD** | DEFENDANT |

Maurice Frankson, instructed by Gaynor & Fraser, for Hugh Maxfield

Lawton Heywood for Carolyn Moo-Young and Skyline Apartment Hotel Limited

**HEARD: March 27, 28 and December 12, 2008**

**JONES, J.:**

[1] This is a consolidated claim concerning an apartment located at 9A Skyline Drive, St. Andrew. In Claim No. C.L. M-095 of 2002, the tenant of Unit 4, Townhouse 4, Mr. Hugh Maxfield, alleges that the Defendant in the matter entered into an agreement with him for the sale of the unit

which he occupies. In his statement of claim dated 15th May, 2002, he seeks:

a) a declaration that the Defendant is in breach of an agreement for sale of land made between the parties on or about February 22, 1999

(b) an order for specific performance of the said agreement

(c) further or alternatively damages for breach of the said agreement for sale and

(d) an injunction to restrain the Defendant, its servant or agents from interfering with the Claimant's occupation of the premises.

[2] In Claim No. M-0166 of 2002 the Claimants are the landlord and owners of Unit 4, 9A, Skyline Drive, St. Andrew and the Chief Executive Officer of the owner. The Defendant is the tenant and claimant in the other matter. Here, the Claimants, in their statement of claim dated the 11th September 2002, seek the following orders:

(a) general damages for breach of contract;

(b) special damages being $1,180,000 for arrears of rent;

(c) a declaration that the Defendant is not entitled to remain in the said premises, having impugned his landlord's said position as landlord; and

(d) recovery of possession of Unit 4, Townhouse 4.

**ISSUES**

[3] The issues for determination arising from the claims are as follows:

a) Is there a legally enforceable agreement for sale between Skyline Apartment Hotel Limited and Mr. Hugh Maxfield for Unit 4, Townhouse 4? If the answer to this is yes, what is the appropriate remedy?

b) What is the extent of the arrears of rent for which Mr. Hugh Maxfield is liable and whether recovery of possession is appropriate?

***Issue(a): Is there a legally enforceable agreement for sale between Skyline Apartment Hotel Limited and Mr. Hugh Maxfield for Unit 4, Townhouse 4.***

[4] For ease of reference Mr. Hugh Maxfield will be referred to as the Claimant and Skyline Apartments, the Defendant.

[5] In evidence, with the consent of both parties, is a document titled "Agreement for Sale" signed by Dr. Bernard Marshall, as 'Acting Chairman' for Skyline Apartment Hotel Limited and stamped with the Company seal. The document shows Skyline Apartments Hotel Limited as vendor and Hugh Maxfield as purchaser with a consideration of $4,000,000.00. It outlines that a deposit of $600,000.00 should be paid on signing and a further deposit of $1,400,000.00 on or before the expiration

of ninety days after signing. Further that the balance would be paid by a vendor's mortgage of $2,000,000.00.

**Claimant's Submissions**

[6] The Claimant submits that the document titled 'Agreement for Sale' is an enforceable agreement for sale because it complies with certain requirements necessary in a contract for the sale of land. He says the parties were properly identified and there is no doubt as the identity of vendor and purchaser. Further he avers that the subject matter of the contract was clearly defined. Here he notes that the certificate of title for the parcel of land registered at Volume 1086 Folio 242, as stated in the Agreement for Sale, was cancelled in 1984 and replaced by six separate certificates including a certificate registered at Volume 1183 Folio 556 which refers to Strata lot numbered four and being part of the land comprised in certificate of title registered at Volume 1086 Folio 242. He, however, submits that this does not render the agreement unenforceable. He also submits that there was clarity of consideration and that the above requirement had been signed by the purchaser 'and a person described as 'Acting Chairman' and the common seal of the vendor was affixed in the presence of a witness.

[7] Counsel for the Claimant urged the Court to accept the Claimant's assertion that the terms of the contract were negotiated by Mrs. Carolyn Moo-Young, the Defendant's Chief Executive Officer and the Claimant

and that the contract was signed in accordance with the requirements of the Companies Act. Further, that Dr. Marshall, who was known to be the attorney-at-law for the vendor and who held himself out to be an agent of the vendor, had the ostensible authority to enter into a contract on behalf of the company, including those involving the disposition of its assets.

