

GND.C.I.

⑬, 1963

IN THE PRIVY COUNCIL

No. 44 of 1961

ON APPEAL
FROM THE SUPREME COURT OF THE BAHAMA ISLANDS

B E T W E E N :

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD
Appellant

- and -

ALBERT SOLTYS ... Respondent

R E C O R D O F P R O C E E D I N G S

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
19 JUN 1964
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LONDON, W.C.1.

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IN THE PRIVY COUNCIL

No. 44 of 1961

ON APPEAL
FROM THE SUPREME COURT OF THE BAHAMA ISLANDS

B E T W E E N :

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD
Appellant

- and -

ALBERT SOLTYS ... Respondent

RECORD OF PROCEEDINGS

10

No. 1

In the Supreme
Court of the
Bahama Islands

WRIT OF SUMMONS

IN THE SUPREME COURT OF THE BAHAMA ISLANDS

No. 1

COMMON LAW SIDE

1959 No.51

Writ of
Summons.

BETWEEN

26th February,
1959.

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD,
Plaintiff

- and -

ALBERT SOLTYS, ... Defendant

20

ELIZABETH The Second, by the Grace of God, of the
United Kingdom of Great Britain and
Northern Ireland and of Our other realms
and territories Queen, Head of the
Commonwealth, Defender of the Faith.

TO Albert Soltys
East Shirley Street,
Nassau, Bahamas.

30

WE COMMAND YOU, that within fourteen days after the
service of this writ on you, inclusive of the day

In the Supreme Court of the Bahama Islands

No. 1

Writ of Summons.

26th February, 1959

- continued.

of such service, you do cause an appearance to be entered for you in an action at the suit of The Honourable Sir George William Kelly Roberts Trading as The City Lumber Yard And take notice that in default of your so doing the Plaintiff may proceed therein, and judgment may be given in your absence.

WITNESS, the Honourable Sir Guy Henderson Our Chief Justice of Our Bahama Islands, the Twenty sixth day of February in the year of Our Lord One Thousand Nine Hundred and Fifty-nine.

10

N.B. - This Writ is to be served within six calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant may appear hereto by entering an appearance either personally or by Attorney at the Registry of the Supreme Court in the City of Nassau, New Providence, Bahama Islands.

STATEMENT OF CLAIM

20

The Plaintiff's claim is for the sum of £323.6.10., the balance of the purchase price of goods sold and delivered to the Defendant by the Plaintiff at the request of the Defendant, full particulars of which have already been supplied.

And the Plaintiff claims the sum of £323. 6. 10 together with interest thereon at the rate of six pounds per centum per annum from the date hereof until payment or Judgment.

30

(Sgd.) P.L. Adderley
Attorney for the Plaintiff.

And the sum of £7. 5. Od. for costs. If the amount claimed is paid to the Plaintiff or its Attorney within fourteen days after the filing of this Writ inclusive of the day of such filing, further proceedings will be stayed.

This Writ was issued by PAUL LAWRENCE ADDERLEY of the said City of Nassau whose Address for service is his Chambers, Frederick Street, in the said City. Attorney for the said Plaintiff.

40

No. 2

D E F E N C E

In the Supreme
Court of the
Bahama Islands

BAHAMA ISLANDS

1959 No. 51

No. 2

IN THE SUPREME COURT

Defence.

Common Law Side.

11th April,
1959.

BETWEEN

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD
Plaintiff

10

- and -

ALBERT SOLTYS ... Defendant

D E F E N C E

1. The Defendant never ordered any goods from the Plaintiff.

2. None of the goods mentioned in the Statement of Claim were ever delivered by the Plaintiff to the Defendant at his request or at all.

20

3. The Defendant never agreed to pay the Plaintiff any of the prices charged in the Plaintiff's particulars or any other prices.

Dated the Eleventh day of April 1959.

(Sgd.) G.A.D. Johnstone
Attorney for the Defendant.

Filed this 11th day of April 1959.

To: The Honourable Sir George
William Kelly Roberts

or Paul L. Adderley, Esq.,
His Attorney,
Chambers,
Nassau, Bahamas.

30

In the Supreme
Court of the
Bahama Islands

No. 3

OPENING SPEECH FOR THE PLAINTIFF

No. 3

Opening Speech
for the Plain-
tiff.

23rd March,
1961.

MR. PAUL L. ADDERLEY appeared for the Plaintiff Company.

MR. G.A.D. JOHNSTONE appeared for the Defendant.

MR. ADDERLEY: My Lord, this action is for the recovery of the sum of £323.6.10 which the plaintiff claims is due to him by the defendant. The circumstances arise out of orders placed for goods at the City Lumber Yard for the use in a building under construction, sir. The defendant was constructing a building in Nassau Street, that is the road going towards Oakes Field, and certain materials were delivered from the City Lumber Yard between 6th June, 1958 and 7th July, 1958, which the plaintiff claims was ordered on behalf of the defendant and which was delivered to the defendant and which the defendant has not paid.

10

The total amount of the claim is £323.6.10 and that is in fact the total amount of the materials that were charged by the plaintiff to the defendant.

20

I would like to call first the plaintiff's accountant, Mr. Carl Bethel.

COURT: What is the real point between the parties, identity is it?

MR. ADDERLEY: No sir. The defendant in his defence denies that it was ever done at all.

COURT: Unless it is a fabricated claim, the only question is whether the defendant got the things.

MR. ADDERLEY: I cannot go as far as to be able to say that. All I can gather from the defendant is that the defendant never actually ordered the goods himself, sir.

30

COURT: Then that is identity.

PLAINTIFF'S EVIDENCE

No. 4

KINGSLEY CARL BETHEL

KINGSLEY CARL BETHEL (Sworn) states:

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Q. What is your name? A. Kingsley Carl Bethel.

Q. Are you employed by the City Lumber Yard?
A. I am.

Kingsley Carl
Bethel.

Q. In what capacity? A. As accountant.

Examination.

10 Q. And as such you are in charge of the ledger
accounts, the delivery orders and various other
papers dealing with orders placed at the City
Lumber Yard? A. To post the ledgers.

Q. What is that Mr. Bethel? A. This is one of
our ledgers.

Q. Has that ledger got a sheet in it referring to
Dr. Soltys? A. Yes, sir.

COURT: When were they ordered, there's nothing on
the claim. It is in respect of the claim is it?

MR. ADDERLEY: Yes, sir.

20 Q. Mr. Bethel the accounts which actually appear
on that page what are they?
A. These are accounts that are due.

Q. What is the first date of entry?
A. June 6th, 1958.

Q. From June 6th, 1958 until when?
A. July 2nd, 1958.

Q. The total shown on that ledger sheet, Mr.
Bethel, is £323.6.10? A. Yes, sir.

30 Q. Now Mr. Bethel will you explain as to how you
arrived at this particular figure?
A. The first thing the receipt is made up, was
book 7.

Q. Book 7? A. The charge. It was made up from
one of these books.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Kingsley Carl
Bethel.

Examination
- continued.

MR. ADDERLEY: My Lord, can we take one instance for example of how the system works and the others will follow in the same way.

Q. Mr. Bethel can you find the first one for June 6th for £96.12.2? A. Yes.

Q. What is that you have there? A. No.015053.

Q. That is posted in your ledger under June 6th on the invoice No.015053 and the amount £96.12.2? A. Yes.

Q. The receipt which you have in your hand what is that made from? A. This is made from the order which is brought in by the purchaser, the receipt is made out in triplicate.

10

Q. What you have there is made out in triplicate? A. Yes. We send out 2 with the truck driver, the receiver signs one of them and keeps the other.

Q. Whoever it is delivered to? A. Yes, sir.

Q. What you have there ... A. This one is made up in triplicate.

Q. The first two copies are taken out by the truck driver. When it is delivered somebody signs one copy and keeps one. One is delivered to the truck driver and comes back to your office, is that right? A. Yes.

20

Q. You then end up with this in addition to one copy which you get from the truck driver? A. Yes.

COURT: What about the signature?

A. Mr. Adderley has the signature, this is not the signature.

30

Q. That is the corresponding invoice?

COURT: That is somebody's else's signature isn't it?

MR. ADDERLEY: The contractor.

COURT: Should it not be shown as an exhibit, exhibit 1, this exhibit 1 and that 2?

MR. ADDERLEY: My Lord, I think the ledger can 1A and the other 2A or A1-3 if you like sir.

COURT: What is the name of the contractor?

MR. ADDERLEY: B.L. Pratt.

In the Supreme
Court of the
Bahama Islands

Q. Mr. Bethel, on the receipt book the actual amount appears in the receipt book? A. Yes.

Plaintiff's
Evidence

Q. Are they put on the other two copies at the time the delivery is made or that is made up afterwards when the amount is ...

A. It is made up at the same time in triplicate.

No. 4

10 Q. Yes I know but when the actual amount is put on that when you figure out what a particular order is, that amount in the right hand margin where you have the £.s.d. not the amount for material the £.s.d. you see where I mean, the actual £.s.d. doesn't appear on this?

Kingsley Carl
Bethel.

Examination
- continued.

Q. No.015053 is that posted in your ledger under June 6th? A. Yes, sir.

Q. And the invoice No.015053? A. Yes.

Q. The amount is £96.12.2? A. Yes.

20 Q. Look at the receipt which you have in your hand. What is that made from? A. This is made from the orders which are brought in by the purchaser. The receipt is made out in triplicate.

Q. What you have there is made out in triplicate? A. Yes. We send out 2 with the truck driver. The receiver signs one of them and he keeps the other one.

Q. Whoever it is delivered to signs the receipt, sends it back to you and keeps a copy?

A. It is delivered to the truck driver.

30 Q. This one here is made out in triplicate? A. Yes.

Q. This page here, the first 2 copies are taken out by the truck driver? A. Yes, sir.

Q. Wherever it is delivered somebody signs each one. One is redelivered to the truck driver and the other one comes back to your office. Is that right? A. Yes.

Q. You then end up with this in addition to 1 copy which had gone out with the truck driver? A. Yes.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Kingsley Carl
Bethel.

Examination
- continued.

COURT: Is that the signature? A. This is not the signature, Mr. Adderley has the signature.

Q. Is that the corresponding invoice?

COURT: That is somebody else's signature is it?

MR. ADDERLEY: Yes, the contractor.

COURT: Should we not put them as exhibits. Exhibit 1 and 2?

MR. ADDERLEY: My Lord I think the ledger is 1A, sir and the other A2 or A1-3 if you like sir.

COURT: Yes. The name of the contractor is? 10

MR. ADDERLEY: B.L. Pratt.

Q. On the receipt book, Mr. Bethel, the actual amounts appear? A. Yes, sir.

Q. Are they put on the other copies at the time that delivery is made or that is made up afterwards when the amount A. They are made at the same time in triplicate.

Q. When the actual amount is put on that when you figure out what the particular order is, that amount in the right hand margin when you add up the £.s.d. not the amount of material. You see what I mean the actual £.s.d doesn't appear on this? 20
A. No, it doesn't.

Q. But it appears on that there?
A. Afterwards. Maybe a day later.

Q. But the actual calculation is made of the £.s.d?
A. Yes.

Q. Now the entry in the ledger, Mr. Bethel, follows the same pattern, is that right?
A. The same pattern, the same number. 30

Q. The number of the invoice corresponds with the number on the receipt which goes out? A. Yes, sir.

MR. ADDERLEY: My Lord, the receipt I would also like to put in.

COURT: No. 4

MR. ADDERLEY: No.4-14.

COURT: Then they can all be traced?
MR. ADDERLEY: Yes, Sir.

Q. On that ledger there are 2 deductions, one for £4.3.4 and the other for £14.12.3 on materials which were returned I believe.
A. Yes that is right.

Q. They appear as credits on the ledger sheet?
A. Yes, sir.

10 Q. Let me go back to the method of procedure which was actually followed here. Is this a standard procedure in the trade dealing with - at least in the manner in which it is handled by the City Lumber Yard, dealing with an order and delivery?
A. Yes, it is, sir.

Q. This is the standard method which is used by the City Lumber Yard in the stages for an order and delivery and accounting? A. Yes, sir.

Q. This invoice and the other which is left you say two go out with the truck driver? A. Right.

20 Q. And the truck driver brings one of these signed by somebody and the other one is left on the site?
A. That is right.

Q. Mr. Bethel, how long have you been working at the City Lumber Yard? A. 25 years.

Q. How long have you been doing the job which you are now doing? A. Since 1942.

Q. Has this procedure which you outlined this morning been followed by the City Lumber Yard ever since you have been there? A. Yes, sir.

30 Q. In your experience, Mr. Bethel, do you find that these delivery orders which come back to you from a site are always signed by the same person?
A. No, sir.

Q. Do you find that the method in many instances where these are actually signed by the owner?
A. Many times.

COURT: The owner of what?

40 MR. ADDERLEY: The actual owner, sir, not necessarily some employer of his but some person on the site, not the actual owner.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Kingsley Carl
Bethel.

Examination
- continued.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Kingsley Carl
Bethel.

Examination
- continued.

Cross-
examination.

Q. Is it more usual to find one signed by the owner or by somebody else or the other way around?

A. It is just by chance the owner might be home, or it might be a maid or the gardener might sign for it.

Q. No, I don't mean a man who is actually living in the house I mean a house that is actually under construction? A. Very seldom. It is usually signed by the contractor or his employees.

Q. That is when material is actually delivered to a construction site? A. Yes.

10

Cross-examined by Mr. Johnstone.

