IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

1. SUIT NO E042 of 1993

BETWEEN	BARRINGTON PRICE	PLAINTIFF
A N D	KAVANAGH INVESTMENTS LTD.	DEFENDANT

2. SUIT NO C.L. C259 of 1993

BETWEEN	CALABASH ENTERPRISES LTD.	PLAINTIFF
A N D	KAVANAGH INVESTMENTS LTD.	DEFENDANT

Maurice Manning instructed by Nunes, Scholefield, DeLeon & Co. for the Plaintiffs.

Raphael Codlin instructed by Raphael Codlin & Co. for the Defendants.

HEARD: MAY 10, 11, 12, 13, 15, 25, JUNE 6, DECEMBER 17, 1999

Pitter J,

These two suits were initiated by Barrington Price the president of Calabash Enterprises Ltd. They are consolidated. The first is a claim against the defendant for the sum of $400,000.00 owing to the plaintiff for expenses associated with the repair of premises at No. 84 Church Street, Kingston.

The second is a claim for damages against the defendant for breach of a lease agreement and for trespass and detinue and or conversion of the plaintiff's goods.

Diana Kavanagh is a director of the defendant company.

It is the plaintiffs' case that in or about June 1991 he entered into a lease agreement on behalf of Calabash Enterprises Ltd. with the defendant for the rental of premises No. 84 Church Street, Kingston for a period

of ten years at $2,500 per month, and in keeping with the terms of the said agreement and with the consent of the defendant he refurbished the premises at a cost of $400,000.00 and that the defendant has failed to repay the agreed sum and which he now seeks to recover. Further that on or about the 24th September, 1992, the defendant by its servants or agents without the plaintiffs' consent or permission unlawfully entered the said premises and ejected the plaintiff there from taking goods, valuables and moneys that were stored in the said premises amounting to $300,000.00. The defendant has denied these claims and has counter-claimed against the plaintiff.

The defendant's case is that the premises were leased to the plaintiff at a rental of $2,500 per month and who was given permission to install fixtures in connection with his business of a restaurant and bar. That during the tenure of the lease the plaintiff incurred utility expenses, unpaid rental and a loan of $200,000.00 altogether amounting to $456,624.46. The plaintiff has denied the defendant's counter-claim.

The plaintiffs' evidence is that the premises were in a deplorable state, the roof leaked, the plumbing was non-functional, and as a result he had to replace most of the zinc on the roof, upgrade the electrical system to accommodate new applicances, rip out the floors and replace galvanized with PVC pipes, install burglar bars where none existed, replace some ceiling fans and paint the building. An estimate of the cost was done and he was given permission to go ahead. He paid

$400,000.00 for cost of the refurbishing and the defendant has failed t repay the said sum with interest at 20% per annum. This agreement wa put in writing as a letter of charge dated August 6, 1992 against the said premises in favour of Barrington Price the plaintiff in the first suit to secure the amount. It was admitted in evidence as exhibit 2. It bore the seal of the defendant company and was signed by Diana Kavanagh and Barrington Price as directors. A similar letter of charge was done in favour of Barrington Price but signed only by Diana Kavanagh in person - this too was admitted in evidence as exhibit 6.

A mortgage under the Registration of Titles Act was also made in favour of Barrington Price against the said premises to secure the said sums. The document was signed by Diana Kavanagh and Barrington Price as directors of the defendant company with Barrington Price as the mortgagee. It was admitted in evidence as exhibit 3. He has not been repaid the $400,000.00. The lease agreement on which this suit is anchored was signed by Barrington Price as leasee and Diana Kavanagh as leasor and which was admitted in evidence as exhibit 1. The plaintiff said that he carried on the business of a restaurant and bar, grocery and snack counter on the premises and the business was doing well up to when he left the island in August 1992. He left one Augus Thomas in charge. When he returned in 1994 fixtures and equipment were missing and the premises taken over by Mrs. Kavanagh. The missing items were valued at $300,000.00.

He denied getting a loan of $200,000.00 from the defendant.

$400,000.00 for cost of the refurbishing and the defendant has failed t repay the said sum with interest at 20% per annum. This agreement wa put in writing as a letter of charge dated August 6, 1992 against the said premises in favour of Barrington Price the plaintiff in the first suit to secure the amount. It was admitted in evidence as exhibit 2. It bore the seal of the defendant company and was signed by Diana Kavanagh and Barrington Price as directors. A similar letter of charge was done in favour of Barrington Price but signed only by Diana Kavanagh in person - this too was admitted in evidence as exhibit 6.