[8] The Counsel for the Claimant contends that that though the purchaser could have examined the returns of directors required to be submitted to the Registrar or a list of directors, he was under no obligation to do so. He submits that the purchaser cannot be presumed to have notice that a person who executes a contract on behalf of a company is not listed on its returns or list of directors.

**Defendant's Submissions**

[9] The Defendant contends on the other hand that Dr. Marshall was not the duly appointed attorney-at-law for the Defendant or in the alternative that he acted 'ultra vires'. Relying on **Freeman and Lockyer v Buckhurst Park Properties (Mangal) Ltd and Another**[1] they submit that for the Company to be bound by the contract, the Claimant would have to show that that the Company held out Dr. Marshall as having the authority to enter the contract or that such authority was within the ordinary scope of his duties. Further, they submit that "an 'outsider' having dealings with

[1] [1964] 2 Q.B. 480

the company cannot assume that an officer has authority which legitimately can be delegated to him...".

[10] They also submit that the Articles of Association of the Company discloses who has express authority to enter into contracts on behalf of the company and contains provisions about the use of the seal for the purposes of its business. They say that the document in question, which is purported to be under seal, should, therefore, have been signed by two directors in accordance with the Articles of Association.

[11] They relied on **Mahony v East Holyford Mining Co.**[2] to support the assertion that 'all who are minded to have any dealings whatsoever with the company must be taken not only to have read the Companies' Memorandum and Articles of Association and to have understood them according to their proper meaning. Thus, they argue that Mr. Maxfield should have ascertained whether the Company had given Dr. Marshall the necessary powers to act as its agent.

[12] Finally, they make the point that subdivision approval of the parcel of land at 9A Skyline Drive has not been granted and they are therefore unable to pass a good title to the Claimant.

**The Law**

[13] The central issue in this case revolves around the authority of an agent, Dr. Marshall, to create contractual rights and liabilities between

[2] [1875] LR 7 HL 869

Skyline Apartments Limited and Mr. Hugh Maxfield. As there is no evidence to suggest that Dr. Marshall had express authority from Skyline Apartments to enter into the Agreement for Sale, the court has to determine whether the doctrine of ostensible authority is applicable here as contended by the Claimant.

[14] The doctrine of ostensible authority is lucidly explained by Lord Diplock in **Freeman and Lockyer v Buckhurst Park Properties (Mangal) Ltd and Another**. At page 502, Lord Diplock in explaining the doctrine had this to say:

> *"An "apparent" or "ostensible" authority, on the other hand, is a legal relationship between the principal and the contractor created by a representation, made by the principal to the contractor, intended to be and in fact acted upon by the contractor, that the agent has authority to enter on behalf of the principal into a contract of a kind within the scope of the "apparent" authority, so as to render the principal liable to perform any obligations imposed upon him by such contract. To the relationship so created the agent is a stranger. He need not be (although he generally is) aware of the existence of the representation but he must not purport to make the agreement as principal himself. The representation, when acted upon by the contractor by entering into a contract with the agent, operates as an estoppel, preventing the principal from asserting that he is not bound by the contract. It is irrelevant whether the agent had actual authority to enter into the contract."*

[15] It is clear from Lord Diplock's dicta that ostensible authority is grounded in estoppel[3,4]. Support for this proposition is not difficult to find.

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[3] See Northside Developments Pty Ltd. v Registrar General, 170 CLR 146 at 172
[4] See also Pole v Leask, (1861) 33 LJ Ch 155 at 161, 162

In **Rama Corporation v Proved Tin and General Investments**[5] at page 149, Lord Slade made it clear that:

> *"Ostensible or apparent authority...is merely a form of estoppel, indeed, it has been termed agency by estoppel, and you cannot call in aid an estoppel unless you have three ingredients: (i) a representation (ii) a reliance on the representation, and (iii) an alteration of your position resulting from such reliance."*

Similarly in ***Armagas Ltd v Mundogas SA (The Ocean Frost)***[6] Lord Keith of Kinkel, delivering the judgment of the Board stated:

> *"Ostensible authority comes about where the principal, by words or conduct, has represented that the agent has the requisite actual authority, and the party dealing with the agent has entered into a contract with him in reliance on that representation. The principal in these circumstances is estopped from denying that actual authority existed."*

