



[2024] JMCC COMM. 21

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE COMMERCIAL DIVISION

CLAIM NO. SU2021CD00080

BETWEEN PURE HARVEST INCORPORATED CLAIMANT

AND PREMIUM FARMS AND TRADING LIMITED DEFENDANT

Mr Odeanie Kerr instructed by Alexander Williams & Co Attorneys-at-law for the Claimant

Ms Melissa McLeod and Ms Shayanne Hylton instructed by Ms McLeod Law, Attorneys-at-law for the Defendant

Section 27 of the Sale of Goods Act- Breach of Contract- Whether the contract provided for exclusivity- Whether payment was contingent upon sale of goods- Whether the Defendant is in breach of Contract

IN OPEN COURT

Heard on 4th, 5th, 6th March and 3rd May 2024

STEPHANE JACKSON-HAISLEY J.

INTRODUCTION

[1] Mr. Tamesh Jagmohan is the managing director of the Claimant, a company known as Pure Harvest Incorporated (Pure Harvest), which operates out of Demerara, Guyana. In around 2019 Mr Jagmohan having recently acquired 'rice

mills' was looking to expand its market and customers and so decided to explore the viability of the Jamaican market for the sale and distribution of its rice. Mr Jagmohan journeyed to Jamaica to meet Mr Richard Lake and Mr Omar Newell. Mr Lake is the managing director of the Defendant, Premium Farms and Trading Limited (Premium Farms) and Mr Newell was at the time its general manager. The meeting appeared to have been fruitful as by March 2019 Pure Harvest commenced distributing rice in the Jamaican market by sending its rice to Premium Farms for sale in Jamaica and Premium Farms in turn would pay them for the rice sent.

[2] According to Pure Harvest, Premium Farms made the required payments on the first few shipments however have failed to pay for the last two and so Pure Harvest has brought this claim against Premium Farms for their failure to make good on payments for rice sold and delivered to it. Pure Harvest claims that the balance due on account of invoices submitted for the delivery of long grain white rice goods totals One Hundred Thousand, One Hundred and Seventy United States Dollars (US\$100,170.00).

[3] Premium Farms has not denied receiving the rice, neither has it denied that the sums are outstanding but has instead alleged that there was an agreement for the Defendant to be the exclusive agent for distribution of the Claimant's rice and that the Claimant breached this exclusivity term ultimately resulting in the Defendant's inability to collect its receivables from customers. Further and/or alternatively that any sums due were based on the agreement and understanding that payments were wholly contingent on the successful completion of other sales contracts and a condition precedent to payment being made.

CLAIMANT'S CASE

[4] Mr. Jagmohan, the only witness on behalf of the Claimant, gave evidence that the company had been in the business of processing, buying and exporting rice for

four (4) years. Mr. Jagmohan stated that Pure Harvest had just acquired rice mills and was looking to expand markets and customers and on a visit to Jamaica, he was introduced to Mr Omar Newell and Mr Richard Lake and a meeting was arranged concerning their relationship to sell rice.

[5] He stated further that, at the meeting, discussions concerning volume, pricing and terms of payments, were had, however there was no agreement on a price as the parties decided that price would be per shipment or on a case-by-case basis. Mr. Jagmohan stated that there were no discussions regarding the Defendant being an exclusive agent for the sale of rice in Jamaica neither was there any discussion regarding being paid contingent on sales. When asked, Mr. Jagmohan indicated that price could not be agreed because it would change with each shipment. He disputed that the only thing that could not be agreed was the price for shipment but stated that each shipment is tied to a contract and everything is factored in each contract.

[6] Mr. Jagmohan stated that several shipments were sent to the Defendant and there were no issues with payment. However, in December 2020, invoices numbered 22878 and 22894 were submitted and despite repeated written and oral demand, Premium Farms has neglected and/or refused to pay the outstanding sum. He stated further that the sum of One Hundred Thousand, One Hundred and Seventy Thousand United States Dollars (US\$100,170.00) remains due and owing.

DEFENDANT'S CASE

[7] Mr. Richard Lake and Ms Erica Gordon gave evidence on behalf of Premium Farms. Mr. Lake testified that on or about November 2018, his business partner Mr Omar Newell introduced him to Mr. Jagmohan who wanted to break into the Jamaican market. He averred that a meeting was arranged between Mr Jagmohan, Mr. Newell and himself and the parties discussed pricing and the

logistics of the proposed goods to be distributed in Jamaica. He also stated that since Premium Farms already had the relevant infrastructure and established customer base, the issue of exclusivity was discussed and agreed by the parties as a secure measure for Premium Farms' investment of introducing Pure Harvest to the local market. This was also in exchange for Premium Farms undertaking all the costs for clearance, haulage, shipping, delivery and warehousing activities.

