

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CIVIL DIVISION)

CLAIM NO. ANUHCV2025/0599

BETWEEN:

BROWN'S BAY RESORT LIMITED

Claimant

and

**STACY A. RICHARDS
T/A RICHARDS & COMPANY**

Defendant

Appearances:

Dr. David Dorsett for the Claimant

Mr. John Carrington KC, with him, Ms. C. Debra Burnette, Ms. Mandi A. Thomas, Ms. Sage Quinn and Ms. Cheryl-Lee Bolton for the Defendant

2026: February 25th, 26th.

ORAL DECISION

- [1] **MICHEL, M.:** This is the Court's decision on an application by the Defendant, Stacy A. Richards t/a Richards & Company ("**Ms. Richards**") for a stay of proceedings.
- [2] Ms. Richards filed an application on 19th January, 2026 for an extension of time within which to file a defence to the claim by the Claimant, Brown's Bay Resort Limited ("**Brown's Bay**"), alternatively, for the claim to be stayed pending the outcome of Claim No. ANUHCV2025/0587 between Stacey A. Richards t/a Richards & Company and Brown's Bay Resort Limited and the Estate of Sergio Poli, deceased. At the start of the hearing of the application on 25th February, 2026 Mr. Carrington KC for Ms. Richards indicated to the Court that Ms. Richards would primarily be seeking an order for a stay of proceedings and as an alternative, an extension of time to file her defence. There was no opposition to this approach by Dr. Dorsett, learned Counsel for Brown's Bay and Counsel for the Parties proceeded to make submissions to the Court accordingly.
- [3] The central issue for the Court to determine is whether the Court should exercise its case management power to stay the present proceedings brought by Brown's Bay against Ms. Richards pending the determination of a Fixed

Date Claim filed by Ms. Richards against Brown's Bay and others on 17th December, 2025.

- [4] I do not believe that the following facts are in dispute. By an escrow agreement dated 10th September, 2024 ("**the Escrow Agreement**"), Ms. Richards agreed to be an escrow agent with respect to a sale and purchase agreement of Brown Bay's lands in which Brown's Bay was the Vendor and David Bjorn Droga was the Purchaser. In accordance with a sales and purchase agreement between the Vendor and the Purchaser, the Purchaser paid monies due under the sales and purchase agreement ("**the Escrow Funds**") to Ms. Richard's who, in accordance with the Escrow Agreement, accepted the Escrow Funds and held them to be placed in an account at the Eastern Caribbean Amalgamated Bank. The sales transaction of Brown Bay's lands to David Bjorn Droga concluded sometime prior to 3rd June, 2025.
- [5] Presumably, a dispute later ensued between the Parties in relation to the disbursement of funds held in escrow by Ms. Richards
- [6] By Fixed Date Claim form filed on 17th December, 2025 ("**the Fixed Date Claim**"), Ms. Richard sought from the Court the following orders in relation to the interpretation of the Escrow Agreement:-
1. A declaration that the true interpretation of clause 7 of the Escrow Agreement entered among the Claimant and the First Defendant and David Bjorn Droga dated 10th September, 2024 is that the Claimant, as escrow agent, is not obligated to disburse any of the funds held on escrow to the First Defendant until she has received a unanimous resolution of the shareholders of the First Defendant authorizing the disbursement and confirming the details for disbursement.
 2. A declaration that the document dated 24th October, 2025 headed Resolution of Shareholders of the First Defendant does not constitute a unanimous resolution of shareholders of the First Defendant
 3. A declaration that the Claimant is not currently obligated to disburse the escrow funds based on the said resolution dated 24th October, 2025 or otherwise.
 4. Such further or other relief as to the Court deems just.
 5. That the Claimant's costs of the proceedings be provided for from the escrow funds held by her.

- [7] Brown's Bay subsequently commenced the present proceedings against Ms. Richards by claim form and statement of claim filed on 22nd December, 2025 (**the Present Claim**). The claim form states that Brown's Bay claim is:-

"A claim for the payment of trust funds in the sum of US\$1,470,829.94 upon the invocation of the rule in Saunders v Vautier and/or a claim for restitution of unjust enrichment of US\$1,470,829.94 and/or an action for money had and received by the Defendant in the sum of US\$1,470,829.94 and/or an action in debt for US\$1,470,829.94."

- [8] Brown's Bay seeks the following remedies on the Present Claim:-

- 1) An order that the Defendant do pay to the Claimant the sum of US\$1,470,829.94.
- 2) Damages.
- 3) Interest pursuant to s27 of the Eastern Caribbean Supreme Court Act, the cause of action arising on 11th December, 2025 when the Claimant extinguished the trust instrument.
- 4) Interest pursuant to s7 of the Judgments Act from the date of judgment to payment.
- 5) Prescribed costs.
- 6) Such further or other relief pursuant to s20 of the Eastern Caribbean Supreme Court Act.