[16] Further, in **Halsbury Laws of England, Vol. 1(2)**, fourth edition, at para. 29, the learned authors had this to say:

> *"Agency by estoppel arises where one person has so acted as to lead another to believe that he has authorised a third person to act on his behalf, and that other person in such belief, enters into transactions with the third person within the scope of such ostensible authority. In this case, the first-mentioned person is estopped from denying the fact of the third person's agency under the general laws of estoppel, and it is immaterial whether the ostensible agent had no authority whatever in fact, or merely acted in excess of his actual authority".*

[17] Lord Diplock, in **Freeman**, said that the application of the principles of ostensible authority of a company requires that two characteristics of a corporation have to be born in mind. At page 504:

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[5] [1952] 2 Q.B. 147
[6] [1986] A.C. 717

> "The first is that the capacity of a corporation is limited by its constitution, that is, in the case of a company incorporated under the Companies Act, by its memorandum and articles of association; the second is that a corporation cannot do any act, and that includes making a representation, except through its agent. *Under the doctrine of ultra vires the limitation of the capacity of a corporation by its constitution to do any acts is absolute. This affects the rules as to the "apparent" authority of an agent of a corporation in two ways. First, no representation can operate to estop the corporation from denying the authority of the agent to do on behalf of the corporation an act which the corporation is not permitted by its constitution to do itself. Secondly, since the conferring of actual authority upon an agent is itself an act of the corporation, the capacity to do which is regulated by its constitution, the corporation cannot be estopped from denying that it has conferred upon a particular agent authority to do acts which by its constitution, it is incapable of delegating to that particular agent. The second characteristic of a corporation, namely, that unlike a natural person it can only make a representation through an agent, has the consequence that in order to create an estoppel between the corporation and the contractor, the representation as to the authority of the agent which creates his "apparent " authority must be made by some person or persons who have "actual " authority from the corporation to make the representation...It follows that where the agent upon whose "apparent" authority the contractor relies has no "actual" authority from the corporation to enter into a particular kind of contract with the contractor on behalf of the corporation, the contractor cannot rely upon the agent's own representation as to his actual authority. He can rely only upon a representation by a person or persons who have actual authority to manage or conduct that part of the business of the corporation to which the contract relates."*

[18] In sum therefore, Lord Diplock said at pp. 505 – 506 that for a contractor to enforce against a company a contract entered into on behalf of the company by an agent who had no actual authority to do so, the following must be shown:

> *"(1) that a representation that the agent had authority to enter on behalf of the company into a contract of the kind sought to be enforced was made to the contractor;*
>
> *(2) that such representation was made by a person or persons who had "actual" authority to manage the business of the company either generally or in respect of those matters to which the contract relates*
>
> *(3) that he (the contractor) was induced by such representation to enter into the contract, that is, that he in fact relied upon it; and*
>
> *(4) that under its memorandum or articles of association the company was not deprived of the capacity either to enter into a contract of the kind sought to be enforced or to delegate authority to enter into a contract of that kind to the agent."*

[19] Two further points can be gleaned from the authorities with regard to ostensible authority which are relevant to the instant claim. The first is that the representation by the principal can be made by words or conduct (See **Bowstead and Reynolds on Agency**, 17th ed., page 309)7. Here again, Lord Diplock's dicta is instructive. At page 504, he said:

> *"The commonest form of representation by a principal creating an "apparent " authority of an agent is by conduct, namely, by permitting the agent to act in the management or conduct of the principal's business. Thus, if in the case of a company the board of directors who have "actual" authority under the memorandum and articles of association to manage the company's business permit the agent to act in the management or conduct of the company's business, they thereby represent to all persons dealing with such agent that he has authority to enter on behalf of the corporation into contracts of a kind which an agent authorized to do acts of*

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[7] Also see quote from Armagas at page 7 above.