A mortgage under the Registration of Titles Act was also made in favour of Barrington Price against the said premises to secure the said sums. The document was signed by Diana Kavanagh and Barrington Price as directors of the defendant company with Barrington Price as the mortgagee. It was admitted in evidence as exhibit 3. He has not been repaid the $400,000.00. The lease agreement on which this suit is anchored was signed by Barrington Price as leasee and Diana Kavanagh as leasor and which was admitted in evidence as exhibit 1. The plaintiff said that he carried on the business of a restaurant and bar, grocery and snack counter on the premises and the business was doing well up to when he left the island in August 1992. He left one Augus Thomas in charge. When he returned in 1994 fixtures and equipment were missing and the premises taken over by Mrs. Kavanagh. The missing items were valued at $300,000.00.

He denied getting a loan of $200,000.00 from the defendant.

He was aware of a transaction with the Bank of Nova Scotia regarding the loan but had not benefited from it. He said that that loan related to repairs done to Mrs. Kavanagh home at Norbrook, and insurance of premises No. 84 Church Street among other things. He did not give the defendant permission to enter and take over his business, nor did he consent to Mrs. Kavanagh to be in charge of it whilst he was away.

Cross-examined he said he entered into possession in October, 1990 and had paid all bills incurred in his business. He denied asking Mrs. Kavanagh to go into business with him shortly after he took possession. He also denied that he persuaded her by threats to her to use her title to get a loan of $200,000.00 for his business. He said that rental and utility bills were paid in cash to Mrs. Kavanagh for the time he occupied the premises and that when he left he did not know there were any outstanding utility bills.

He was unable to produce any receipts, invoices, bills or documentary evidence relating to his claim for repairs to the premises, or cost of the missing items - all these he said were in his filing cabinet in his office at the time Mrs. Kavanagh took over the premises and he had not seen them since.
He denied that there was an intimate relationship between himself and Mrs. Kavanagh and that he used this situation accompanied by threats to place himself as a director of her two companies as also to obtain the loan of $200,000.00 and to sign cheques drawn on her companies. He admitted being a director and a co-signor of cheques on each of the accounts of Kavanagh Investment Ltd. and Kavanagh's Promotions Ltd. albeit he was not a shareholder in any of these companies. He said

that the cheque representing the loan of $200,000.00 was lodged to the defendant company's account and was never used by him. He however admitted that he might have signed cheques amounting to $200,000.00 relative to that account.

Electrical and other equipment were repossed by ceditors due to non payment. He denied going back to Canada because he was unable to pay his bills. He could not say how much goods were left on the premises when they were taken over nor could he remember the price of any of the items. He could not say how many sheets of zinc he had purchased to repair the roof nor could he give an exact figure of the cost of any part of the repairs that were done. He said he had furnished Mrs. Kavanagh with the relevant bills. He did not remember that forty two cheques drawn on his account were dishonoured and returned to him. He admitted signing a cheque drawn on the defendants' account in favour of Yvonne Brown his fiance at the time.

Yvonne Price and Augustus Thomas gave evidence on behalf of the plaintiff confirming the take-over of the premises by Mrs. Kavanagh. Mrs. Price testified that she was formerly known as Yvonne Brown and that she is a director of Calabash Enterprise Ltd. She said that when her husband the plaintiff took over the premises it was in a delapidated, run-down and dark state, but that the plaintiff renovated it in 1991, setting up a counter, a fully equipped kitchen, and established a restaurant and bar, salad-counter and grocery. She admitted getting a cheque for $10,000.00 signed by Mrs. Kavanagh and - the plaintiff. She could not recall, getting more than one such cheque.

Augustus Thomas said when Mr. Price left the Island in August 1992, he was put in charge of the business and that he kept the keys for the premises. Business went on as usual until three weeks later when Mrs. Kavanagh took it over. During the time he was there he paid no utility bills.

The defence called as its first witness Wolfgang Holn a furniture manufacturer and retailer who said that in 1992 he sold to the plaintiff goods including dining tables, chairs and potted plants and who paid him $34,000.00 by cheque which was subsequently returned. He tried to collect the money but was unsuccessful and had to resort to repossessing the goods at the request of the plaintiff.

Diana Kavanagh testified that she is the widow of the late Eric Kavanagh a chartered accountant who up to the time of his death in March 1990, operated an auditing firm in the name of Kavanagh & Co. Ltd. at 34 Church Street, Kingston. She is a director of the defendant company as also Kavanagh Promotions Ltd. with the other director being Barrington Price. In August 1990 she rented him the said premises at a rental of $2,500.00 per month and up to the time he left he had not paid her any rental. In January/February 1991 Mr. Price encouraged her to join him in his restaurant business which he operated on the premises. He needed money to carry on the business and persuaded her to use her title for the house at Norbrook to obtain a loan of $200,000.00 to finance the restaurant. This she did and lodged the proceeds to the account of Kavanagh Promotions Ltd. At the suggestion of the defendant she signed a number of blank cheques

on this account and gave the plaintiff with the understanding that from time to time cheques would be drawn on this account which would be used to pay bills incurred by the restaurant. At that time she regarded them both to be in the restaurant business but each time she visited the premises the plaintiff would discourage her from coming there and later told her he did not want her there. He kept the cheque book.