- [8]** Mr. Lake averred that Premium Farms' existing policy of giving 30 days' credit to its customers was discussed and it was understood that Pure Harvest would be paid upon collection of receivables from Premium Farms' customers. He stated further that at that time, Mr. Omar Newell was a shareholder and director of Premium Farms and several contracts were signed by Mr. Newell. Those contracts contained terms of payment of 14 days after shipment, however, based on a review of the company's account, at no time did the parties treat the contract as in effect and at no time payments were made within 14 days of the shipment of rice. Mr Lake also stated that the parties at all times acted as agreed in the meeting that payment would be made over the course of several months.
- [9]** Mr. Lake averred that when the first shipment of rice was received around April 2019, Premium Farms assumed the costs of all clearance, haulage, delivery, warehousing and logistics services associated with the importation of the rice and continued to do so for the subsequent shipments. He stated that all shipments were paid for over a period of months, not within 14 days after shipment and that prior to this claim, Pure Harvest has never complained about late payments or the mechanism of being paid. He stated that no demand letter was issued for failure to pay outstanding monies within the 14 days' period which is now being alleged.
- [10]** Mr. Lake continued that after his business partner's departure from the company around February 2020, there were challenges in collecting receivables from its customers. It was brought to his attention that Mr. Newell had started a new company and had taken some of the salespersons who apparently lured away

several of the company's key customers. He stated that this undermined Premium Farms' position in the local market and impacted its ability to collect receivables from its customers with whom it shared exclusivity.

[11] Ms. Erica Gordon the financial controller of Lydford Logistics Limited which is a related company of Premium Farms stated that she is aware that Premium Farms imported goods for sale from Pure Harvest as she had direct oversight of the importation of goods and payment of the shipment. She also gave evidence that several attempts were made to sell rice after Mr. Newell departed from the company however there were consistent complaints of its poor quality and the salespersons had started to work directly with Mr. Newell at his newly formed company which was in direct competition. She said further that customers complained of accessing Premium Farms' website and upon checks it was noted that Mr. Newell was still purporting to work for Premium Farms and customers thought they were making orders through Premium Farms. She indicated that the rice was eventually sold however, not all monies have been collected to date despite efforts to do so.

CLAIMANT'S SUBMISSIONS

[12] Counsel on behalf of the Claimant Mr Kerr submitted that the terms of payment under the contract were governed by the written contract agreed between the parties and at the time, Mr. Newell was authorized to enter into contracts on behalf of Premium Farms. Counsel submitted that Mr. Newell had apparent and ostensible authority to act for and on behalf of Premium Farms and relied on **Karin Murray v Brilliant Investment Ltd. & Ors** [2022] JMSC Civ 67 where Justice Nembhard cited Brooks J (as he then was) in **Ase Metal NV v Exclusive Holidays Elegance** [2013] JMCA Civ 37 which stated:

"There is one other aspect of the substantive law which is relevant to the issues joined between these parties. It concerns the reliance that a third

party may place on actions done by a representative of a company. The basis of this aspect of the law is that a company, being an artificial entity, can only act through agents. Those agents may have actual authority from the company to bind it. Even where an agent does not have actual authority to bind the company, third parties may, nonetheless, be entitled to rely on acts done by that agent, where the agent is held out by the company to have the requisite authority. That may be done either by actual representations to that effect, or by placing the agent in a position which usually carries that authority. The resultant authority is said to be an 'apparent' or 'ostensible' authority."

[13] Counsel also cited section 27 of the Sale of Goods Act which provides:

"It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the Contract of Sale."

[14] Mr. Kerr submitted that the Claimant discharged its duty to the Defendant and there were no variations of the contract to include any condition precedent between the parties. He submitted that the payments were not based on the sale of the products in the local market as alleged.

[15] Counsel refuted the Defendant's allegation of exclusivity and denied that Pure Harvest needed Premium Farms to break into the Jamaican market. Counsel submitted that no cogent evidence has been provided to support exclusivity and exclusive dealings.

[16] Finally, Mr. Kerr stated that the Defendant, on the one hand, is saying that the reason for not settling the debt is that the customers complained about the poor quality of the rice however, on the other hand, it is saying that Mr. Newell has lured away key customers to offer them the same rice. Counsel submitted that on the evidence presented, the Court should find that, on a balance of probabilities, that there were no issues with the rice and that the Defendant is entitled to pay the outstanding sums as agreed in the written contract.