> *the kind which he is in fact permitted to do usually enters into in the ordinary course of such business. The making of such a representation is itself an act of management of the company's business. Prima facie it falls within the "actual" authority of the board of directors, and unless the memorandum or articles of the company either make such a contract ultra vires the company or prohibit the delegation of such authority to the agent, the company is estopped from denying to anyone who has entered into a contract with the agent in reliance upon such "apparent" authority that the agent had authority to contract on behalf of the company."*

[20] The second point is that the onus lies upon the person dealing with the agent to prove either real or ostensible authority[8], and it is a matter of fact in each case whether the ostensible authority existed for the particular act for which it is sought to make the principal liable (See **Halsbury Laws of England, Vol. 1(2)**, fourth edition, para. 29). It is therefore the prerogative of the Court to determine if Dr. Marshall had the ostensible authority enter into a contract with Mr. Maxfield.

**Discussion**

[21] Applying the four conditions stipulated by Lord Diplock in **Freeman**, to the facts of this case, the first question to be asked is whether a representation was made to Mr. Maxfield?

[22] Mr. Hugh Maxfield, in his witness statement, dated the 4th day of March, 2008, said that at some time in late 1998, Ms. Lowe (who is the same person as Mrs. Moo-Young) came to his home (that is the apartment which he was renting from her) and told him that she had

[8] See Pole v Leask (1863) 33 LJ Ch 155, per Lord Cranworth at page 162

found someone who was interested in purchasing the apartment, but that Mr. Maxfield would get first preference if he agreed to buy. His evidence is that she returned in January, 1999, and stressed the urgency for him to enter into an agreement to purchase as the other party was ready to close the deal. He claims that it was at that point that they agreed on the purchase price and that she would give a vendor's mortgage of $2,000,000.00. Further, he said that Mrs. Moo-Young gave him a hand written note to take to Dr. Bernard Marshall, her attorney at law, who she said would take care of all the matters necessary for completion of sale. This hand-written note has not been tendered into evidence. Mr. Maxfield says that subsequent to this, some time on or about February 22, 1999, the Agreement for Sale was signed.

[23] Contrary to Mr. Maxfield's evidence, Mrs. Moo-Young, said in cross examination that she did not agree to sell the apartment to Maxfield, did not give instructions to Dr. Marshall to sell it and did not give any hand written instructions to Dr. Marshall about price. She also said that Dr. Marshall was not Chairman of the Board. However, she admitted that there are exact agreements for sale by three person which are identical to the one purported to be had by Maxfield.

[24] The evidence before the court does not support Mrs. Moo-Young's assertions and weighs heavily in favour of Mr. Maxfield's testimony. The

reality is that by her conduct, Mrs. Moo-Young clearly permitted Dr. Marshall to carry out the terms of the agreement.

[25] All of the correspondence concerning the sale of the apartment was between Dr. Marshall and the Claimant or the Claimant's attorney. In fact, Mr. Maxfield paid a deposit of $600,000.00 on the agreement for sale; a receipt, signed by Dr. Marshall, dated February 1, 1999, (during the month when the agreement was signed), exhibited to Mr. Maxfield's witness statement confirms this. Interestingly, the Defendants have not denied the authenticity of the receipt nor have they said that they have not received the sum. Additionally, on August 12, 1999, Ms. Lowe (Moo-Young) sent an email to Dr. Marshall which contained a letter addressed to Mr. Maxfield. This letter was appended to a letter dated August 17th, 1999, which Dr. Marshall sent to Mr. Maxfield's attorney. The email confirms much of what Mr. Maxfield stated in his witness statement regarding the offer of a vendor's mortgage (which was retracted in the letter) and suggested that a payment of $2,000,000.00 should have been made in February, 1999.

[26] In my judgment, such conduct amounts to a representation by Mrs. Moo-Young to the Claimant that Dr. Marshall was in fact acting as an agent of the Skyline Apartments. Based on the evidence provided, the court is also inclined to accept as fact Mr. Maxfield's assertion that Mrs.

Moo-Young instructed him to deal with Dr. Marshall to effect the terms of the transaction. It is clear that the first condition has been satisfied.

[27] The second question to be asked is whether Mrs. Moo-Young had the "actual authority" to manage the business of the Company. Given that the essence of ostensible authority is an appearance emanating from the principal, the representation must be made by the principal. Mrs. Moo-Young, in her witness statement dated the 23rd September, 2005, admits that she is the Chief Executive Officer of Skyline Apartment Hotel Limited. Table A of the Companies Act 2004, section 115 states that "the directors may entrust to and confer upon the managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit...". Thus, it is plain that as CEO of the company, Mrs. Moo-Young had the 'actual' authority to enter into a contract for sale of property, as the individual who would deal with the day-to-day affairs of the company. Condition two [2] has been met.