Q. Mr. Bethel in that ledger, Exhibit 1, there is a mistake in an entry I think for £4.6.4 which appeared as a debit and then later appeared as a credit? I am not sure that that is the correct amount? A. £4.16.0.

Q. What date was that? A. 14th July, 1958.

Q. So that on 14th July, 1958, an item was debited to Dr. Soltys' account and it was later discovered that should not have been done? A. That's right.

20

Q. Do you know how that occurred?

A. It was our mistake in the posting which at the end of the month we found that the books didn't balance wherefore we came upon this £4.16.0 which should have been credited there and transferred to the right person which followed.

Q. I think this was the first time that any business was conducted the City Lumber Yard in the name of Dr. Albert Soltys? A. I couldn't say definitely.

30

Q. This was the only one for the year 1958?

A. The only one to my knowledge that was charged to him.

Q. Can you tell from that ledger or are you in a position in court now to provide definitely on that? A. No because probably he might have done an account prior to June and our ledger was taken on a part of the way.

Q. Anyway can I get this much. I gather that Dr. Soltys was not a long standing regular established customer of the City Lumber on a charge basis?

40

A. No, sir.

Q. Your duties are confined to the accounting and you would know nothing of the delivery and whether or not the goods were in fact delivered?

A. Only by the signed receipt.

In the Supreme
Court of the
Bahama Islands

Q. You would only assume from a signed receipt that they were delivered? A. Yes.

Plaintiff's
Evidence

Q. I wonder if you would kindly look at those signed receipts. Look at the item for June 17th. There is actually no signature on that one is there? A. That's right sir.

No. 4

10

Kingsley Carl
Bethel.

Q. You said a moment ago that you assume that articles are delivered by persons whose signatures are on them? A. Yes, sir.

Cross-
examination
- continued.

Q. So that there would be some doubt in your mind in this particular instance as to whether in fact this had been delivered? A. We have right on the receipt where it was taken by Mr. Pratt.

Q. You have what? A. You have here on the copy of the receipt 8 lbs of nails taken by Mr. Pratt who was the contractor.

20

Q. Somebody in your office put on it 'taken by Mr. Pratt'? A. That's right.

Q. Now July 1st, two items. One of them is signed for by G. Turnquest and how much is that item? A. £1.7.0.

Q. There is another on that same date. The amount is £81.6.0 isn't it? A. Yes, sir.

Q. That is signed by whom? A. G. Turnquest.

30

Q. May I see that one please? You might be able to tell us from your recollection - you might examine them if you like Mr. Bethel, but none of those slips were signed by Dr. Soltys were they? A. No, sir.

Q. I wonder if you can help me on this. One of those slips there - invoices, a certain quantity of steel I think it is somewhere about the 24th June or 26th perhaps you can help me on that I don't have the copies before me. What date is that? A. That is the 23rd.

40

Q. Would you please check that for me because my particulars of the same company say the 24th or 26th. I would just like to correct that?

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 4

Kingsley Carl
Bethel.

Cross-
examination
- continued.

A. That could have been a mistake when it was posted here. That is the 23rd and the corresponding number is 85 ...

Q. What is the amount of the slip?

A. The amount of the slip is £30.12.5?

Q. Could you say how much of that slip is relevant to steel? A. Well I can't say, not here.

Q. Would you have it in that receipt book the one which you kept? A. I couldn't tell you the amount of steel.

10

Q. You followed it up later on your copy of the receipt? A. Yes it is right down there. £15.5.0 for steel.

Q. What is the amount of steel? A. 50 lengths $\frac{1}{2}$ " steel, 7 lengths $\frac{3}{4}$ " steel, 7 lengths $\frac{3}{8}$ " steel.

COURT: I can't follow this very well. All I have is the statement for £323. I haven't got the advantage of a proper account or anything. Would it be necessary to go through the account in detail to find certain items or not or would it be

20

MR. JOHNSTONE: My Lord the defendant's case is a complete denial of the entire ...

COURT: Unless it is substantially important can we not take them globally as well as being

MR. JOHNSTONE: This matter of the steel may be material in argument.

COURT: In any circumstances he would have used steel?

MR. JOHNSTONE: Yes.

COURT: I could make a note on it?

30

MR. JOHNSTONE: It would be, My Lord, an item on the ...

COURT: Steel basis? What date is the steel?

MR. JOHNSTONE: 23rd July, My Lord.

COURT: I will make a note of that.

MR. JOHNSTONE: On 23rd July a quantity of steel was delivered.

Q. Mr. Bethel, you don't supervise the going out of these items do you? A. No, we have a special man for that,

In the Supreme Court of the Bahama Islands

Q. And of course one would never know for certain when they leave on the truck whether they reach their destination or not?

Plaintiff's Evidence

A. No. so far we wouldn't know.

No. 4

COURT: Do you know who ordered these? Were they ordered by telephone or you don't know?

Kingsley Carl Bethel.

10 A. Well the next man that come up will tell you.

COURT: How much or all bear some signature of Mr. Pratt or somebody? A. Yes all except one.

Cross-examination - continued.

MR. JOHNS TONE: With one exception, My Lord, that is the item on 17th June which was not a large amount, only 12/-.

COURT: 12/-, no signature, yes.

Re-examined:

Re-examination.

MR. ADDERLEY: My Lord, the one with no signature and a note at the top that it was taken by Mr. Pratt.

20 Q. Mr. Bethel, there is one thing about that would that be something that was delivered on the site or something which was actually bought and taken from the dock? A. That would be something bought and taken from the dock.

No. 5

No. 5

THEOPHILUS ETHELBERT THOMPSON

Theophilus Ethelbert Thompson.

THEOPHILUS ETHELBERT THOMPSON (sworn) states:

Examination.

30 Q. What is your full name Mr. Thompson?

A. Theophilus Ethelbert Thompson.

Q. Where are you employed?

A. At the City Lumber Yard, audit department.

Q. How long have you been employed in that department? A. 19 years.

Q. Were you employed there in June, 1958?

A. Yes, sir.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 5

Theophilus
Ethelbert
Thompson.

Examination
- continued.

Q. When you say you were employed at the audit department what did you do? A. I am at the desk receiving orders from customers who come there or over the phone. The order is taken on a pad and then it is sent into the yard.

Q. I just want you to reply to Your Lordship what you actually do not in taking any particular order either by telephone or a customer who comes into you. I just want you to state to His Lordship the procedure you follow in actually taking an order. You are sitting at your desk, somebody comes along with an order for a quantity of material, what do you do then? A. I take the order on a pad.

10

Q. How do you know to whom a particular order is to be charged? A. Orders come in there with the signature of the party who order the lumber and then again it is given over the phone.

Q. Will you repeat that again for His Lordship to hear. A. The person who brings in an order brings the order from the party that they are working for signed by that party or the party calls over the phone and places the order by phone.

20

Q. What I want to know is this. How do you know to whom the particular order is to be charged? I mean whose account is charged. A. Over the phone?

Q. Either over the phone or by the person who comes in? A. By an order the person's signature is there.

Q. By the person A. Who signs the order. An order would come in 'supply to so and so material for the party who signs, John Jones or Thomas Knowles'.

30

Q. Now lets go to a particular case Mr. Thompson. When you were at the audit department in June, 1958. Do you know a man by the name of Benjamin Pratt, B.L. Pratt? A. I do.

Q. Do you recall any incident taking place in connection with an order which was placed there in June, 1958? A. Yes, I do.

Q. What was that? A. Mr. B.L. Pratt came in there and said he was doing some work for Mr. Soltys and he wanted material for the job and the material was supposed to be charged to Dr. Soltys. I then consulted the manager, Mr. Rolph Harris.

40

Q. Mr. Pratt came in and said he was working for Dr. Soltys and that certain material was to be charged to Dr. Soltys account? A. Yes.

In the Supreme
Court of the
Bahama Islands

Q. As a result of that you called Mr. Harris.
A. I consulted the manager.

Plaintiff's
Evidence

Q. As a result of consulting with Mr. Harris what did you do? A. I tried to contact Dr. Soltys over the phone.

No. 5

10 Q. Did you get him? A. Not that day. I got him the following day.

Theophilus
Ethelbert
Thompson.

Q. Tell us the conversation between you and Dr. Soltys. A. After he came to the phone I told him that Mr. Pratt had been there and placed an order for material to be charged to his account. Before making any delivery we needed his authority Dr. Soltys said, "It is quite alright, Mr. Pratt is doing work for me. Let him have the material that he needs and I will come in at the end of the month and bring you a cheque for it".

Examination
- continued.

20 Q. That is the conversation which you say took place between yourself and Dr. Soltys. In your capacity there as audit clerk when a person gives you authority to charge an order for material to them do you call that person every time something is to be charged to them after that since you know that Pratt was doing a job for the man?
A. No if the authority is given, and the account is there, to let him have material and charge it I don't think there is any need for trying to contact the party each time an order comes in.

30

Q. Once you have the authority once that is sufficient? A. Yes.

Q. That is the normal practice? A. Yes, sir.

Q. At that time, Mr. Thompson, do you know if Dr. Soltys had an account at the City Lumber Yard?

A. No, I don't think he had.

Q. You don't know or you don't think?

A. I am not quite sure about that.

40 Q. Was this the first time that anybody had been in there at this particular time and on behalf materials were charged to Dr. Soltys that you knew about? A. No sir, the first time.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 5

Theophilus
Ethelbert
Thompson.

Cross-
examination

Cross-examined by Mr. Johnstone:

Q. Before this conversation were you acquainted with Dr. Soltys? A. No sir, I don't remember seeing or calling him. This is the first time today that I ever remember seeing Dr. Soltys.

Q. You never heard him speak before? A. No sir, I never.

Q. You never heard him speak over the telephone? A. No sir, the first time.

Q. What time of day was this conversation? A. If I can remember rightly sir, around 9.30 and 10.00. I am not too sure of that. I think it was between 9.30 and 10.00 a.m. 10

Q. Can you recall what number you got this person at? A. No sir. I looked in the directory and found his office and I called that number.

Q. Mr. Thompson I am obliged to suggest to you that this conversation never took place? A. Yes sir, it took place.

Q. Who answered the telephone when you rang? A. The lady that was there at the office answered the telephone and I asked for Dr. Soltys. 20

Q. How long would you say you were speaking on the telephone with this person? A. With Dr. Soltys or the young lady?

Q. First of all the young lady how long were you speaking with her? A. Not very long, a few minutes I just asked if Dr. Soltys was in and she said she would go to his office and see if he was there. 30

Q. How long was the conversation with this other person on the end of the line who identified himself as Dr. Soltys? A. I wouldn't say more than about 5 minutes it was just a matter of getting his authority.

Q. Would you recognise that voice again if you heard it? A. No sir, I wouldn't.

COURT: Any personal substitution is rather far fetched isn't it. I think it would have to depend on whether he is telling the truth or whether his 40

recollection is correct or not. It is unlikely someone could be insinuating himself in Dr.Soltys' house and carried out a plot like that.

Mr. Johnstone: My Lord I agree with you but ...

COURT: But at the same time you are entitled to say that the conversion didn't take place.

MR. JOHNSTONE: Yes that is what happened.

In the Supreme Court of the Bahama Islands

Plaintiff's Evidence

No. 5

Theophilus Ethelbert Thompson.

Cross-examination - continued.

No. 6

No. 6

BENJAMIN PRATT

Benjamin Pratt

10 BENJAMIN PRATT (Sworn) states:

Examination.

Q. Mr. Pratt tell us your full name?

A. Benjamin Louis Pratt.

Q. You are a builder and contractor?

A. Yes, sir.

Q. In 1958 were you building a building for Dr. Soltys in Nassau Street? A. Yes I was.

Q. Did you have a charge account of your own at the City Lumber Yard? A. No I did not have one at that particular time I had one before but not at that time I had closed out the business.

20

Q. You had had one before but you did not have one yourself at that particular time? A. No, sir.

Q. Did you ever charge any material to Dr.Soltys at the City Lumber Yard? A. Yes sir, with his permission.

Q. When you say with his permission did you speak to him about it? A. Yes, sir.

30

Q. Under what circumstances did you speak to him about it? A. I was building the building on a contract basis and at an early stage I was supposed to get an amount of money and to put on two little additions which were a bath room and a bed room which would run the money and make more in other words it would bring more expense to me than the amount of money I would get for the building by far.

In the Supreme Court of the Bahama Islands

Plaintiff's Evidence

No. 6

Benjamin Pratt.

Examination - continued.

Q. What you say is they were issued apart from the original building which you had contracted to build?
A. Yes, sir.

Q. That was an additional part, one room or two rooms or what were they? A. A bathroom and a used as a bar now.

Q. How is this related to your charging material at the City Lumber Yard and speaking to Dr. Soltys about it. A. When putting up the building I found out that the building would have been held back because of material and he wanted to get the building so I went to him and I asked him ...

10

Q. When you say you went to him did you go to him to his office? A. He came down to the building that morning.

Q. He was on the site? A. Yes. I asked if he would open an account at the City Lumber Yard for me I would be able to carry on and at the end of the month when the bill came in, he could take it out of the remainder of the money he had to give me and pay the bill and the remainder would come to me.

20

Q. What did he say? A. He said he would do so. The next morning I went to the City Lumber Yard and when I got there I asked Mr. Thompson if Dr. Soltys called and he said, "No". I said, "He didn't O.K. the order, he said he would". So Mr. Thompson said, "No, he didn't". So he didn't give me anything. I went back but Dr. Soltys didn't O.K. it but Mr. Thompson said that he would call him and get an O.K. from him.