- [9] The Fixed Date Claim by Ms. Richards came on for hearing before Drysdale J on 13th January, 2026 and was adjourned to 10th March, 2026 for the hearing of an application by Brown's Bay to strike out and/or stay the Fixed Date Claim. In the meantime, Ms. Richards had not yet filed a defence to the Present Claim and subsequently filed this application on 19th January, 2026 in which she is seeking a stay of the proceedings, alternatively, an extension of time to file a defence.

- [10] Rule 26.1(2)(q) of the Civil Procedure Rules (Revised Edition) 2023 ("**CPR 2023**") empowers the Court to stay the whole or part of any proceedings generally or until a specified date or event. The Court also has an inherent power to stay proceedings as conferred by the **Eastern Caribbean Supreme**

Court Act (“the Supreme Court Act”).¹ Section 18 of the **Supreme Court Act** provides:-

“No cause or proceeding at any time pending in the High Court or in the Court of Appeal shall be restrained by prohibition or injunction but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto:

Provided that-

(a) nothing in this Act shall disable the High Court or the Court of Appeal, if it thinks fit so to do, from directing a stay of proceedings in any cause or matter pending before it; and

(b) any person, whether a party or not to any such cause or matter who would formerly have been entitled to apply to any court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, in contravention of which all or any part of the proceedings in the cause or matter have been taken, may apply to the High Court or to the Court of Appeal, as the case may be, by motion in a summary way, for a stay of proceedings in the cause or matter, either generally, or so far as may be necessary for the purposes of justice, and the court shall thereupon make such order as shall be just.

[11] In **Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan et al**,² Periera CJ, discussing an identical provision in the **Eastern Caribbean Supreme Court (Virgin Islands) Act**, stated that ‘section 18 of the **Supreme Court Act** confirms that the Court of Appeal and the High Court have [inherent] jurisdiction to grant a stay of proceedings in any matter before it, if it thinks fit to do so.’ It was held by the Court of Appeal that this inherent power is not subsumed by CPR, but rather, the power under the CPR and the Court’s inherent jurisdiction exists individually and may be invoked cumulatively or alternatively.³

[12] In the case of **Athena Capital Fund SICAV-FIS SCA and others v Secretariat of State for the Holy See**⁴ the English Court of Appeal held that in the circumstances such as this case where the stay being sought is a matter of case management, the single test is whether in the particular circumstances it is in the interests of justice for a case management stay to be granted. In considering whether to grant a stay of proceedings, I am of the view that the Court should have regard to all the circumstances of the case.

¹ Cap. 143, Laws of Antigua and Barbuda.

² BVIHCVP2021/0014 (delivered 4th June 2021, unreported) at para. 11.

³ Ibid. at para. 7

⁴ [2022] EWCA Civ 1051.

[13] Having considered Ms. Richard's application and having heard the submissions of learned counsel for the parties and having reviewed the authorities referred to the Court, I am satisfied that the Present Claim by Brown's Bay should be stayed pending the hearing and determination of the Fixed Date Claim or further order of the Court, for the following reasons.

[14] I have reviewed the Fixed Date Claim and the Present Claim. It is clear to me that the dispute between the Parties has arisen because the parties have contrasting interpretations of the Escrow Agreement, particularly clause 7, which provides:-

“The Escrow Agent agrees with the Vendor that funds which she is obligated to disburse to the Vendor pursuant to the Sale Agreement shall only to disbursed upon receipt of a unanimous shareholder resolution of the Vendor authorizing the disbursement and confirming the details for disbursement. Upon the termination or closing of the transaction, until such time as the said resolution is received, the Escrow Funds shall remain with the Escrow agent held to the order of the Vendor.

[15] In the Present Claim, Brown's Bay alleges that as between Brown's Bay and Ms. Richards, the Escrow Agreement was in the nature of a trust instrument. Brown's Bay further alleges that a demand was made for payment of the Escrow Funds by letter to Ms. Richards and that by further letter dated 11th December, 2025 Brown's Bay made yet another demand of Ms. Richards for the payment of the Escrow Funds by 19th December, 2025 invoking the rule in **Saunders v Vautier**⁵ and extinguishing the trust instrument.

[16] The objective of Ms. Richard's Fixed Date Claim is for the Court to interpret the Escrow Agreement and the obligations upon her derived therefrom. Thus Ms. Richard's, by the Fixed Date Claim, is seeking the Court's determination of the basis upon which the funds held in escrow are to be paid, that is whether the obligation to disburse has arisen or not.

[17] The premise of the Present Claim in large part relies on whether the Escrow Agreement was a trust instrument and that the rule in **Saunders v Vautier** applies. The alternative reliefs sought by Brown's Bay all rest upon an obligation by Ms. Richards to pay out to Brown's Bay the money held on the Escrow Account. Mr. Carrington KC's submission on behalf of Ms. Richards is that nothing is owed until the contractual obligation to disburse has arisen and that

⁵ (1841) 4 Beav. 115.

the Court on the Fixed Date Claim has been asked to interpret the provision which provides for payment to be made.