[28] It is apparent that condition three [3] has also been met. This is in fact not only evidenced by the fact that Mr. Maxfield paid the initial deposit of $600,000.00 for the apartment, but also, after signing the agreement for sale, and on the faith of the representation, he made significant improvements to the property, costing in excess of $1,000,000.00. He, therefore, clearly placed detrimental reliance on the agreement.

[29] With regard to the fourth condition the Defendant contends that Dr. Marshall could not have had the authority to enter into the Agreement for Sale because such an agreement would have to be under seal and signed by two directors. They argue that Mr. Maxfield should have known, or should be taken to have constructive notice of the fact that two directors were required to sign the agreement.

[30] There is no rule which says that an Agreement for Sale involving a company MUST bear the company seal and MUST be signed by two directors; unless such a requirement is specifically stated in the Articles of Association of that Company. Section 28(1) (a) of the Companies Act states:

> *"a contract which if made between private persons would be by law required to be in writing, and if made according to the law of Jamaica to be under seal, may be made on behalf of the Company in writing under the common seal of the Company"*

Section 28(1)(b) of the Companies Act states that:

> *"a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith may be made on behalf of the Company in writing signed by any person acting under it's authority express or implied".*

Section 28 (2) states:

> *"a contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto".*

[31] It is, therefore, clear that the Act makes a distinction between those documents which are to be under seal and those documents in which a seal is not required. The Act is obviously attempting to create a situation where an individual's dealings with a Company become as close as possible to their dealings with a natural person. Generally speaking, the law of Jamaica does not require that agreements for sale be under seal. This would suggest that the current Agreement for Sale under consideration need not bear the common seal of the Company. The fact that the seal is affixed to the document does not affect whether the document can be said to have been duly executed. Further, sections 28(1) (b) and (2) when read together makes it clear that a Company may be bound by an agreement made on its behalf by someone acting under the company's implied authority.

[32] It must also be noted that section 7 of the Companies Act provides:

> *"No person shall be affected by, or presumed to have notice or knowledge of, the contents of a document concerning a company by reason only that the document has been filed with the Registrar or is available for inspection at any office of the company"*

Thus, even if the signature of the directors were required on the Agreement for Sale, Mr. Maxfield cannot be presumed to have had notice of this. Condition four [4] is, therefore, fulfilled.

[33] For the above reasons, this court concludes as a matter of law that Dr. Marshall had the ostensible authority to enter into the Agreement for

Sale, on behalf of Skyline Apartments Limited, with Mr. Hugh Maxfield. Consequently, the Company is estopped from denying the agreement; a legally enforceable agreement for the sale of Unit 4, Townhouse 4, 9A Skyline Drive, St. Andrew was effected.

[34] The Claimant seeks specific performance of the contract or alternatively damages.

[35] Though the Claimant has exhibited a Title for a Strata Plan numbered 4, Mrs. Moo-Young in cross examination has stated that there is in fact no title for the apartment which Mr. Maxfield occupies, which is, apparently Lot 2. Thus sub-division approval was requested by Dr. Marshall, but denied by the KSAC because certain requested information was not provided.

[36] In the circumstances, it appears that specific performance of the contract is not possible. Accordingly, the court will award to the Claimant damages for breach of contract amounting to the current market value of the property (including the reconstruction effected by the Claimant).

***Issue 2: What is the extent of the arrears of rent for which Mr. Maxfield is liable and whether recovery of possession is appropriate?***

[37] Mr. Maxfield entered into a tenancy agreement with Mrs. Moo-Young (aka Carolyn Lowe) on behalf of Skyline Apartment Hotel Limited, for the rental of Unit 4, Townhouse 4 at some time in January, 1997. The agreed, rental of $20,000.00 per month is not in dispute. Mr. Maxfield has

not consistently made rental payments since January 1999 when he claimed he was a purchaser in possession[9].