30

Q. This was the morning before the stuff was actually delivered? A. Yes, no stuff was ordered. The second day I went back and he said it was alright.

Q. At that time Mr. Pratt did you charge any materials anywhere else? A. No, not at that particular time.

Q. Do I understand you to say Mr. Pratt that you told Dr. Soltys that you didn't have a credit at the City Lumber Yard and you wanted him to authorise you to get material there and at the end of the month deduct the amount of the material which was charged at the City Lumber Yard from what he would have had to pay you? A. Yes, sir.

40

Q. At that time he owed you a certain amount under your contract? A. That is correct.

In the Supreme Court of the Bahama Islands

Q. Your preposition to him was that he should permit you to charge it on his behalf and he could take it out of what he had to pay you?

Plaintiff's Evidence

A. That's right, sir.

No. 6

Q. Mr. Pratt was there a man by the name of Turnquest working on the job? A. Yes sir, Granville Turnquest he was one of the best foremen that I had.

Benjamin Pratt.

Examination - continued.

Q. What about a man by the name of Munnings, W. Munnings? A. Munnings was my labour foreman who controlled everything around there, all the material and so forth.

Q. Kenneth Brice? A. Kenneth Brice was the general foreman of all the jobs I had.

Q. Joseph Brown? A. He could have been my mortar mixer, but I just couldn't place him now.

Q. Mr. Pratt, how long have you been a builder and contractor? A. I would say about 25 years.

Q. In dealing with the deliveries from lumber yards and hardwares and delivery of material to the site, Mr. Pratt, who usually signs the actual delivery slip? A. If I am there I would sign. If I am not there the foreman would sign and if the foreman goes out anyone of those boys there if stuff comes in could sign for it.

Q. The material which was ordered from the City Lumber Yard, I can't remember the details of that order but who would have ordered material, how are they actually ordered from the City Lumber Yard? A. In two cases I have ordered. I made the order up on the job and someone would take it in on a bicycle.

Cross-examined by Mr. Johnstone:

Cross-examination.

Q. Mr. Pratt, do you remember what time you started constructing this building? A. Yes, I can't give you the particular day but sometime around the early part of the year.

Q. The early part of when? A. I can't remember the month, definitely I can't. I know the construction was during the month of April or May something like that.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 6

Benjamin Pratt.

Cross-
examination
- continued.

Q. Well would you agree that it started sometime around the 3rd May? A. Yes, somewhere around there?

Q. Actually you wouldn't quarrel with that?
A. I am not sure. I say it would be somewhere around there.

Q. You said around April? A. Somewhere around there. I couldn't give an account definitely.

Q. You would not deny that it was early in May.
A. I just can't agree with you even at that.

10

Q. Would you look at this document? Do you recognise that document? A. Yes sir, this is signed by me.

Q. And it is an agreement dated the 1st May? You of the one part and a company called Walter's Limited of the other part? A. Yes, sir.

Q. Do you know? A. No.

Q. Anyway that is the document that you and Dr. Soltys signed and that contained the terms of your contract? A. That's right, sir.

20

Q. Did you start work very shortly after that?
A. Very shortly.

Q. Within a matter of a few days?
A. In a matter of a few days.

Q. Did you proceed diligently with the work on the job? A. I went right on.

Q. You went along quite well according to contract?
A. Yes.

Q. So that by the 23rd June you had been on this job about 6 weeks? A. Yes.

30

Q. From the 3rd May to 23rd June?
A. Yes but we had a halt for about one week prior to that.

Q. When was the steel work done, when was the steel required? A. The steel was required for the first floor.

Q. When was that poured? A. That was poured between the 4th and 5th week.

Q. That was when you needed the steel?

A. Yes but there was a shortage of steel when I went to the City Lumber Yard so I had to buy it cash then. The cash that I got from him I would buy cash at that particular time. I went to City Lumber Yard to get some steel and they didn't have any. I went to Kelly's and they didn't have any and I had a bit of steel for H.G. Christie and I had to send and get that steel. If you are a contractor you take that steel and credit the account like that you know.

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 6

Benjamin Pratt

Cross-
examination
- continued.

Q. What is that? A. If it was necessary for me to borrow the steel if I had another job I would use it and credit my account.

Q. I don't understand that. A. If it was necessary for me, if I am short of any material in regard to steel or whatever it is, to carry on I would borrow from any place I could get it, even a friend if it was necessary to do my work. We had a shortage of steel. You might remember, quite clearly, there was a shortage of steel.

Q. No, I don't remember. A. Oh, no you won't remember but the builders would remember, I know that.

Q. You see what I am putting to you Pratt is, that on the 23rd June when certain quantity of steel was got from the City Lumber Yard if it was not needed for this job? A. Yes, sir. It was needed for the addition, the bathroom and the little bar, it is cast top, the whole top is cast.

Q. Well you didn't tell us that.

A. No, sir, but as I told you I had to refund the sale of 10 or 12 lengths or more, I had to refund half the steel where I got it from.

Q. You refunded half the steel?

A. Under contract I was.

Q. I'm afraid I don't understand at all.

COURT: I've written down that he did require steel on the first floor, is that right? A. Yes.

Q. And you say the first floor was not completed before the 24th of June? A. The first floor was, this was an addition that Dr. Soltys had put on, he said he was putting on an addition for Mr. he didn't give me no down payment on those additions, and after a shortage I asked for a credit.

Q. This was needed for the addition? A. Yes.

Q. Did Dr. Soltys pay you your money under that contract? A. He did. I got £200 from him when I was going away in order to get shingles, he got as far as four payments, I can't remember quite because I have no account of it.

In the Supreme Court of the Bahama Islands

Plaintiff's Evidence

No. 6

Benjamin Pratt

Cross-examination - continued.

10 Q. Now, Mr. Pratt, let's come to this conversation you say you had with Dr. Soltys. The gist of it was this, Dr. Soltys had made an addition to the job "Will you charge for this at the City Lumber Yard and deduct it from the moneys you pay me when my instalments due". That was it, was it? A. Yes.

Q. This was in early in June that this took place? A. Well, I just can't tell you because I was sick off and on.

20 Q. Now, evidence was presented here this morning that by the 16th of June something close to £200 had been charged at the City Lumber Yard to Dr. Soltys' account, that presumably was for goods that were charged pursuant to this arrangement between you and Dr. Soltys? A. Yes.

Q. But yet on the 16th of June Dr. Soltys paid you the full sum of £1,000? A. Yes, he did.

Q. Do you agree with that? A. Quite so, but -

Q. Will you look at this cheque, please? A. Yes.

Q. That was endorsed by you? A. Yes.

30 Q. You see, Mr. Pratt, what I'm saying is that if what you say is true then Dr. Soltys would have known that there was the sum of some £200 at the City Lumber Yard and he would have deducted it from this cheque here? A. Well, we were waiting to get the bill - I figured that whenever he got the bill he'll deduct that account, the remainder whatever the money was.

Q. You knew there was to be a sum deducted from it, didn't you? A. Not from that cheque, not particularly, he could have paid out of any cheque.

Q. You ordered the goods from the City Lumber Yard? A. Yes.

40 Q. I'm not asking you about dates, you ordered goods from the City Lumber Yard, the arrangement was that that was to be taken from your cheque and you got your cheque - A. Well -

Q. Your cheque was paid to you under the contract in instalments of £1,000 wasn't it? A. Yes.

In the Supreme
Court of the
Bahama Islands

Q. You agree with that? A. Quite true.

Q. Might we see the Contract, My Lord?

Plaintiff's
Evidence

COURT: Yes.

No. 6

Q. You see, Mr. Pratt, what I am telling you is that you knew at that time that there was money owing to the City Lumber Yard which should have been deducted from the cheque which was going to be paid to you? A. It could have been on any cheque.

Benjamin Pratt

Cross-
examination
- continued.

Q. You meant by that the next cheque?
A. Anyone - he didn't say the next to me.

Q. I'm putting it to you that your understanding of that was that the moneys were going to be deducted out of the next cheque which was payable to you? Had you any reason to think that they were going to be deducted from the third cheque after that or the fourth cheque?

A. It could have been deducted by the last time, many people when they get a bill from the Lumber Yard they bring it to me like this and give it to me, and then I O.K. it and then they take it, they never pay a cheque until they get a bill from the Lumber Yard because there was money in the contract to carry on, it was in the contract.

Q. Dr. Soltys was watching this contract very closely, wasn't he? A. Yes, sir.

Q. He was not putting any great sums of money in your hands beyond what he was contracting to do?
A. That's right.

Q. He was not allowing you to charge generally about town? A. The City Lumber Yard didn't have any - what you call sheeting - and he called Kelly's and I went to Kelly and I got that there.

Q. And the Anglo Colonial Building Company?
A. That was concrete.

Q. And that was very early in the job, wasn't it?
A. Yes.

Q. You see I'm putting it to you, Mr. Pratt, that this arrangement that you alleged was made between you and Dr. Soltys was not in fact made?

In the Supreme
Court of the
Bahama Islands

Plaintiff's
Evidence

No. 6

Benjamin Pratt.
Cross-
examination
- continued.

A. Oh, yes, it was made, Mr. Thompson could verify it, he called him himself.

Q. And again on June the 17th Dr. Soltys paid you £200? A. That was shingles for the new building, the additional building that I couldn't carry on.

Q. You agree with that figure? A. Yes.

Q. Now, that was June the 17th, and at that time Dr. Soltys was aware, and you were aware that there were sums owing to the City Lumber Yard in respect of what was charged there and was to be deducted from your payments, right? A. Yes.

10

Q. And yet they were not deducted, were they? A. No, sir because the bill didn't come in.

COURT: Have they been deducted? A. No.

Q. My Lord, I was only trying to get at the credibility of the witness' story.

COURT: He admits now that the deduction never was made and that he still owes it.

Q. And, Mr. Pratt, I think that sometime about the middle of July you discontinued this job and didn't carry on with it? A. No, I didn't discontinue it, I got a nervous breakdown. I took sick, I had what you call asthma and had a breakdown. I took sick in my house and operated from my bed for about 2 weeks, and Dr. Soltys I hear nothing from him and nobody but the men on the job. I paid out every penny I had trying to keep the job, finally one day a boy came in and he said to me "The boss take over the job".

20

Q. Well, anyway you were unable to continue with the job? A. I had man to take over the job but Dr. Soltys would never acquaint me knowing I had a contract. He took the job from me.

30

COURT: I've got "I got ill and contract finished inconclusively".

MR. ADDERLEY: No re-examination.

MR. JOHNSTONE: That is the case for the defence.

Close of Plaintiff's Evidence.

DEFENDANT'S EVIDENCE

No. 7

ALBERT SOLTYSALBERT SOLTYS (Sworn) - Examined by Mr. Johnstone.In the Supreme
Court of the
Bahama IslandsDefendant's
Evidence

No. 7

Q. Your full name is ...? A. Albert Soltys.

Q. And you are a veterinary surgeon? A. Yes.

Albert Soltys.

Q. And you live at Shirley Street? A. Yes.

Examination.

Q. You also are the president and the major share-
holder in the company called Walter's Limited?

10 A. Yes.

Q. Did that company on the 1st May enter into an
agreement with Mr. Benjamin L. Pratt for the con-
struction of a building on what is known as the
Base Road which is Nassau Street? A. Yes.

Q. Would you tell us what this is, doctor?

A. This is the contract between us, yes.

Q. Without going into any great details, is it
correct that the contractor should supply all
labour and materials? A. Yes.

20 Q. When did this building commence?

A. On May 3rd.

Q. May 3rd, 1958. A. That's right.

Q. Now, I would like to go through this contract.
The contract provides that the sum of £1,000 should
be paid at a certain stage.

A. The commencement of construction.

Q. Would you look at these personal cheques, Dr.
Soltys. You have before you three cheques, one of
which is in the amount of £200 which I think is
dated the 3rd May. A. That's correct.

30

Q. And payable to one contractor Mr. Pratt.

A. No, this is a personal one.

Q. That is a personal cheque which you paid your-
self? A. Yes.

Q. On behalf of Walter's Limited?

A. That's right.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Examination
- continued.

Q. Another one is the 6th May, for £81.5.0, to whom? A. Anglo Colonial.

Q. What was that for? A. Concrete, the concrete foundation actually, because I have it marked on the bottom of the cheque.

Q. How is it that you paid that sum of money. Wasn't Mr. Pratt supposed to pay it?

A. Apparently the clearing of the ground to set the foundation and what not was done previous to this and he didn't have the money to pay for the concrete so I had to order the concrete myself. 10

Q. You ordered it yourself? A. Yes.

Q. Did you determine, when you ordered it, how much it would cost? A. Yes, sir, I had them bring the bill and I sent them the cheque.

Q. How soon did you send the cheque after they brought the bill? A. Immediately on delivery or the next day.

Q. Let us put it this way: did you leave that as an account to be debited to the month's cause ... A. No, sir, I'll say I paid for it immediately. 20

Q. And then the third cheque is in the amount £718.15.0. Was it on 9th May. A. Yes, sir.

Q. And that is from Walter's Limited to Mr. B.L. Pratt? A. Yes, correct.

Q. And those three cheques, on your calculation, come to £1000? A. No, sir. At that time when we were talking about building an addition we had to put up an additional £1,000.