- [18] On the Fixed Date Claim, the Court will be called upon to scrutinize and construe the Escrow Agreement. In doing so, there is no doubt the Court will have to satisfy itself as to the nature of the Escrow Agreement. In considering the Present Claim, the Court will also have to construe the Escrow Agreement to determine whether, as alleged by Brown's Bay, the Escrow Agreement is in the nature of a trust instrument, and further whether it has now been extinguished and the obligation for the disbursement flows therefrom. In my view, whilst the proceedings may not be the same, they are certainly closely tied together.
- [19] Mr. Carrington KC on behalf of Ms. Richards submitted that if the Court determining the Fixed Date Claim finds in its interpretation of the Escrow Agreement that it is not a trust instrument, the basis upon which the Present Claim is predicated would collapse. Dr. Dorsett, learned counsel for Brown's Bay in response to the question of what effect a declaration in the Fixed Date Claim would have on the Present Claim, submitted that a declaration by the Court on the Fixed Date Claim would be no answer to the Present Claim. He submitted that the effect of a declaration at most is they would have to make conditions so that payment could be made, but it does not put an end to the claim. To my mind, whichever view is taken, the determination of the Fixed Date Claim would have an impact on the Present Claim and further, there is a risk of tension between two decisions of the court.
- [20] Accordingly, I agree with learned King's Counsel for Ms. Richards that in the circumstances, it makes good sense and it would be in the interest of justice to stay the Present Claim pending the determination of the Fixed Date Claim.
- [21] Additionally, I note that the Fixed Date claim was filed first in time. In **St. Kitts Nevis Anguilla National Bank Limited v Caribbean 6/49**⁶ and **The Attorney General of Saint Lucia v Darrel Montrope**,⁷ it was held that 'the court office in determining which of two applications should be heard first, ought logically to schedule the application filed earlier in time first.'⁸ Although this is a general rule and it relates to applications, considering the close connection between the Fixed Date Claim and the Present claim, in my view, adopting a similar approach to the two claims is sensible. The Court should logically deal with the claim filed first in time, being the Fixed Date Claim.

⁶ Saint Christopher and Nevis High Court Civil Appeal No. 6 of 2002 (delivered 31st March 2003, unreported).

⁷ SLUHCVP2019/0021 (delivered 9th July 2020, unreported).

⁸ Ibid at para. 25.

[22] I also note that Ms. Richard's action is by way of a fixed date claim and the Present Claim by Brown's Bay is an ordinary claim. By its very nature, the fixed date claim procedure is meant to be shorter than that of ordinary claims. The Court also has the power under CPR 27.2(4) to treat the first hearing of a fixed date claim as the trial of the claim if it considers that the claim can be dealt with summarily. This is unlike an ordinary claim which goes through the normal, lengthier, pre-trial case management. Accordingly, the Fixed Date Claim should be disposed of speedily.

[23] The Parties have also indicated that there is a pending application by Brown's Bay pursuant to CPR 9.7 to strike out or stay the Fixed Date Claim which comes on for hearing on 10th March, 2026. On the authority of **Darrel Montrope**, Dr. Dorsett for Brown's Bay is correct that the filing of that application by Brown's Bay effectively operates as a stay of Fixed Date Claim proceedings. However, the nature of such a stay is to prevent the Parties from taking any further steps in the proceedings until the application is heard, preventing one party from 'stealing a march' on the other by curing defects in its pleadings that a strike out application seeks to impugn. In the present case, surely, if the Court in the Fixed Date Claim were to accede to Brown Bay's application to strike, alternatively stay the Fixed Date Claim, any stay granted in the Present Claim would be lifted and the Present Claim would proceed.

[24] I recognize, as was pointed out by Dr. Dorsett for Brown's Bay, that as a general principle, litigants are entitled to bring their claims before the Court. However, having regard to all the relevant factors referred to by learned Counsel for both Parties, I am of the considered view that it is fit and in the interests of justice to stay the Present Claim until the Fixed Date Claim is determined.

[25] As it relates to the issue of costs, the Parties have agreed that cost should be costs in the cause.

[26] For the above reasons, I order as follows:-

1. These proceedings are stayed pending the determination of Claim No. ANUHCV2025/0587 Stacey A. Richards t/a Richards & Company vs Brown's Bay Resort Limited and Estate Sergio Poli, deceased, or further order of the Court.
2. Liberty to apply.
3. Costs on this application shall be costs in the cause.
4. Counsel for Ms. Richards shall have carriage of this Order.

[27] I wish to thank learned Counsel on both sides for their helpful submissions.

Carlos Cameron Michel
High Court Master

By the Court

Registrar