DEFENDANT'S SUBMISSIONS

- [17] Counsel for the Defendant Ms. McLeod submitted that the issues to be considered are (i) what was the agreement between the parties, (ii) whether the agreement was made orally, in writing, or partly oral/partly written, (iii) whether Pure Harvest breached the agreement and whether this breach led to Premium Farms' repudiation of same, and (iv) whether in light of what was agreed and all the circumstances, Premium Farms owes monies as claimed by Pure Harvest wholly or in part.
- [18] Ms. McLeod contended that there is no dispute that an agreement existed between the parties but submitted that what the Court should examine is the terms of the agreement. Counsel averred that as Premium Farms already had the infrastructure in place, it was agreed that it would be the exclusive distributor of Pure Harvest's rice in Jamaica and would pay after it had collected from its customers. Counsel stated that the terms of the contract were agreed between the parties at the meeting in November, 2019 and submitted that it is improbable that the meeting would have ended without payment terms being fully discussed and determined.
- [19] Counsel submitted that the law recognizes that oral agreements are binding and enforceable in certain circumstances provided that the essential elements of a contract are present. Counsel relied on paragraph 9 of **Equilibrio Solutions Jamaica Ltd v Peter Jervis & Associates Limited** [2021] JMCC Comm 26 and submitted that when the Court considers the surrounding circumstances, it would be determined that an oral agreement was formed considering the conduct of the parties. Ms. McLeod further submitted that the course of dealings between the parties can be used to highlight the true terms of the contract. Counsel relied on **Addax Energy SA v Petro Trade Inc.** [2022] EWHC 237 (Comm) where Justice Cockerill noted that cases involving incorporation of contractual terms turn on their facts. Counsel commended the approach in **Addax** and submitted that the Court should consider course of dealings between the parties with regards to payment arrangements. Counsel contended that at no time in the relationship between the

parties did Pure Harvest demand payment within 14 days of shipment as the parties acted as orally agreed. Further, Counsel averred that although the parties purportedly executed a series of written agreements for each shipment of rice, this was a formality.

[20] Counsel submitted that if the Court is minded to accept the terms of the Sale/Purchase Contract for Rice supply, it is submitted that the written agreement is not the entire agreement between the parties and should be treated as partly oral and partly written. Counsel relied on **Gillespie Brothers & Co. v Cheney, Eggar & Co.** [1896] 2 QB, 59, **J. Evans & Son (Portsmouth) Ltd. v Andrea Merzario** [1976] 1 WLR 1078 and **Tibby's Auto Supplies et al v Mullings (Bosworth) et al** SCCA N0. 121/1998 in support of her proposition.

[21] Ms. McLeod urged the court to reject the purported 14 days' period for payment and submitted that the conduct of the parties from the start to the end of the contractual period should be considered. Counsel submitted that Pure Harvest is in breach of the exclusivity agreement between the parties, which provided that Premium Farms would be the sole distributor of its rice in Jamaica when it engaged the business of Premium Farms former General Manager to distribute rice in Jamaica. Counsel relied on **Stoeznia Gdanska SA v Latvian Shipping Co. (No. 3)** [2002] EWCA Civ 889 for guidance on the law of repudiation of contracts and highlights how one party's breach of contract can lead to repudiation of the contract. Ms. McLeod also relied on **Sabal PH v GM Associates Limited** [2020] JMCA Civ 43 as well as **Hongkong Shipping Co. Ltd. v Kawasaki Kisen Kaisha Ltd.** [1962] 2 QB 26 at 66 and submitted that exclusivity goes to the root of the contract, a breach of which deprived Premium Farms of the whole benefit of the contract.

[22] Finally, Ms McLeod contended that Premium Farms has already paid what it has received from its customers and any further obligation to pay does not arise until it has collected for the rest of the shipment.

ISSUES

- (a) What is the nature of the agreement between the parties, and did it provide for exclusivity and/or for payment being contingent upon sales?
- (b) Whether the Defendant is in breach of the contract?

DISCUSSION

What is the nature of the agreement between the parties and did it provide for exclusivity and/or for payment being contingent upon sales?