COURT: Under the contract how much were you supposed to pay? A. £1,000 on commencement of construction. 30

COURT: And then £1,000 ...
A. You see, he cleared the ground and put the foundation and what not ...

COURT: He hadn't got any money to start with?
A. That's right.

Q. And Dr. Soltys, will you look at this please. That's a cheque dated 31st May for £1,000 payable to Mr. Pratt? A. Yes. 40

COURT: This is the second time. A. The contract calls for a certain stage of the building ...

In the Supreme
Court of the
Bahama Islands

Q. And Dr. Soltys, just one more - June 16th for £1,000. A. Yes, sir, this is Walter's Limited to Mr. Pratt.

Defendant's
Evidence

Q. Now, Dr. Soltys, did you authorise Mr. Pratt at any time during his contract to send you a credit for his equipment? A. No, sir.

No. 7

Albert Soltys.

10 Q. Did you lead anybody to believe by any words or actions that Mr. Pratt was authorised or your agent to A. Oh, yes, Kelly's Lumber Yard called me up when Mr. Pratt was down there to charge something in an early stage. I immediately went down and talked to Mr. Kelly and he told me Mr. Pratt's credit was no good, and if I wanted ...

Examination
- continued.

20 Q. The long and short of it is you paid for the lumber yourself? A. No, when Mr. Pratt got a cheque and I called Charles the very next day to see whether Pratt had paid it or not. Pratt paid it out of his first or second cheque, I don't know which one it was, probably the second cheque. The first cheque was a clear £1,000.

Q. Did you make it clear that Mr. Pratt was not authorised to cash your cheque? A. That's correct. In fact they wouldn't give him any credit anyway. That's why we had to watch him very closely.

30 Q. You were watching him very closely, were you? A. As close as we could. Both Mr. Allan, the architect, and I were sitting down figuring out just how far ahead Pratt was and how much we should advance him to keep him working on the building.

Q. Have you ever opened an account at the City Lumber Yard? A. No, sir.

Q. You've heard Mr. Thompson give evidence in Court this morning? A. Yes, sir.

Q. Have you ever seen Mr. Thompson before in your life before this morning? A. Not that I recall.

40 Q. Had you ever spoken with Mr. Thomson before? A. Well, after I got the bill from City Lumber Yard ...

Q. Before you got the bill, had you ever spoken to him before? A. No, sir.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Examination
- continued.

Q. You heard Mr. Thompson say he telephoned you between 10.00 and 10.30 on a certain date. Are you normally at your home telephone number at that time in the morning? A. No, sir. My office hours in those days were between 7.00 and 9.00 in the morning.

Q. And what did you do then? A. Immediately after I hiked down to the building to see what was going on, just as soon as I could get away.

Q. And you heard the conversation that Mr. Pratt has related in Court regarding the arrangements with the City Lumber Yard. Do you recall that conversation at all? A. No, sir, I didn't know he ordered anything from City Lumber Yard.

10

Q. So to your knowledge that conversation did not take place? A. No, sir.

Q. Would you have paid Pratt money if you had known that your credit had been pledged under this contract? A. Certainly not because while the first part of the building was going on - of course, I didn't know Mr. Pratt at all before I was introduced to him by the architect, I didn't know whether his credit was any good or if he was a good builder or not. I took him upon the recommendation of Mr. Allan. But after the building commenced and we found out just how bad his credit was we had to watch him very closely because the payments were made in such a way that he was always ahead of us. In other words he got paid more money than construction was actually done.

20

30

Q. When did you first know, Dr. Soltys, that the City Lumber Yard felt you were indebted to them for certain supplies? A. After the first of July.

Q. Around July, 1958. How could you be sure it was that date? A. I presume it was that time that I remember getting a bill from them and I immediately called and tried to talk to Sir George as a matter of fact but he wasn't there.

Q. So you received the bill from City Lumber Yard for some merchandise. Can you recall roughly what the figure was? A. If I remember right it was in the high three hundred's, I presume around £380 something, that's what I thought it was.

40

Q. Did you expect that or was it a surprise to you? A. It was a shock.

Q. Did you pay it? A. No, sir. I immediately called Sir George on the phone as I told you.

In the Supreme Court of the Bahama Islands

COURT: How much was the Kelly Lumber Yard one? A. \$315.

Defendant's Evidence

No. 7

Albert Soltys.

Examination - continued.

10 Q. What did you do after that? You received a shock, Dr. Soltys. A. I immediately called Sir George and he wasn't available and so I asked them who I should talk to and they referred me to Mr. Harris. I spoke to Mr. Harris and I said, "Look here, I don't owe City Lumber Yard any money; I'm under contract. I have not opened a charge account with City Lumber Yard and Pratt has to pay this bill and not me". And he said, "Oh I didn't know that" or words to that effect. And I said, "I'm having trouble enough with him now to keep him on the job. Most of the workmen are quitting and they aren't being paid and I don't know whether Pratt's going to be with us very much longer or not and the building is practically at a stand- still now". And he asked me if I think I would get another cheque and I said, "I don't know. If he starts work again and since he's under contract, he probably will." And so in the conversation I told him I would hold his money back out of Pratt's next cheque if Pratt continued the building. But he never continued the building.

20 COURT: He never got another cheque? A. No, he never got another cheque.

30 Q. Well, why did you make that generous offer? A. George Roberts is a good friend of mine; he's been a friend of mine ever since I've been here. I don't want any trouble with Sir George Roberts or anyone for that matter.

40 Q. One more question: to your knowledge, Dr.Soltys, were any of the materials comprised in a slip the invoices that you have had an opportunity of inspecting, have any of these been delivered to your building to your knowledge? A. Not to my knowledge, I don't know but that was all on the contract and I didn't pay any attention too much to the going and coming like that.

Cross-examined by Mr. Adderley.

Cross-examination.

Q. We will come back to what Mr. Pratt said you said and what Mr. Thompson said your conversation was on the telephone. Don't you think that what must have been your undertaking with Mr. Harris

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Cross-
examination.
- continued.

that you would take whatever you had out of Pratt's next cheque in order to pay City Lumber Yard?
A. I don't follow you.

Q. You say you said that you told him, Mr. Harris, at the City Lumber Yard that you would hold back money out of Pratt's next cheque and pay the City Lumber Yard. A. No, sir. I said if he got another cheque I would stick to him and see that they did get paid because he had apparently charged ...

Q. You would hold back what belonged to Pratt to give the City Lumber Yard. I'm not thinking about what Mr. Thompson said you said to him. This is what you said to Mr. Harris and you said 'I told him that I would hold back Pratt's money'.

10

A. The conversation was with Mr. Harris that he wanted to get his money the same as I wanted to see him get it and if he did get another cheque I would let him know when that date was and see if we could hold it out of his cheque or hold it ...

Q. You said if he got another cheque ... You must not have had any doubt in your mind or you would not have given him £1,000, doctor. A. Yes.

20

Q. Mr. Pratt was still on the job?
A. He was and he wasn't.

Q. What do you mean by "he was and he wasn't"?
A. Well, he was such a slipshod contractor that at that time he wasn't paying his own staff and they were leaving and the work wasn't commencing. Everything was more or less half at a standstill and maybe a plasterer would work and a mason would work and one of the carpenters would do a bit of work and maybe sometimes they would appear and sometimes I don't know what was going on half the time.

30

Q. At this stage, Dr. Soltys, you had paid him - was it £3,000? A. That's right.

Q. How much was the contract? A. Sixty-five.

Q. £6,500? and £3,500? A. That's right.

Q. It's an additional £3,500 and you say the work was never done by Pratt? He got £3,000 for what he had done on the job? A. That's right.

40

Q. Why is there anything so unusual about your paying £1,000 in the middle of June when you were so far ahead of him so to speak?

A. I wasn't ahead of him.

Q. You don't think you were ahead of him? But at that stage ... A. At the early stages of a building you're never ahead of a contractor.

Q. We are talking of this particular one, Dr. Soltys, the suggestion has been put forward that you paid him a cheque for £1,000 in the middle of June and if you knew at that time that he had had goods charged to you at the City Lumber Yard you would have deducted it from your account. But I am suggesting to you that in any event at that particular time in the middle of June he still had £3500 to get, isn't that right?

A. If he continued the work.

Q. But at that time, in the middle of June, did you have reason to think he wasn't going to continue the work? A. No, not at that time.

Q. On the 17th June, when you gave Mr. Pratt a cheque for £1,000 you had no reason to believe he wasn't going to continue the work you thought that he would not complete the job?

A. There was a lot of conversation between the architect and I, as to whether he was going to continue it or not.

Q. ? ?

A. It may or may not have been, I don't know.

Q. Be that as it may you gave him a cheque for £1,000. And at that time you were supposed to pay him £6,500 between that time and the time that the job was completed. A. That is correct.

Q. Now Dr. Soltys, you say you've never seen Mr. Thompson and he says he's never seen you either. He says he spoke to you on the telephone and told you that Mr. Pratt visited the City Lumber Yard and that he wanted to order steel on your behalf and would you consent to the materials being charged to you and you said it was alright and you would settle at the end of the month. A. No, sir.

Q. No conversation like that took place between you and anybody? A. No.

Q. What I'm suggesting to you, Dr. Soltys, is that you may not know this particular man, Thompson, but you spoke to somebody at City Lumber.

A. No, sir. I didn't speak to anybody in City Lumber Yard.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Cross-
examination
- continued.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Cross-
examination
- continued.

Q. You didn't speak to anybody you mean on that day. Is it possible you don't remember and you may have called the City Lumber and don't remember who it was you talked to? A. No, sir, that's not correct.

Q. Now, to Mr. Pratt. He says he told you he had to get the materials and that he didn't have any credit with City Lumber Yard. Now, you say you felt at that time his credit was no good?

A. That's correct.

10

Q. And he was supposed to be responsible for the materials? A. That's right.

Q. So he would either have to pay cash for the materials or charge the materials?

A. That was his concern, not mine.

Q. I know. But that was the idea between City Lumber Yard and you.

As far as you were concerned he had to either pay cash or charge the materials.

A. No, he was under contract, and I didn't see where it made a difference.

20

Q. It didn't make any difference to you whether he paid cash or whether he charged? A. That's right.

Q. But you also knew that his credit at that place was not good at the time? A. That's right.

Q. You say just now, Dr. Soltys, that you paid him ... Kelly's Lumber Yard called you?

A. That's right.

Q. And they called you to find out whether they should charge it to Mr. Pratt or whether they should charge it to you. A. They wouldn't charge it to Pratt.

30

Q. They wouldn't charge it to Pratt. They charged it to you? Is that right?

A. That's right. I went down and arranged it.

Q. You went down and you arranged that? But you didn't pay Kelly's Lumber Yard, you paid Pratt?

A. That's right.

Q. Pratt paid Kelly's Lumber Yard.

A. The very next day.

40

Q. The materials were charged to you but you paid Pratt? A. That's right.

Q. So that if there was a bill to the City Lumber Yard you would also expect Pratt to pay that?

A. I didn't know it was there. Otherwise there wouldn't have been any dispute and he wouldn't have got £1,000 out of me.

Q. You didn't offer to withdraw the Kelly's Lumber Yard bill from the amount you gave Pratt? You were satisfied to pay him and to pay Kelly's Lumber Yard.

10 A. At that time Pratt was a new man to me and I was new to him and I went ahead and I let him pay it. It was later on in the contract that I found out his record.

Q. When was this? A. It was early in the building.

Q. When is it you say you took over the building yourself, Doctor, sometime in July?

A. In the middle of July. I believe I've got the payroll and it should have the exact date.

20 Q. And you deny any conversation with Mr. Thompson of City Lumber Yard and deny the conversation with Mr. Pratt, authorising him to credit with City Lumber Yard? A. That is correct.

Re-examined.

Q. Your conversation with Mr. Harris. You said that you told him that if Mr. Pratt got another payment you would see if you could hold it out for him, hold out this cheque for City Lumber Yard?

30 A. The exact conversation is actually a little blurry but what actually was mentioned was the fact that when talking with Mr. Harris it was quite obvious that he wasn't going to get his money unless I held it out of unless Pratt paid it because he had charged it in my name.

Q. Well, did you acknowledge this debt? A. No.

Q. Did you give him any undertaking that you would pay this cheque? A. No, sir.

Q. I've asked you this question once before but I'm afraid I must ask you again? Why was it that you made this gesture to Mr. Harris?

40 A. As I said before Sir George Roberts has been a very good client of mine and a friend of mine and I didn't want to see him stuck by anybody any more than I wanted to get stuck myself. We had a very cordial conversation at the time.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.

Cross-
examination
- continued.

Re-examination.

In the Supreme
Court of the
Bahama Islands

Defendant's
Evidence

No. 7

Albert Soltys.
Re-examination
- continued.

Q. You had a cordial conversation?

A. Yes. He asked me to see what I could do for him and collect for the bill.

Q. Well, just tell us, Dr. Soltys, about your business practice - if a man owes you money, would you expect to deduct it from the first sum that you pay to him or would you, as a matter of business, allow that to go on and stand and be indefinite.

A. Certainly not. With regards to the June 16th bill - if I had known there was anything at City Lumber Yard it would have been withheld or saw that it was paid. I had no reason to give him £1,000 and then have something charged up to me. And I followed that procedure throughout the whole of the building.

