

**IN THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

IN THE HIGH COURT OF JUSTICE

CLAIM NO: ANUHCv2019/0600

BETWEEN:

CECIL CHARLES

Claimant

-and-

MARLON BROWN

Defendant

Appearances:

Ms. Sylvia O'Mard for the Claimant

Ms. Sherrie-Ann Bradshaw for the Defendant

2022: November 22nd

Addendum to the Oral Judgment delivered on the 22nd November 2022

- [1] **Byer J.:** At the delivery of the above judgment on the 22nd November 2022, the court was informed by counsel for the defendant that she had dutifully filed her submissions as due, on the 14th November, 2022 although the same were never brought to the attention of the court.
- [2] Therefore at the delivery of the judgment the court undertook to produce an addendum to the judgment after considering the submissions of the defendant. This is therefore in fulfilment of that undertaking by the Court.
- [3] I have now considered the submissions by the defendant and note that they withdrew their reliance on the provisions of the Limitation Act No 8 of 1997 (the Act). That position is noted by the court but does not in any event affect the findings of this Court that the same do not apply to the proceedings at hand as stated at paragraphs 23 to 27 of the judgment as delivered.
- [4] In relation to the submissions that there was no intention as between the defendant and the claimant that the defendant would repay the debt as paid by the claimant, this court does not accept that there is in fact a requirement for there to exist intention on the part of the parties.

[5] Indeed the Court reiterates its findings that the nature of the obligation between the claimant and the defendant as surety and principal debtor, where the surety is pressed to pay on behalf of the principal debtor, has absolutely nothing to do with the intention or agreement as between the parties.¹

[6] The Court therefore orders that the order made on the original oral judgment stands and judgment is entered for the claimant as herein stated.

P. Nicola Byer
High Court Judge

By the Court

Registrar

¹ **Brooks Wharf & Bull Wharf Ltd v Goodman Brothers** 3 All ER 696