[23] This is a claim for sums owed to the Claimant for two shipments of rice which the Claimant sent to the Defendant in December 2019. It is accepted by both parties that the Defendant received the shipments and that the Defendant had failed to make the payment for the said shipments. The issue that arises is whether the Defendant is liable to make this payment. If as the Defendant alleges, there was in fact an exclusivity clause which has been breached by the Claimant or payment was contingent upon successful sales then the Defendant would not have been in breach and not liable to make this payment. The resolution of this issue turns more on the question of credibility of the witnesses and less on the legal questions identified by the parties.

[24] In determining where the truth lies, the court must be guided by the oral evidence as well as on the documents supportive of the parties' respective positions. It is therefore important to first ascertain what was the nature of the agreement between the parties concerning the sale of the rice.

[25] Even though the parties met and had discussions, it is clear that there was no formal agreement as to how the transactions between the two companies would be governed. According to Mr Jagmohan, there was an oral agreement that price would be decided per shipment or on a case-by-case basis. A previous

Sale/Purchase Contract for Rice Supply dated 19th November 2019 from Pure Harvest to Premium Farms designated the Claimant as seller and the Defendant as buyer of 1000 metric tons of Guyana long grain white rice. It was expressly stated therein that payment by buyer was 14 days from shipment. The Claimant in cross-examination accepted that payment was never made within the 14 days stipulated. What is clear to me is that it was not Mr Lake who seemed to be directly involved in the dealings with Pure Harvest but rather the company's then general manager Mr Omar Newell. Mr Newell however did not give evidence at the trial of the matter.

[26] Although there is no written agreement, the Court is empowered to look at the discussions between the parties or their agents and any written documents to ascertain the nature of the contract if any between the parties. In the case of **Roger Williams v Edgehill Homes Ltd.** [2022] JMCC COMM 32 (not cited before me), Palmer-Hamilton J was confronted with a similar situation in that there were no written contracts and the Court was moved to consider surrounding circumstances to determine the existence of an oral agreement. Palmer-Hamilton, at paragraph 46 quoted Edwards JA in the case of **Carlton Williams v Veda Miller** [2016] JMCA Civ 58 who provided guidance as to how the court is to assess whether a contract exists. She stated at paragraphs 31-33 that:

*“[31] How should a court approach the issue of considering whether there is a valid contract in existence? **Firstly, if it is in writing, then it is normally not necessary to look beyond the four corners of the document to find the terms of the contract.** In the absence of any written document, where the contract is alleged to be oral, the court must look for the intention of the parties in the words said at the time the contract was alleged to have been made, the conduct of the parties to the contract and any evidence of the negotiations at the time of the contract. What the court cannot do is create a contract where none existed. However, as in this case, where one party is asserting that there was an oral contract, it is the duty of the court to thoroughly examine all the circumstances and determine whether or not the parties, by their words, conduct and*

negotiations, intended their actions to have legal consequences.”
(emphasis mine)

- [27] It is important therefore to look not only at the discussions, negotiations and any documents but also at the conduct of the parties and how the course of their dealings flowed. At the beginning of dealings, the only documents that were exchanged were emails and the invoices. In the course of the emails that passed between them there was never any mention of exclusivity or payment being contingent upon sales. There is no dispute that a written agreement governs the relationship between the parties, however the Defendant alleges that the written contract is not the entire agreement as terms regarding payment and exclusivity discussed at the initial meeting were not included in the written contract. Any additional support for this position on the Defendant's case was not forthcoming due to the absence of evidence from Mr Newell who was an essential part of the transactions. It is squarely a question then of the evidence of Mr Jagmohan vis a vis that of Mr Lake.
- [28] Counsel for the Defendant maintained that even though the written contract stated that payment was to be within 14 days of shipment, the course of conduct from the inception showed that this was never the norm as payment would be made, at times, months after shipment. Counsel for the Claimant has maintained that the Sale/Purchase Agreement for Rice supply is the entire contract which provides for payment to be made 14 days from the date of shipment. The Claimant also disputes any discussions regarding exclusivity averring that the Defendant is not its only customer.
- [29] The authority of **Equilibrio Solutions Jamaica Ltd** relied on by the Defendant is useful but not directly applicable to the instant scenario. In the case at bar, the Defendant is the only party asserting that the Sale/Purchase Agreement for Rice Supply is not the entire contract. In fact, the Claimant has consistently maintained its position that the terms of payment were governed by the contract and that there

is no exclusivity. In **Equilibrio Solutions Jamaica Ltd**, there were deliberations between the parties as to the “Terms of Agreement” and an “Appendix A” which sets out the breakdown of an agreed sum, however in the case at bar, there is reference to only one meeting between the parties regarding the supply of rice.