10

COURT:

Q. When did you first start having trouble with Mr. Pratt? A. That was in late June - around the 1st July.

Q. Late June. How much did it cost you to complete the contract? A. The total cost was a little over £12,500.

20

Q. Instead of £6,000? A. Instead of £6,500. I have a mortgage of £9,500 on it with the Finance Corporation. When it was finished I had to go back and get another £2,500.

Q. ? ?
A. No, sir.

Close of Defendant's Evidence

No. 8

ORAL JUDGMENT OF CHIEF JUSTICE

In the Supreme
Court of the
Bahama Islands

BAHAMA ISLANDS

1959 No.51

No. 8

IN THE SUPREME COURT

Common Law Side.

Oral Judgment
of Chief
Justice.

THE HONOURABLE SIR GEORGE WILLIAM KELLY ROBERTS
trading as THE CITY LUMBER YARD

23rd March,
1961.

Vs.

ALBERT SOLTYS

10

J U D G M E N T

This is a suit by a firm of lumber and hardware merchants for the price of goods sold and delivered.

20

The facts of the case are that the defendant entered into a lump sum contract with a building contractor named Pratt to build him a house. Mr. Pratt ordered building materials from the plaintiffs to the extent of the £323 and these were delivered to the building site. Mr. Pratt says that as he had little capital he got the defendant, Dr. Soltys, to agree that building materials could be ordered in his name and the price be deducted from the next periodic payment under the contract. He says he informed the plaintiffs of this arrangement. Before Dr. Soltys was billed for the goods, however, Mr. Pratt suffered a nervous breakdown and the contract had to be completed by someone else. This happened before Dr. Soltys was billed by the plaintiff and he has refused to pay.

30

An employee of the plaintiffs, a Mr. Thompson, says that after speaking to Mr. Pratt he telephoned Dr. Soltys who agreed that Mr. Pratt could order building materials on his behalf. Dr. Soltys denies the existence of this conversation entirely. It is therefore the crucial point to be determined.

I will first say that both Mr. Thompson and

In the Supreme
Court of the
Bahama Islands

No. 8

Oral Judgment
of Chief
Justice.

23rd March,
1961
- continued.

Dr. Soltys impressed me equally as truthful witnesses by their demeanour. The solution to the problem as to whose recollection is faulty can therefore only be arrived at by weighing up the probabilities.

In my view there is a circumstance which is in the defendant's favour. Mr. Pratt appears to have been hard up and Dr. Soltys, knowing this, permitted him at the very beginning of the contract to order cement from the Anglo Colonial Building Company in his name amounting to £81.5.0. But he paid the bill for it immediately and three days later when he had to complete a periodic payment of £1000 to Mr. Pratt he deducted this sum. It seems to me, therefore, just a little unlikely that he would have given Mr. Pratt what is said to be carte blanche to order what he liked. It is true that builders' merchants are usually careful before allowing credit to contractors but here they may have shared the view put forward by Mr. Adderley, that in law an implied agency arises in such cases and that their money would be safe.

10

20

I cannot accede to this contention in the absence of proof of any local customs to this effect. It is surely common knowledge that the building of houses by a lump sum contract is just as usual a manner of carrying out the operation as for the prospective owner to employ a builder for a reward and to buy or be responsible for the cost of the materials. I can find no evidence that the defendant ever gave cause to the plaintiffs to believe that Mr. Pratt could pledge his credit as his agent. There is no similarity between this case and one where, for example, the manager of a hotel buys quantities of meat from a butcher and an implied agency arises. There is no evidence here of "holding out". The plaintiffs must therefore rely upon the telephone conversation and the onus of proof that it occurred is on them. I find that they have failed to discharge that onus and the suit must be dismissed with costs. I will only add that I can have only the faintest expectation that this decision is more likely than not to be in accordance with the truth of the matter.

30

40

(Sgd.) R. CAMPBELL

CHIEF JUSTICE.
23/3/61.

No. 9

FORMAL JUDGMENT

In the Supreme
Court of the
Bahama Islands

BAHAMA ISLANDS

1959 No.51

No. 9

IN THE SUPREME COURT

Formal Judgment.

Common Law Side.

23rd March,
1961.

THE HONOURABLE SIR GEORGE WILLIAM KELLY ROBERTS
Trading as THE CITY LUMBER YARD

Vs.

ALBERT SOLTYS

10

J U D G M E N T

Dated and entered the twenty-third day of March
1961.

This action having on the Sixteenth day of
March, A.D., 1961 been tried before the Honour-
able the Chief Justice and the Honourable the
Chief Justice having ordered that Judgment be
entered for the Defendant and his costs of defence:

Therefore it is adjudged that the Plaintiff
recover nothing against the Defendant:

20

And that the Defendant recover against the
Plaintiff his costs of defence to be taxed.

(Sgd.) N.C. ROBERTS
Asst. Registrar.

IN THE SUPREME COURT
OF THE BAHAMA ISLANDS.

In the Supreme
Court of the
Bahama Islands

No. 10

ORDER GRANTING LEAVE TO APPEAL

No. 10

BAHAMA ISLANDS

1959 No. 51

Order Granting
Leave to
Appeal.

IN THE SUPREME COURT

Common Law Side.

22nd April,
1961.

BETWEEN

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD,
Plaintiff

- and -

10

ALBERT SOLTYS ... Defendant

O R D E R

UPON MOTION this day made unto this Honour-
able Court and UPON HEARING Counsel for the Plain-
tiff and for the Defendant

IT IS ORDERED THAT leave to appeal to the
Privy Council be granted on condition that security
for £300.0.0 be furnished within 21 days from the
date hereof

AND IT IS FURTHER ORDERED THAT by Consent a
Bond of £300.0.0 entered into by the Plaintiff be
considered good and sufficient security.

20

Dated the 22nd day of April A.D.1961

By Order of the Court:

(Sgd.) N.C. ROBERTS
Ag. Registrar.

E X H I B I T SExhibits

EXHIBIT "A1" - LEDGER SHEET IN NAME OF
DR. ALBERT SOLTYS.

A.1.

Ledger Sheet
in name of
Dr. Albert
Soltys.

ACCOUNT NO.S.596

Name DR. ALBERT SOLTYS

Address c/o B.L. Pratt
Box 761.

<u>Date</u>	<u>Items</u>	<u>Fol.</u>	<u>Debits</u>	<u>Credits</u>	<u>Balance</u>
1958					
10 June 6	To	015053	96.12. 2		96.12. 2
	7 " do.	" 067	6. 7. 6		102.19. 8
	10 " do.	" 210	40. 9. 2		143. 8.10
	11 " do.	" 259	17. 3. 0		160.11.10
	13 " do.	" 296	24. 0. 0		184.11.10
	17 " do.	" 518	12. 0		185. 3.10
	7 By Returns			4. 3.4	181. 0. 6
	24 To	015797	17. 6		181.18. 0
	- " do.	" 812	30.12. 5		212.10. 5
	26 " do.	" 876	19. 0		213. 9. 5
20	27 " do.	" 940	9. 5. 3		222.14. 8
	10 Less on Rec	015210		15.10	221.18.10
July 1	To	016136	1. 7. 0		223. 5.10
	- " do.	" 137	81. 6. 0		304.11.10
	2 " do.	" 177	30. 7. 3		334.19. 1
	- " do.	" 188	3. 0. 0		337.19. 1
	14 " do.	" 663	4.16. 0		342.15. 1
	2 By Returns			14.12.3	328. 2.10
	" Transfer to S a/c No 621			4.16.0	323. 6.10

ExhibitsEXHIBIT "A2" - EXTRACT FROM RECEIPT BOOK

A.2.(1)

015053

Extract from
Receipt Book.
6th June 1958.

June 6th 58.

Dr. A. Soltys

B. L. Pratt.

4/20	2 x 6 Sy Srm.	80	1/5	5.13. 4	
20/14 20/16	2 x 6 Sy Sn.	600	1/1	32.10. 0	
30/14	2 x 4 Rough	280	1/4	14. 5.10	
8/10	2 x 6 Rough	80	1/2	4. 3. 4	10
4/10	3 x 6 Rough	60	1/2	3. 2. 6	
4/10 40/12 20/14 20/16					
10/18	1 x 5 TSN - 542'		1/1	29. 7. 2	
30 lbs.	3 1/2" Nails		1/6	2. 5. 0	
30 lbs.	2" Nails		1/6	2. 5. 0	
40 lbs.	4" Nails		1/6	3. 0. 0	
				<u>£96.12. 2</u>	

A.2.(2)

EXHIBIT "A2" - EXTRACT FROM RECEIPT BOOK

Extract from
Receipt Book.
7th June 1958.

015067

June 7th 58

20

Dr. Soltys.

6/14	2 x 6 Rough	84	1/2	4. 7. 6	
1	Roll 30 ft. Felt		40/-	<u>2. 0. 0</u>	
				<u>£6. 7. 6</u>	

(Sgd.) B.L. Pratt.

EXHIBIT A.3.(1) - RECEIPT

015053

Exhibits

A.3. (1)

Nassau, N.P. June 6th 1958.

Receipt.

Dr. A. Soltys

6th June 1958.

B. L. Pratt.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

			<u>Feet</u>	<u>Rate</u>	<u>Value</u>
10	4/20	2 x 6 Sy Srm	80	1/5	
	20/14 20/16	2 x 6 Sy Sn	600	1/1	
	30/14	2 x 4 Rough	280	1/¼	
	8/10	2 x 6 Rough	80	1/½	
	4/10	3 x 6 Rough	60	1/½	
	4/10 40/12 20/14 20/16				
	10/18	1 x 5 TSN		1/1	
	30 lbs.	3½" Nails		1/6	
	30 lbs.	2" Nails		1/6	
	40 lbs.	4" Nails		1/6	
20		Sig. B.L. Pratt.			

EXHIBIT A.3.(2) - RECEIPT

015067

A.3. (2)

Nassau, N.P. June 7th 1958

Receipt.

Dr. Soltys.

7th June 1958.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

			<u>Feet</u>	<u>Rate</u>	<u>Value</u>
	6/14	2 x 6 Rough	84	1/½	
30	1 Roll	30 Ft. Felt		40/-	
		Sig. B.L. Pratt.			

ExhibitsEXHIBIT A.3.(3) - RECEIPT

A.3. (3)

015210

Receipt.

Nassau, N.P. June 10th, 1958.

10th June 1958.

Dr. Saltyers

B. L. Pratt.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
5/10 4/12 6/14 3/16 1 x 12 Sy S		1/10	10
1/6 6/12 1/14 1/16 1 x 8 Sy S		1/7	
6/16 1/12 2/14 1 x 6 Sy S		1/7	
8/10 5/14 1 x 4 Sy S		1/7	
6/8 8/10 6/12 1 x 3 Sy S		1/6	

Sig. B.L. Pratt.

A.3. (4)

EXHIBIT A.3.(4) - RECEIPT

20

Receipt.

015259

11th June 1958.

Nassau, N.P. June 11th 1958

Dr. Soltys

B.L. Pratt.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
4/8 18/10 11/12 17/14 1/18 1 x 3 Rough lb.		1/-	
1 Bag 2½" Nails = 112		1/6	
5 lbs. 2½" Cut Nails		2/6	
5 lbs. 2" Cut Nails		2/6	

Sig. M. Miller.

EXHIBIT A.3. (5) - RECEIPT

015296

Exhibits

A.3. (5)

Nassau, N.P. June 13th 1958

Receipt.

Dr. Soltys

13th June 1958.

B.L. Pratt.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

		<u>Feet</u>	<u>Rate</u>	<u>Value</u>
10	15 Rolls 15 ft. Felt		32/-	
	20 lbs. Tapper Nails		2/6	

Sig. B.L. Pratt.

EXHIBIT A.3.(6) - RECEIPT

015518

A.3. (6)

Nassau, N.P. June 17th 1958

Receipt.

17th June 1958.

Dr. Soltys

B.L. Pratt a/c.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

20 Per Truck No.

		<u>Feet</u>	<u>Rate</u>	<u>Value</u>
	8 lbs 1½" Nails		1/6	12. 0

ExhibitsEXHIBIT A.3.(7) - RECEIPT

A.3. (7)

015812

Receipt.

Nassau, N.P. June 23rd 1958

Dr. Soltys

23rd June 1958.

B.L. Pratt, Oakes Field.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
15 Lengths $\frac{1}{2}$ " Steel 24'		1/-	10
7 Lengths $\frac{3}{8}$ " Steel 24'		1/-	
13/18 2 x 4 Rough		1/4	
7/14 2 x 6 Sy Sam.		1/4	
10 lbs. Tie Wire		1/9	

Sig. Kenneth Brice.

A.3. (8)

EXHIBIT A.3.(8) - RECEIPT

Receipt.

015797

24th June 1958.

Nassau, N.P. June 24th 1958.

Dr. Soltys

B.L. Pratt Job.

20

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
10 ft. Tie Wire		1/9	

Sig. Joseph Brown.

EXHIBIT A.3. (9) - RECEIPT

015876

Exhibits

A.3. (9)

Nassau, N.P. June 26 1958

Receipt.

Dr. Soltys

26th June 1958.

B.L. Pratt Job.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

		<u>Feet</u>	<u>Rate</u>	<u>Value</u>
10	6 lb. 2" Nails		1/6	
	4 lb. 2" Cut "		2/6	

Sig. Joseph Brown.

EXHIBIT A.3.(10) - RECEIPT

015940

A.3.(10)

Nassau, N.P. June 27th 1958

Receipt.

27th June 1958.