[38] On the 27th day of May 2005 at a case management conference Mr. Maxfield was ordered to pay to Mrs. Moo-Young and Skyline Apartments "an amount representing rental being $20,000.00 per month 'from the month following the last payment". Mrs. Moo-Young, in her affidavit sworn to on the 21st December, 2007, said that subsequent to the order Mr. Maxfield paid the amount of $220,000.00, leaving 97 months of rent unpaid.

[39] In their submissions, the claimant's attorney claims that Mr. Maxfield paid an additional $620,000.00 towards rent.

[40] Mr. Maxfield had the use and benefit of the apartment for over eight years. During this time, he had only paid to Skyline Apartments $600,000.00 as a deposit on the purchase price of the apartment. Thus, he continued to live in the apartment rent free and without paying the balance required to complete the purchase.

[41] In my judgment, Mr. Maxfield should pay rental from January 1999 (when it is accepted that the last payment was made) to the date of judgment. It is, however, recognized that Mr. Maxfield had made rental payments during this period. In order for the court to assess the specific amount that Mr. Maxfield is required to pay, further details of the

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[9] See Affidavit of Carolyn Moo-Young sworn to on the 21st December, 2007

payments made are required. It must be noted that the rental amount would have increased considerably since Mr. Maxfield began his occupation of the premises, this would have to be taken into account in arriving at the sum for arrears for rent. The figure arrived at by the court is to be set off against the amount of damages which Mr. Maxfield will receive for breach of the Agreement for Sale.

[42] With regard to whether recovery of possession should be granted to the Defendant, it is my judgment that Mr. Maxfield should deliver up possession of the property. In the absence of evidence that it is exempt, the tenanted premises are controlled premises for the purposes of the Rent Restriction Act. Section 25 of the Rent Restriction Act allows the court to order recovery of possession if there are proceedings before the court for such recovery. It is clear that Mr. Maxfield has been in arrears of rent for a considerable period, thus one of the conditions precedent for recovery of possession has been met (see section 25(a) of the Rent Restriction Act).

**Summary**

[43] Dr. Marshall had the ostensible authority to enter into the Agreement for Sale, on behalf of Skyline Apartments, with Mr. Maxfield. Skyline Apartments Limited is therefore a party to a legally enforceable

agreement for the sale of Unit 4, Townhouse 4, 9A Skyline Drive, St. Andrew.

[44] Mr. Hugh Maxfield is in arrears for rental from January 1999 (when it is accepted that the last payment was made) to the date of this judgment.

[45] Skyline Apartments is entitled to recovery of possession of the apartment which Mr. Maxfield currently occupies.

[46] I therefore make the following orders:

1. Judgment for Hugh Maxfield on his claim in Claim No M-095/2002 and on the Counter Claim.
2. Damages to Hugh Maxfield for breach of the Agreement for Sale granted in lieu of specific performance. The amount of damages assessed to be equal to the current valuation of the premises at Unit 4, Townhouse 4, 9A Skyline Drive, St. Andrew. This valuation should include the renovations done by Hugh Maxfield. The Registrar of the Supreme Court is instructed to obtain a valuation of the premises from a licensed Real Estate Valuator for the purpose of fixing the amount of damages. The cost of obtaining the valuation to be borne by the Defendant, Skyline Apartment Hotel Limited.

3. In relation to Claim M-166/2002 the claim by the Claimant Skyline Apartments Hotel Limited for general damages for breach of tenancy contract is denied.
4. That Hugh Maxfield pays to Skyline Apartments Hotel Limited all arrears for rental accruing from January, 1999 to the date of this judgment.
5. That the Registrar of the Supreme Court prepares an Order of Accounting for Skyline Apartments Hotel Limited setting out the amount of the arrears of rental to be paid by Hugh Maxfield to Skyline Apartments Limited.
6. That the amount of arrears for rent to be paid to Skyline Apartments by Mr. Maxwell be set off against damages to be received by Mr. Maxfield for breach of contract as set out in (2) above.
7. That Mr. Maxfield delivers up possession of Unit 4, Townhouse 4, 9A Skyline Drive, St. Andrew within 30 days after the date of this judgment.
8. Costs to Mr. Hugh Maxfield in M-095 of 2002 and M-166 of 2002 as consolidated in accordance with CPR 2002.