[30] It is of note that Mr Jagmohan and Mr Newell exchanged several emails during the course of doing business. On March 10, 2019 Mr Jagmohan wrote by email to Mr Newell with reference to what appears to be the first shipment. He pointed out expressly that the agreed payment term was 14 days from the date of shipment. There was no response by or on behalf of Mr Newell or anyone on behalf of the Defendant disputing this term. In fact, throughout the course of their communication via email the only issue raised was that of the name of Restaurants Associates being used instead of Premium Farms. Something as important as exclusivity, I would have expected would have been the subject of a written document. I would also have expected that in their subsequent communications by email this would have been mentioned. If there were discussions regarding exclusivity at that initial meeting it would have been incumbent on each party to ensure that forms part of the contract.

[31] The Defendant’s allegation is that, since inception, all payments for the supply of rice were paid after the 14 days’ stipulated in the written contract and the Claimant has never made a demand for the payment nor were there complaints of late payments. Counsel contended that this is sufficient to show that the parties always intended for the payment to be contingent upon the sale of the product in the Jamaican market. Apart from this assertion, the Defendant alleges that as Pure Harvest was seeking to break into the Jamaican market, it was orally agreed that payments would be made after collection given the Defendant’s existing credit terms with its customers.

[32] During cross-examination of Mr Jagmohan it was suggested to him that there was never this understanding for payments to be made within 14 days however he

never resiled from that position. It was pointed out to him that in relation to the first shipment in June 2019, payment was only made in October which was over 100 days later but yet he took no issue. He accepted that there were late payments and that the Defendant was always delinquent however, he explained that as he was trying to break into the market, he extended the olive branch, rubbing and massaging and explained that they raised their tolerance level very high in order to accommodate the Defendant. Further, that Pure Harvest did everything it could to arrive at an amicable solution and it was when this failed that it took the Defendant to Court.

[33] The authority of **Addax** commended by the Defendant does not aid in the Defence as this was a relatively short arrangement wherein the first shipment was in April, the second in June and the third and fourth in December. The fact of there being only two shipments before the ones the subject of this Claim, would have been insufficient to establish any pattern or reliance on a previous course of dealing to which the parties would be bound. Moreover, for a course of conduct to be formed there would be a need for the terms and conditions to be consistent and unequivocal. This is not so in this case. The fact that the written provisions in the Sale/Purchase Contract clearly stipulated fourteen days would also distinguish it from the **Addax** case where it appears that although there were invoices which referred to the terms, these invoices were not previously sent to the Defendant.

[34] I found the position explained by Mr Jagmohan to be a reasonable and credible position for someone seeking to break into a market. I also find as the fact that although the payments exceeded the 14 days' period for payment, and he did not contest this, it did not mean he was in agreement but rather felt constrained by the circumstances to go with it and since they did eventually make the payments on the first two shipments. This is consistent with a business wanting to break into a market. I do not accept that as evidence that payment was only to be made after sales were completed.

[35] Mr Lake in his evidence spoke to the fact he had no involvement with the day-to-day operations of the business and that Mr Omar Newell was responsible for that. He said it was his understanding that Mr Newell signed several contracts on behalf of Premium Farms between March to November 2019 and that those contracts contained terms for payment of 14 days after shipment. He went on to say that the parties at all times acted as agreed in the meeting as payments were made over the course of one to two months. I do not find that Mr Lake could really speak affirmatively to the actions that transpired during this period as it was really Mr Newell who was dealing with this aspect of the business.

[36] In the Defendant's submissions, it was advanced that the written document is not signed by Mr Lake the decision maker and therefore should not be given effect. However, the clear evidence is that at the time of the discussions and the months following, Mr Newell was acting on behalf of the Defendant in his capacity as its general manager so I find as a fact that he had the requisite authority to conduct business on behalf of the Defendant including signing on its behalf.

[37] During the course of cross-examination of Mr Lake, when he was shown the Sale/Purchase Contract he accepted that it was the contract for the sale of rice between the two companies however he pointed out that it was signed by Mr Newell and would have to be in the terms previously agreed in the context of the agreement between Pure Harvest and himself and that Mr Newell was not authorized to negotiate terms or price. He insisted that Mr Newell did not have the authority to sign on his behalf. It is curious that such a position was not indicated in the Defence nor in the witness statement. I did not accept it as reflective of the true position. I am of the view that it is only because of the fall out between Mr Newell and Premium Farms why Mr Lake has now taken this position. In fact, I find the position of Mr Newell in relation to the company to be consistent with the **Karin Murray** case and that his actions operated to bind the Defendant to the contract.