Dr. Soltys

B.L. Pratt

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

20 Per Truck No.

		<u>Feet</u>	<u>Rate</u>	<u>Value</u>
5/18	1 x 10 Sy SA.		2/5	
2 lbs.	2" Fin Nails		2/-	

Sig. Kenneth Brice.

ExhibitsEXHIBIT A.3.(11) - RECEIPT

A.3.(11)

016137

Receipt.

Nassau, N.P. July 1st 1958

1st July 1958.

Dr. Soltys

B.L. Pratt

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
6/10 18/16			10
2 x 12 Sy Sam		1/10	
12/10 2 x 10 Sy Sam		1/9	

Sig. G. Turnquest.

A.3.(12)

EXHIBIT A.3.(12) - RECEIPT

Receipt.

016136

1st July 1958.

Nassau, N.P. July 1st 1958

Dr. Soltys

B.L. Pratt

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
12 lbs 4" Nails		1/6	
6 lbs 2" Nails		1/6	

Sig. G. Turnquest.

EXHIBIT A.3.(13) - RECEIPTExhibits

016188

A.3.(13)

Nassau, N.P. July 2nd 1958
 Dr. Soltys
 B.L. Pratt.

Receipt.
 2nd July 1958.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
10 16 lbs. 1 $\frac{1}{4}$ " Nails		1/6	1. 4. 0
1 - 5 gal. Roof Cement		36/-	<u>1.16. 0</u>
			<u>£3. 0. 0</u>

Sig. W. Munnings.

EXHIBIT A.3.(14) - RECEIPT

A.3.(14)

016177

Receipt.

Nassau, N.P. July 23rd 1958
 Dr. Soltys
 B.L. Pratt

23rd July 1958.

RECEIVED in good order and condition from:-

THE CITY LUMBER YARD

Per Truck No.

	<u>Feet</u>	<u>Rate</u>	<u>Value</u>
13/16 2 x 10		1/9	

Sig. W. Munnings.

ExhibitsEXHIBIT "1" - CONTRACT

"1"

Contract.

1st May, 1958.

AN AGREEMENT made the First day of May 1958 between BENJAMIN L. PRATT hereinafter called the Contractor, and WALTER'S LTD. hereinafter called the Owner.

WHEREBY the Contractor undertakes to build and complete in a sound and workmanlike manner to the entire satisfaction of the Owner a two storey building with single storey wings on the site shown on the attached drawings and described in the attached specifications, all in accordance with the drawings as approved by the Public Board of Works, and conforming to the specifications attached hereto, including plumbing and electrical installations for an amount of £6,500. 0. 0 to be completed not later than 20 weeks from the date of this contract.

10

Should the delay in completion be more than two months, the Owner reserves the right to cancel the contract, without any claims on the part of the Contractor.

20

BENJAMIN L. PRATT
Contractor

AL. SOLTYS
Owner.

IAN J.H. ALLAN
Witness.

METHOD OF PAYMENT TO THE CONTRACTOR:

£1,000 shall be paid by the Owner to the Contractor upon commencement of Construction.

£1,000 shall be paid by the Owner to the Contractor. Upon completion of all exterior block work, including belt courses of single storey portions, upper floor slab of two storey portion and girth of two storey portion.

30

£1,000 shall be paid by the Owner upon completion of all block work, exterior stairs, and all roofs.

£1,000 shall be paid by the Owner upon completion of all plaster work including the setting of all windows.

£1,000 shall be paid by the Owner upon completion of all ceilings, floors and tile work,

40

£ 850 shall be paid by the Owner to the Contractor upon completion of the works to the satisfaction of the Owner and his appointed Architect.

Exhibits

"1"

Contract.

£ 650 shall be paid by the Owner to the Contractor 30 (Thirty) days after Owner's occupancy.

1st May, 1958
- continued.

.....

10 The Contract includes this Agreement and the Specifications and the Drawings all of which shall be signed by both parties. The intent of these Documents is to include all labour, materials, appliances, and services of every kind necessary for the proper execution of the work.

The Documents are to be considered as one and whatever is called for by one of the Documents shall be as binding as if called for by all.

Except as otherwise noted the Contractor shall furnish all of the material and perform all of the work necessary for the satisfactory execution and completion of the work.

20 IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

BENJAMIN L. PRATT (Seal)

Signed Sealed and Delivered
by the said
in the presence of:

Ian J.H. Allan.

Signed Sealed and Delivered
by the said
in the presence of:

30 A. Soltys.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

S P E C I F I C A T I O N S

For

Proposed Animal Hospital

Walters, Ltd.

Ian J.H. Allan
Architect.

Date of Issue - May 1, 1958.

S P E C I F I C A T I O N S O F W O R K S

Required to be done and materials to be used for the erection and completion of PROPOSED ANIMAL HOSPITAL FOR WALTERS, LTD.

10

Under the superintendence and to the entire satisfaction of the Owner, Walters, Ltd. and/or his duly appointed Agent.

A. GENERAL INFORMATION AND DESCRIPTION

1. Site Location and Description

The site for the proposed new building is that piece of land situated on Nassau Street South on New Providence as shown on the plans and being 180 feet on the frontage in a line running approximately North and South on Nassau Street and being 120 feet more or less in depth from that frontage and running East to West along the Northern boundary. The site is bounded on the East by Nassau Street; on the West by a public road; on the South by properties of Walters, Ltd. and on the North by Christie Park. All boundaries of the land are well defined and marked by the surveyor's markers set into the land.

20

The subsoil over the entire site is understood to be soft rock fill of a sandy nature of a depth not exceeding 6'0" and the whole has a soft lime rock base.

30

Generally the site is fairly level and sparsely covered with light vegetation and root matter.

The highest point on Nassau Street on the frontage is to be taken as datum Zero for the purpose of setting levels for the building and heights as indicated on the plans are to be taken as minimum

levels subject to slight increase according to actual ground conditions. Floor level to be a minimum of 18 inches above datum zero or the highest point of finished ground level whichever is the higher. Floor level and building lines to be inspected before work commences and adjusted at the Owner/Architect's discretion.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

2. Proposed Building and Description

10 The project comprises a complete two storey building with two single storey wings at each end. The lower floor plan of the building contains a reception room, private office, corridor, dark room, surgery room, examination room, grooming room, attendance room, bathroom, storage room, ward and shop. The upper floor of the main building shall be left incomplete as shown on sheet 3 of the Architect's drawings. Building will also have an entrance landing, exterior stairs, upper balcony as shown on the plans.

20 Construction throughout will be of conventional methods and materials. All walls shall be of concrete block construction with stucco externally and plaster internally except where shown on the plans. All floors of the lower level shall be locally made cement tile laid on a concrete slab. Upper floors of the main building shall be left in the rough condition of the concrete slab.

30 Windows are to be aluminium framed, glass louvers with operating mechanisms and internal and external doors are to be as shown on the drawings.

All plumbing and electrical fixtures and equipment are to be standard patterns and of the best quality.

Roofing is to be timber rafters with 7/8" sheathing and over this will be laid 20 year bonded asphalt shingles set as per manufacturer's specifications.

3. External Works and Services.

40 The building lines are generally to be shown on the plans, but subject to some adjustment necessary to preserve growing trees on the site as far as possible.

Sidewalks are to be provided to give access to the main building and to the shop at the Southern end of the building.

Exhibits

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Sanitary disposal facilities are to be provided by means of a septic tank for soil treatment with effluent drains.

Contract.

1st May, 1958
- continued.

Mains water to be connected for all purposes from a deep well, the location of which, will be determined by the Architect on the site. Provision shall be made for connecting up with a Water Department main.

Electric power and lighting supply facilities to be provided by connection to the Government Electrical Department mains in Nassau Street.

10

Telephone facilities to be provided. The external lines to be provided by the Telecommunications Department at the Owner's expense, but the Contractor will provide and include necessary ducting, trenching, conduits, etc.

4. Outline of Constructional Design.

Apart from the functional requirements of the building, the aim and object of the contract is to provide a good class residence of pleasing appearance, good finish and sound aesthetics.

20

Whilst economy is to be exercised, the Contractor is to allow for all necessary and essential works to achieve these objects to produce such a residence cost without sacrificing any items which will result in early and costly maintenance or repair work.

The materials and workmanship throughout are to be of the best quality within the terms of this specification.

B. GENERAL CONDITIONS OF CONTRACTPreliminary and General

30

5. Work Comprised in Contract

The works comprised in the contract will be made up in the several sections as follows:

(a) Grubbing and clearing the site of the building and paths as shown on the plans; excavation of trenches for foundations; excavation of trenches for internal services; excavation of trenches for all external work and services; selecting spoil and refilling and ramming after construction works and spreading and leveling surplus and/or carting away surplus soil as directed.

40

Exhibits

"1"

Contract.

1st May, 1958
- continued.

(b) All concrete work in the foundations, belt courses, lintels, beams, septic tank and all other sanitary pits, soakaways etc., and including all necessary underbeds for the drains, cables, water pipes, etc. All concrete work in providing roads and paths as shown on the drawings, and including all steps and entrances. All concrete work in floors and sub-floors, and necessary concrete in patches, filling holes, etc.

10 (c) All mason work, concrete block walling, internal plastering to rain water tanks, septic tanks, sanitary pits, etc., stucco work to external exposed wall surfaces, internal plastering, wall tiling, and all floor tiling, all patching, making good after all other trades, etc.

20 (d) All carpenter, joiner, and cabinet work, including forms, struts and other preparatory work for concrete and mason work, setting out and providing profiles squares, etc. Also including all timber roof framing, and roofing. Including all setting of doors, door frames; windows and window bucks, making and fitting cupboards, shelving. Also all roof coverings, installing gutters, flashings, etc., preparatory to or in completion of plumbers' work. Fix all hardware, adjust and set, to all doors, cupboards, closets, etc.

30 (e) All plumbing work to provide complete water, hot and cold, all drainage, all soil and waste treatment and disposal, including supplying and fixing all piping, bends, fittings, fixtures, basins, toilets, baths, sinks and tubs as shown on the drawings. Including main connecting lines to private well, pumps and control gear. Supply and install complete pumps, pumping arrangements, feed piping, fittings, valves, etc., pressure tanks and all connecting lines and valve arrangements to allow for alternative water supply.

40 (f) All internal electrical wiring, conduits, piping and fittings, control gear, wall switches, fuse boxes and outlets, bells and annunciators, lighting points, etc. complete. All external electric wiring, conduits, cables, control gear, and safety devices, including complete connection to main service. Decorative ceiling and wall fixtures will be provided by the Owner and will be fixed by the Contractor. Include necessary ducting, piping, conduits, and internal wiring for telephone service. External telephone lines and connection will be provided by Owner direct with the Tele-
50 communications Department.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

(g) Metal work necessary, including smith work, rag-bolts, hangers, brackets, clips, ties, etc. all necessary for the various other trades and for any particular specification item or other item shown on the drawings is to be included.

(h) All tarring, asphaltting, or bitumen work in the making watertight of foundations, walls and any underfloor treatments, and including any such treatment required in flashings to roof will be included.

10

(i) All painting services necessary to complete the project from normally finished plaster, joiner and plumber work as described above, including all patching, making good, running down, filling and full preparation after the other trades have finished, and including priming and finished as detailed hereafter, Include also for all labours necessary for cleaning down and leaving the whole building clean and tidy.

(j) All other materials necessary and labour necessary to effect full completion of the building and its auxiliaries, to leave the property ready for occupation by the Owner, as set out on the drawings or in the specifications.

20

6. Time for Completion

Time will be the essence of the contract and the contractor will undertake to complete all works involved within 20 weeks after signing the Contract Documents. The date for completion will be followed exactly. Should the Contractor be obliged to work overtime in order to fulfill the Owners/Agents instructions to complete the contract work by the contract date, no extra will be allowed on the contract sum for the cause except as described in the conditions.

30

7. Time and Progress Charts.

The contractor whose tender is accepted may be called upon at any time after the signing of the Contract Agreement to cooperate with the Owner/Agent in the preparation of a time and progress chart for their mutual use and guidance. Similar conditions will be imposed on any sub-contractors.

40

8. Ascertained and Liquidated Damages

No rate per diem shall be fixed in the Contract for

delay in the completion beyond the contract date, but the Owner reserves the right to charge the contractor with any actual costs or charges incurred as a direct result of the Contractor to fail to satisfy the contract date, i.e., cost of alternative accommodation, etc.

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"1"

Contract.

1st May, 1958
- continued.

9. Copies of Drawings and Specifications.

10 The Contractor shall retain one set of drawings and specifications available on the site, and these shall be accessible to the Owner/Agent at all reasonable times. These documents and all drawings shall be returned to the Owner/Agent on completion of the works.

10. Temporary Lighting

Adequate temporary lighting with temporary meters is to be paid for by the Contractor if required on his works, including any subcontractors work.

11. Water for the Works

20 The Contractor shall make arrangements and pay all costs incurred in providing temporary water supply for the works, including the water for works carried out by his subcontractors.

12. Provide all Plant

30 Provide all scaffolding, hoists, tackle, implements, moulds, profiles and apparatus, and a foreman and sufficient number of men for the proper and expeditious and complete execution of the works. Supply any cartage, workmanship and materials which although not specifically mentioned may be nevertheless incidentally necessary for the proper completion of the work described herein.

13. Setting Out and Levelling

Provide all necessary stakes, lines, rods, and other instruments for the proper setting out of the works and for the setting out and levelling of the site and the buildings.

14. Temporary Roads and Access to Site

40 Allow for forming access to the site with necessary roadways and gangways required for workmen, carts and barrows and afterwards a clear away and make good.

Exhibits

"1"
Contract.
1st May, 1958
- continued.

15. Workmen to be kept within Bounds

The Contractor will be responsible for keeping all persons under his control including subcontractors' men within bounds and will be held liable for all damage to adjoining premises and property by workmen, trucks or from any other cause whatever.

16. Insurances

The Contractor shall be responsible for all the necessary insurances required to be covered by the Laws of the Bahama Islands and shall also hold the Owner (employer) harmless in all claims which may arise for damage to third parties through accident or neglect in connection with the works. The Owner shall cover the works against risk of fire and hurricane immediately the roof of the building has been completed.

10

17. Inclement weather

During inclement weather the Contractor shall suspend concreting and plastering for such times as the Owner/Agent may direct, and effectively cover up and protect from injury by weather the works then in course of erection.

20

18. Specialist Contracts

The Contractor will be required to ascertain from specialist contractors all particulars relating to their works in regard to the positions in which chases, holes, mortices and similar items will be required to be formed or left before the work is put in hand, and this will be deemed to be included for as part of the Contractors attendance. No claim will be considered for the extra cost of any attendance. No claim will be considered for the extra cost of any cutting away work already built in consequence of any neglect on the part of the Contractor to ascertain these particulars beforehand, in the settlement of the final account.

30

19. Subcontracts Attendance

The Contractor will provide all necessary attendance upon any subcontractors' men and will provide them all necessary facilities without extra cost to the Owner.

40

20. Foreman and Workman

The Contractor is to employ on the works and

constantly retain during all working hours a competent foreman who is to have charge of no other works but this, and efficient workmen to the satisfaction of the Owner/Agent, and should he be dissatisfied with any foreman or any workman employed by the Contractor in the performance of the Contract and give notice thereof in writing to the Contractor shall within 48 hours next following discharge from the works such foreman or workman and substitute others in their stead.

Exhibits

"1"

Contract.

1st May, 1958

- continued.

10

21. Latrines

The Contractor shall provide and erect in an approved fashion and maintain and keep in good order temporary latrines for the use of the workmen, remove at completion, and make good all disturbances.

22. Foreman's Office, etc.

Provide and maintain an office for the foreman's use, and sufficient cover for protection of tools, plant and materials to be used upon the works.

20

23. Detailed Measurements

The Contractor shall furnish to the Owner/Agent when requested detailed measurements and prices of all work or materials which may be varied or specially ordered from time to time in such form as will enable the quantity price per unit and total price to be readily perceived for the assessment of any claim which may be eligible for consideration in respect of any varied or additional works ordered.

30

24. Care of the Works

The care of the whole of the work and all appertaining thereto, including all work executed by the subcontractors under the contract together with all risks or damage arising from weather, carelessness of the workmen or any other cause shall rest with the Contractor from the date of commencement to the completion and delivery up of the works to the Owner.

25. Watching and Lighting

40

Provide all watching and lighting necessary during the carrying out of the works covered in this contract.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

26. Clear Away

Clear away and cart away all rubbish and waste materials that may accumulate from time to time during the progress of the works and finally clear away and leave tidy on completion.

27. Attendance

Attend upon, cut away for, and make good after all trades and leave works in perfect condition at completion.

28. Make good Defects

10

The Contractor shall make good at his own expense and to the satisfaction of the Owner/Agent any defects which may appear during the maintenance period due to poor workmanship or materials and all structural defects which may arise due to bad building practices. The maintenance period shall be six months calculated from noon of the day following the handing over of the building to the Owner/Agent who shall notify in writing any such defects not later than two weeks after receiving notification unless the extent of the work be considerable when work shall commence within two weeks of notification and continue uninterrupted until completion.

20

29. Access for Owner/Agent

Provide at all reasonable times during the continuance of the contract works and during the maintenance period proper means of access, ladders and gangways with necessary attendance to move and adapt as necessary for inspection or measurement of the works by the Owner or his agent.

30

C. EXCAVATION SECTION

30. Nature of Excavation

The Contractors attention is drawn to the nature of the site to be excavated and he is advised to inspect the site as no claim will be entertained for any extra on this account.

31. Blasting

The Contractor shall take all necessary precautions to safeguard surrounding property and take all responsibility for any damage and annoyance caused by reason of blasting.

40

32. Grub Up

Grub up old roots, break up and remove any old concrete or other foundations which may exist, remove all contaminated earth and fill voids with dry hard materials and well ram. Clear away all vegetable matter over the area of construction work; remove bushes and shrubs in this area, and clear and cart away as directed.

Exhibits

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Contract.

1st May, 1958
- continued.

33. Temporary Boards

- 10 Supply all necessary temporary retaining boards for hardcore and other fill.

34. Soil

Excavate over area of building and other works shown on drawings, to remove good vegetable soil and shell to separate soil heap where directed on site within 25 yards run.

35. Reduce Levels

Excavate over area to reduce levels as necessary.

36. Excavation of Surface Trenches

- 20 Excavate for surface trenches, pier holes, etc. all to be widths and depths shown on the drawings or as directed as by the Owner/Agent, to an approved solid bottom.

37. Bottoms of Trenches to be Approved

Bottoms of all trenches are to be inspected by the Owner/Agent before concrete is laid.

38. Level and Ram

- 30 Level and ram well and consolidate surface of ground and bottom of all excavations to receive concrete foundations, beds, etc.

39. Extra Depths

Should any excavation be made below the level shown or required to obtain a solid bottom the Contractor must fill up the excavation as to the proper level with concrete 1:6 as hereinafter described.

40. Return, Fill and Ram

Return and fill in selected excavated material

Exhibits

"1"

Contract.

1st May, 1958
- continued.

around foundations and back of walls, etc. up to original ground level or as required in layers not exceeding 9" thick and carefully ram and consolidate with additional water if required.

41. Bed Fill

Wheel, fill in layers not exceeding 9" thick and well ram, water and consolidate selected excavated materials to make up levels under concrete beds, slabs, etc., and leave ready for concreting.

42. Machine Work

10

Excavating machinery, bulldozers, rooters, trenchers and diggers, etc. to be used where practicable.

43. Spread and Level

Spread and level surplus spoil from excavations over areas of the site as may be directed or approved by the Owner/Agent.

44. Cart Away

Cart away all surplus spoil and materials from excavations over areas of building operations and leave site clean as directed by the Owner/Agent.

20

D. CONCRETE AND MASON SECTION

45. Cement

All cement is to be Portland Cement of approved manufacture and is to comply with the latest British Stand Specification or the Standards of the American Society for Testing Materials.

46. Sand

The sand shall be clean and free from foreign matter of any sort and shall pass through a mesh 3/16" square and not more than 10% shall pass through a sieve of 40 meshes to the inch. The bulk shall be well graded between these limits. Samples may be taken by the Owner/Agent for testing purposes.

30

47. Coarse Aggregate.

Coarse aggregate for mass concrete work shall be clean hard broken stone or rock which shall pass through a 2" ring, and the bulk shall contain sufficient smaller stuff and particles to fill interstices.

48. Fine Aggregate

The aggregate for structural concrete work and reinforced concrete shall be clean, hard broken stone or rock which shall pass through a 3/4" mesh and shall be graded to fines.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

49. Water

Water used in concrete and plaster and mortar shall be clean, fresh and free from organic impurities and free from salt. Only water fit for drinking will be approved for use.

10

50. Reinforcement.

Steel reinforcement shall be of the sizes shown or described and shall comply with the latest British Standard Specifications or the American Standards of the American Concrete Institute or the Concrete Reinforcing Steel Institute.

51. Mixture A

Concrete mixture A shall be composed of 90 lbs. cement and 6 cubic feet of coarse aggregate as specified.

20

52. Mixture B

Concrete mixture B shall be composed of 90 lbs. cement and 2 cubic feet sand and 4 cubic feet of fine aggregate.

53. Mixture C

Concrete mixture C shall be composed of 90 lbs. cement and $1\frac{1}{2}$ cubic feet sand and 3 cubic feet of fine aggregate.

54. Gauging.

All materials for concrete shall be accurately measured. Cement shall be measured by weight and sand and aggregate shall be measured by means of a gauging box.

30

55. Mixing

Concrete shall be mixed in a batch mixer of an approved type for all work and shall contain the minimum amount of water consistent with a concrete

Exhibits

"1"

Contract.

1st May, 1958
- continued.

sufficiently moist to be tamped into position. The amount of water per batch must be measured and not added indiscriminately. Ready-mixed concrete prepared at a concrete mill and delivered in proper batch trucks with mixers fitted may be used and in such case the Contractor is to ensure that the concrete mix is such as to provide an ultimate strength of 2500 lbs. per square inch. The maker of the ready-mix concrete must provide the necessary guarantee of the quality and strengths of the mixture and the materials used and of the ultimate strength.

10

56. Placing

Immediately after mixing, concrete shall be run to the work and carefully placed in position. In reinforced work the concrete must be carefully placed around the reinforcing bars and thoroughly vibrated or tamped to exclude voids. Not more than 30 minutes shall elapse between the mixing and the final placing of the concrete. Care must be taken to ensure that reinforcement is not disturbed in the placing of the concrete.

20

57. Formwork

All formwork must be sufficiently strong to resist the dead weight of concrete barrows, men, etc. during concreting without bulging or undue deflection. Formwork for slabs shall be laid with an upward camber to ensure a level finish. All formwork must be carefully cleaned out before any concreting takes place and any necessary temporary openings will be left for this. Formwork shall be of tongued and grooved and thickened boarding, and the Contractor must allow for any rubbing down, polishing off, etc., which may be necessary. Forms and struts for concrete shall not be removed until the concrete is sufficiently strong to safely carry the loads (dead or temporary) and the responsibility for the safety of the concrete will rest with the Contractor. He will be held liable for any damage done and will have to make good same at his own expense.

30

40

58. Weather Protection

The Contractor shall take all necessary steps and measures to protect the newly placed concrete against any inclement weather and also against any excessive heat. Newly placed concrete shall be

protected from the direct heat of the sun and the final set shall be delayed by dampening as long as practicable.

Exhibits

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59. Structures

Contract.

The Contractor shall carry out the whole of the concrete work as indicated on the drawings and in these specifications.

1st May, 1958
- continued.

60. Materials and Labours

10 The Contractor shall supply all materials and labours including all necessary formwork, shuttering, hanging bolts, staying, gangways, expansion boards, fillets etc. and shall ease and remove same and do all that is necessary in executing the concrete and the masonry construction work to satisfactorily complete the works.

61. Steps and Paving

20 Construct external steps and entrance landings and paving as shown or described and also all foundations walls for the whole building in concrete mixture A as described above, all to be filled in and well tamped behind shuttering and finished with smooth surface.

62. Wall Foundations

Fill in to surface trenches with a concrete mixture B to dimensions and sizes as shown or described.

63. Floor Slab

Lay over area of the building a bed of concrete as shown on the drawings, using mixture B, well tamped and laid absolutely level to receive floor tiles.

30 64. Belt Courses and Lintels

Form combined belt courses to whole building all in concrete mixture B filled in on shuttering and formwork and well packed and rammed around reinforcement, casting in necessary wallplate fixing bolts and brackets at the same time. Form and shutter for lintels and use mixture B or C according to situation of lintel.

65. Structure

Carry up the walls as shown on the drawings to the

Exhibits

"1"

Contract.

1st May, 1958
- continued.

heights as shown, all load bearing walls to be 8" thick Hollow Concrete Blocks, and all non-load bearing walls to be 4" thick Hollow Concrete Blocks except where a specifically noted on the drawings. All to be set square and plumb with small joints, and leaving openings at junctions of all cross walls to form concrete columns. Form columns at all cross walls junctions as described above, in concrete mixture B well packed and rammed. External corners and internal corners in 8" thick walls to be laid with overlapped and bonded blocks, the core lining up vertically and to be poured solid with concrete Mixture B from foundations to belt course in three core holes.

10

66. Hack Concrete

Hack concrete surfaces as key for plaster, etc. where specified to receive such finishes.

67. Plaster Materials

Cement is to be Portland Cement as described for concrete. Water is to be clean and fresh and as described for concrete. Lime to be approved non-hydraulic lime run at least one month before use, and to be kept clean; or Hydrated Lime, mixed with water into putty not less than 24 hours before use. Mixture to be a standard of 1 to 5 mix.

20

68. Walls Plastered

Apply plaster to all vertical wall surfaces in two coats coarse stuff (Scratch and brown coats rendering first coat and floating second coat). Apply finish plaster coat in sand finish using fine stuff to all walls where no tiles are to be fixed. Apply plaster in smooth finish using Keene's cement to all walls exposed after wall tiles are fixed in those rooms where wall tiles are fixed.

30

69. Prepare Walls for Tiling

In those rooms where wall tiles are to be fixed prepare a second coat of plaster to receive mortar for wall tiles

70. Jambs, Reveals, and Sills

40

All jambs and reveals to window and door openings, arches, beams, and other exposed corners to walls will be finished in plaster at the same time as the

walls and to the same specifications for plaster materials. All sills to be tiled with first quality tiles for that purpose.

Exhibits

"1"

71. Floor tiles

Contract.