[38] Mr Lake went on to say that the parties never treated these contracts as being in effect whilst admitting that he was not involved in the day-to-day operation of the business. It is obvious that it was Mr Newell who had direct involvement with Pure Harvest and how its sale of rice was treated with, a position which Mr Lake did not voice or demonstrate any opposition to at the time. Even when asked about the debt Mr Lake seemed to be changing the evidence in his witness statement to say that he didn't consider his company to be in debt.

[39] I have taken into account the Defendant's argument that the Sale/Purchase Contract is not the entire agreement and that regard should be had to the exclusivity argument. In his evidence he sought to say that Pure Harvest breached the exclusivity contract but yet had not mentioned this before in his witness statement. Although he was insisting on this agreement for exclusivity when he was asked if he agreed that Premium Farms was generally satisfied with the goods received from Pure Harvest, he responded that the earlier shipments met the quality standards, the latter ones did not and that they were taking the goods more on consignment more so than on the basis of sale. I found that this response was a contradiction to his earlier evidence as he seems to be conceding that there was a change in how he operated with the Claimant based on the change in the quality of the product.

[40] It became obvious to me that the change in how Mr. Lake and Premium Farms dealt with the Claimant was heavily influenced by Mr. Newell's sudden departure from Premium Farms in or around February 2020 and the fall out with Mr Newell. Mr Newell was no longer the Defendant's managing director and had moved on to form a company that was competing with the Defendant and had started to operate in a manner that was affecting the sales of the Defendant. Mr. Lake expressly stated that there was a change in the Defendant's posture toward the Claimant with no evidence of this being communicated to the Claimant. Their failure to make good on the invoice is consistent with their new position. In any event when I

compare the evidence given by Mr Jagmohan with that of Mr Lake, I found Mr Jagmohan to be more consistent and credible.

[41] Ms Gordon's evidence was that several payments were made to the Claimant however she mentioned challenges faced in selling the rice due to several complaints about its poor quality but indicated that due to COVID-19 all the rice was eventually sold. Despite that they have failed to pay the Claimant in its entirety and not all monies have been collected and Premium Farms continues to incur costs in trying to collect these monies.

[42] On a balance of probabilities, I find the Claimant's case to be more consistent with the truth than that of the Defendant's. I therefore do not accept that there was an agreement for exclusivity, nor was there any agreement that the payment of invoices was contingent on sales.

Whether the Defendant is in breach of the contract?

[43] I accept that the contract was one in which the Claimant sent the rice to the Defendant and the Defendant was expected to satisfy the invoice within 14 days of receipt. The fact of the Defendant failing to abide by this term could hardly be laid at the feet of the Claimant. The fact that the Claimant did not initially raise any objection to the late payments is no indication of having acquiesced to payments being made later nor is it an indication that there was any change in the terms of the contract agreed at the meeting which was simply that payment was to be made upon delivery.

[44] The Sale of Goods Act has been referred to by the parties. Section 27 requires the seller of goods to deliver the goods and the buyer to accept and pay for them in accordance with the terms of the contract. This is essentially what the Claimant is seeking and so he is entitled to be paid in accordance with the Sale/Purchase Contract signed by the representatives of both parties. The Defendant having

failed to make payment in accordance with the invoices dated December 11, 2019 and December 20, 2019 renders the Defendant in breach of the contract.

[45] There is a discrepancy with respect to the total sum outstanding. The claim is for the sum of One Hundred Thousand, One Hundred and Seventy United States Dollars (US\$100,170.00). It was suggested to the Claimant that there was in fact a further payment of Ten Thousand United States Dollars (US\$10,000.00) which he did not account for and his response was that he could not recall. Ms. Gordon on behalf of the Defendant testified that a further payment of Ten Thousand United States Dollars (US\$10,000.00) was made to the Claimant's attorneys-at-law. The Claimant did not seek to challenge this evidence. The Defendant's evidence in respect of this payment is also supported by a screenshot reflecting a payment from Attorney-at-law Mr Alexander Williams. I therefore accept that there was this further payment which would reduce the outstanding amount by Ten Thousand United States Dollars (US\$10,000.00)

[46] Judgment is for the Claimant in the sum of Ninety Thousand, One Hundred and Seventy United States Dollars (US\$90,170.00) with costs to the Claimant to be agreed or taxed.

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Stephane Jackson-Haisley
Puisne Judge