Supply and fix complete, including all necessary bedding mortars native cement tiles to all areas on ground floors. All to be first quality tiles, laid evenly and set absolutely level throughout the building. Include all necessary base tiles, skirting tiles, mitres, angles cutting and fitting and drilling for plugs for joinery fixtures where necessary.

1st May, 1958
- continued.

10

72. Wall Tiling

Supply and fix complete including all necessary bedding mortar, plain glazed china cushion edged wall tiles 6" x 6" to surgery room, examination room and grooming room to 4'6" from floor and around the bathtub recess to a height of 5'6" from floor level; also on bathtub shelf as shown on the drawings.

20

73. Stucco

Apply first coat stucco to all external wall surfaces to foundation level; materials to be one part Portland Cement as described to two parts sand, and mixed with waterproofing liquid to makers instructions. This coat not to exceed 3/8" in thickness. Apply a second coat stucco as described above to all external wall surfaces, to make up total thickness of first and second coats average 3/4" thickness. Return all jambs, reveals, splays and heads to door and window openings in stucco in two coats at the same time.

30

74. Septic Tank

Lay concrete bed in mixture B not less than 4" thick to form floor of septic tank, and build walls of 8" concrete blocks to ground level. Render and finish in cement plaster all inside walls of tank. Form roof to tank on wood shuttering and include for all connections, pipe joints, etc., complete. Measurements and dimensions to be standard design Septic Tank as issued by the Department of Public Works for use in domestic dwellings in Nassau.

40

75. Stonework

Supply and fix in position complete all stonework entrance steps as shown on the drawings, including

Exhibits

"1"

all mortars, cutting, setting and waterproofing.

E. CARPENTER AND JOINER

Contract.

76. Structural Timbers

1st May, 1958
- continued.

All structural timbers used in the construction shall be best quality native pine dressed and treated with brush coat Woodlife or equal preservative, and all to sizes and dimensions as shown on the drawings or otherwise specified.

77. Rafters and Roof Framing

Supply and fix complete all timbers in roof framing all to sizes and in positions as shown on drawings, all well jointed and firmly fixed together. Include all necessary bracing, strutting, wedging, etc. to make the whole roof structure strong, firm and rigid. Roof pitch to be 4 feet rise in 12 feet run. 10

78. Roof Covering

Roof is to be timber rafters with 7/8" sheathing. On this will be tacked one layer of 15 lb. roofing paper. On this will be laid, according to manufacturer's specifications 20 year bonded asphalt shingles, colour to meet with the owner's approval. 20

79. Ceilings

Supply and fix Celotex vee jointed dropped ceilings in Surgery room, examination room grooming room, private office, reception room and corridor. Other ceilings shall be unfinished with rough rafter system being exposed.

80. Door frames

Supply and fix complete door frames to sizes and designs as shown on the drawings. All to be set true plumb and square, and firmly fixed to masonry with anchors or spikes. 30

81. Doors

Supply and fix complete all doors as set out in the schedule shown on the plans.

82. Windows

Supply and fix complete all windows as shown on drawings, to the sizes and locations as shown, to

be aluminium framed 4" glass louvers complete factory fabricated and to the standard American specifications, complete with fly screens. Hallrite or equivalent make is to be used.

Exhibits

"1"

Contract.

1st May, 1958
- continued.

83. Cabinets

10 Provide and install complete all cabinets in operating theatre and elsewhere as shown on the drawings, all to be fitted with flush doors, standard worktop covered with formica or equal, drawers and toe space as detailed. All finished well and built square and true, prepared for high quality paint finish.

84. Gutter Boxes

Supply and fix complete all fascias, soffits, barge and eaveboards in not less than 1" nominal thickness timbers, and to other sizes and details as shown on the drawings.

85. Rough Hardware

20 The Contractor shall supply and fix all rough hardware necessary to carry out the work and all shall be to standard patterns of the best quality available.

86. Finish Hardware Supply

The owner shall select all finish hardware, but the Contractor shall allow the provisional sum of £25. 0. 0 to cover this item (excluding kitchen cupboard hardware). Any saving or excess incurred in this sum shall be adjusted against the provisional sum.

30 87. Finish Hardware Fixing

Fix only all finish hardware including all setting, adjusting, and oiling and easing to ensure easy operation.

88. Storm Shutters

OUT. (Sgd.) IAN J.H. ALLAN.

F. PLUMBER

89. Materials and Workmanship

The whole of the materials and workmanship shall be of the best quality available. The whole of the

Exhibits

"1"

Contract.

1st May, 1958
- continued.

plumbing installation, the water supply and the drainage and sewage disposal shall conform to the code set out by the Public Health and Public Works Departments of the Bahamas Government, and the whole of the works shall be subject to inspection and approval by Government Inspectors.

90. Plant, Tools, etc.

The Contractor shall furnish all tools, plant and equipment necessary for the satisfactory execution of the plumbing works.

10

91. Scope of the Work

(a) Complete installation to satisfy the physical layout of the building and ancillaries as shown on the drawings.

(b) Hot and cold water supply shall be from the public mains and distributed to the dark room, the surgery room, examination room, grooming room, bathroom, ward and the sluice in the corridor where shown on the plans.

(c) All pumps, pressure tanks, piping, valves, stopcocks, bends, bibcocks, etc. necessary for the complete installation.

20

(d) Septic tank for sewage treatment, with pipe connection for effluent.

(e) Roof flashings, including metal protection plates, etc.

92. Mains Water Supply

The Contractor shall provide for a connection to the private well and supply complete pipe connections to control gear located under the entrance steps, including galvanized iron pipe of 1" nominal bore, with screwed joints, and all necessary connections and valves.

30

93. Hot Water Distribution

Provide complete all distribution lines in copper pipe and fittings, all brass control valves, bends, tees, branches, etc. complete.

94. Air Chambers

Provide in hot and cold water distribution systems the necessary air chambers to prevent "water-hammer" and other disturbances.

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95. Wastes

All fixtures shall be provided with heavy gauge chromium plates on brass waste fittings, properly ventilated and connected.

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96. Valves

All piping systems shall be fitted with valves and stopcocks, those inside the dwelling house proper being of heavy chrome plate on brass, and those on the main lines at the control point in the garage being plain cast brass.

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- continued.

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97. Pump and Pressure Tank

The Contractor shall include for one pump and one pressure tank for well water. The pumps shall be $\frac{1}{2}$ h.p. electric "Myers Ejecto" or equal with 1 x 40 gal. heavy gauge galvanized steel pressure tank and pressure gauges and control gear to operate at 20 lbs. pressure, cut off at 40 lb. pressure. The pumps, tanks, and control gear shall be located in the service lavatory.

20 98. Hot water Heater

The Contractor shall include for the supply and fixing complete of one only water heater electric 60 gallon capacity, Hotpoint or equal. This should be fitted with thermostatic control and shall be fully automatic in operation with master control switch and fuse box.

99. Drains, above ground

30 Provide and fit complete with all drains necessary, bends and connections, all drains from fixtures and fittings, wastes, etc. in galvanized iron piping above ground and where bedded in walls, etc. Include also all necessary ventilating pipes in galvanized iron piping to extend upwards through roof lines; exposed end to be mesh enclosed.

100. Drains, below ground

40 Provide all necessary drains, connection, cleanout plugs, etc. from galvanised iron pipes described above, and connected to the relevant disposal. All to be in heavy quality 4" cast iron pipes with spigot joints well sealed with an oakum and molten lead, including all necessary cleanout plugs and eyes.

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101. Roof Flashings

Provide and fix complete all necessary flashings, soakers, etc., all in heavy gauge copper sheet, well soldered and watertight.

102. Fixtures

The Owner shall select all sanitary fixtures and fittings but the Contractor shall allow a provisional sum of £200. 0. 0 to cover this item. Any saving or excess incurred in this sum shall be adjusted against the provisional sum. The Contractor will install all the fixtures and fittings shown on the drawings.

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103. Fittings

The Contractor shall fit soap dishes, glass and toothbrush holders, toilet roll holders, towel rails and robe hooks where directed in the bathrooms by the Owner.

G. ELECTRICIAN

104. Materials and Workmanship

The whole of the materials and workmanship shall be of the best quality available. The whole of the electric lighting and power installation shall be executed in accordance with the code of the Bahamas Government Electrical Department and shall be subject to inspection and approval by the Department's inspector. The whole of the work on the telephone installation shall conform to the requirements of the Bahamas Government Telecommunications Department and shall be subject to inspection and approval of that Department's inspector.

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105. Plant, Tools, etc.

The Contractor shall furnish all tools, plant and equipment necessary for the satisfactory execution of the electrical works.

106. Scope of the Work

(a) Complete installation of conduits, cables, wiring and control gear to achieve the requirements of the physical layout of the dwelling house as shown on the drawings.

(b) Main switches, meters, distribution panels, fuse panels and all control gear located under the entrance steps.

40

An Allowance of £25 is to be made by the Contractor for the Purchase of 8 Ceiling Fixtures.
(Sgd.) IAN J.H. ALLAN.

Exhibits

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(c) Conduits and wiring in the internal distribution of the house.

(d) Outlet sockets for standard lamps, etc. in all rooms, as well as weatherproof sockets situated outside the building.

10 (e) Lighting points in ceilings.

(f) Switches at walls for light and outlet control.

(g) Power points and outlets for pumps, range, etc.

(h) Conduits and wires for telephone outlets as shown.

107. Mains Connection

20 The Contractor shall provide by arrangement with the Bahamas Electricity Corporation for a mains cable and meter to be installed under the entrance steps including also the necessary mains cut-out and switch gear. The Owner to bear the net cost of the Corporation's charges.

108. Provide all Switchgear, etc.

Provide and install complete all distribution panels and fuse panels at the control location in the garage.

109. Distribution

30 Provide and install complete all necessary conduits and wiring to all the outlets and lighting points and power points as shown on the drawings, or as required to meet the installations of the pump etc. described in the Specification.

110. Conduits

Shall be of heavy gauge galvanized iron of adequate sizes.

111. Wiring

Shall be of P.V.C. or equal in single or twin strands of adequate sizes and of 600 volt class.

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112. Outlets

Provide all outlets in positions as shown on the drawings, all to be double outlet in metal cases with plastic cover plates. Outlet positions to be generally 12" from the floor. All outlets to be "hot" and unswitched, except where shown on the drawings.

113. Lighting Points

Provide complete in positions as shown on the drawings, lighting points in rooms with switch controls at the doorways. Switches to have metal cases and plastic cover to match outlet plates.

10

114. Power Points

Provide complete all power outlets and permanent connections to locations as shown on the drawings, or to equipment as described in the Plumber section of the specifications.

115. Switches

All wall switches to lighting points or wall outlets to be toggle type single pole, except for power outlets which will be double pole.

20

116. Bell and Annunciator

Provide complete push bell and annunciator system at front door with small current transformer operated from mains supply. The push button shall be of flush pattern and the front door alarm shall be of buzzer type.

117. External Outlets

Provide in positions as shown or directed external outlet points in weatherproof boxes with screw pattern covers to outlets.

30

118. Telephone

Install complete conduits to provide outlet points for telephone in location as shown on the drawings. Provide and install all internal wiring for this. External connections will be arranged direct by the Owner with the Telecommunications Department.

J. PAINTING

119. Materials and Workmanship

The materials and workmanship shall be of the best

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quality and the finish of the work by this trade shall be consistent with the standards of good class residences throughout the Colony.

Exhibits

"1"

120. Walls Internal

Contract.

Prepare all plastered walls, faces of masonry openings, reveals, etc. and all other plastered surfaces for painting in good quality oil colours. Apply one coat good quality primer-sealer to all surfaces described. Apply one coat good quality latex or equal gloss finish in colours.

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- continued.

121. Woodwork Internal

- 10 Stop, knot and prime all woodwork to doors, frames, closets, cupboards, cabinets, etc. and shelves. Apply one coat good quality primer-sealer to all surfaces described. Apply one coat good quality latex or equal gloss finish in colours.

122. Ceilings Internal

Prepare and treat all ceilings as shown above but finish according to Finish Schedule.

123. Stucco

- 20 Prepare all stucco surfaces for painting with sealer and two coats latex paint. Apply one coat primer-sealer in white only. Apply two coats best quality latex paint. Care shall be taken that each coat is complete and even all over before second coat is applied, and all corners, returns and difficult spots will be thoroughly painted in each coat.

124. Woodwork External

- 30 Prepare all woodwork, knot, stop, fill and rub down completely. Apply one coat good quality primer-sealer paint to all surfaces. Apply two coats good quality lead base high gloss paint.

125. Window Frames

Clean down thoroughly, removing all marks or stains from lines or other mortar, paints, liquids, etc. and leave clean.

126. Other Metals

Clean down thoroughly with proprietary cleaners

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"1"

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- continued.

where applicable all chrome finish hardware etc.
removing all stains, marks and paint spots.

127. Generally

Clean down and remove spots, stains, marks, etc.
from all places, floor tiles, paving, etc. and
leave the whole clean and tidy.

(Sgd.) BENJAMIN L. PRATT
Contractor.

A. SOLTYS
Owner.

IAN J.H. ALLAN
Witness.

ON APPEAL
FROM THE SUPREME COURT OF THE BAHAMA ISLANDS

B E T W E E N :

THE HONOURABLE SIR GEORGE WILLIAM KELLY
ROBERTS Trading as THE CITY LUMBER YARD
Appellant

- and -

ALBERT SOLTYS Respondent

R E C O R D ' O F P R O C E E D I N G S

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Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
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Solicitors for the
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