She said that when she signed exhibits 2 and 3 this was done under duress. The plaintiff threatened her with a gun to sign the already prepared documents. She said he told her he wanted a Canadian visa and she should sign the documents so he could show the Canadian authorities that he had title in Jamaica.

She denied the building needed substantial repairs and that this was done at an agreed cost of $400,000.00.

She denied that the plaintiff had done extensive repairs to the premises by changing the ceiling, fans, zinc roof, plumbing and electrical fittings. She never authorised this except for minor repairs. She denied that the loan of $200,000.00 from the Bank of Nova Scotia was used in connection with her home at Norbrook as she was in financial trouble.

She denied removing anything from the premises when she repossessed it. All she found there were about one dozen cups and saucers, two or three pots, the bar fixtures and a counter. She sa tables and chairs were repossessed by Mr. Wolfgang Holn and a stove, cooler, and stainless steel tables were repossessed by the bailiff on behalf of Homelectrix.

She got no bills from the plaintiff. She claimed that the plaintiff took a partition from the building valued at $40,000.00. She said she had an intimate relationship with the plaintiff from January 1991 until he left in August 1992.

Cross-examined she said she had entered a lease agreement with the plaintiff for a period of ten years and it was agreed that the plaintiff would paint the building and deduct the cost from the rental. Shown exhibit 1 the lease agreement, she agreed that much work was to be done to the premises apart from painting. The intimate relationship between them was not such a good one as his show of violence frightened her into signing exhibits 2 and 3. She said he had begged her to let him become a director of h companies but never used violence on that occasion.

The business the plaintiff carried on was nothing out of the ordinary,she tried to participate in it but was not given the chance. She denied the plaintiff would give her cash for the cheques he had drawn on Kavanagh Promitions Ltd.

She had never attempted to borrow money from the bank until he was made a director of her companies.

It is not true that she needed the loan of $200,000.00 to carry out repairs at her home at Norbrook. She said at the time of her husband's death she inherited from his estate $2M.

She maintained that there was an outstanding light bill for $60,000.00 and water $12,000.00 in October 1992.

She denied taking over the plaintiff's filing cabinet containing documents including bills and receipts.

The next witness Devan Callum the senior accounting manager at the Bank of Nova Scotia, Scotia Centre, Kingston, said that a loan of $200,000.00 was negotiated with his bank on behalf of the Kavanagh's Promotions Ltd. with the plaintiff doing most of the negotiations. He said that Mr. Price told him that the loan would be used for a restaurant himself and Mrs. Kavanagh were establishing at 84 Church Street and that the funds were required to purchase equipment furniture and for working capital. He said Mr. Price told him that himself and Mrs. Kavanagh would be going into business and that he would be in charge of production and the running of the restaurant and that Mrs. Kavanagh would be in charge of the accounts - during the discussions Mr. Price told him that Mrs. Kavanagh was his fiancee' and that he intended to marry her. He disbursed the loan in December 1991 but the repayment of $5,000 per month fell into arrears shortly after.

A mortgage over a property owned by the defendant and personal guarantees of the directors were used as collateral to secure the loan. Several demands for repayment were made but bore no fruit. Demand payment was subsequently made on the defendant and the guarantor. Consequently Mrs. Kavanagh disposed of her residence in Norbrook and settled the loan from the proceeds thereof by paying the bank the sum of $318,059.76¢ to cover the sum loaned plus interest and costs. Mr. Price never made any repayment towards the loan.

Granville Hugh McDonald, told the Court he was the brother of Mrs. Kavanagh. He used to visit premises 84 Church Street since

it was used by an auditing firm by Mr. Kavanagh and that he used to supply the plaintiff there with vegetables.

When Mr. Price took over the premises he did some changes to it by putting in shelves, fixtures, painting and a counter. Nothing was done to the wiring and lots of fans were there.

He had been on the roof before the plaintiff entered into possession and after he had left. It leaked when it rained. He inspected the roof after Mr. Price left and found that no repairs had been done to it. There were no new ceilings, windows or other fixtures installed except for the bar.

He admitted in cross-examination that he was not a qualified electrician nor a plumber and that the piping and wiring were concealed. He used to take care of the building before Mr. Price rented it and had been on the roof with Mr. Price because of the leaks.

Stephen Webster testified that he was a Salesman for Homelectrix and sometimes in 1990 or 1991 he had sold the plaintiff stoves on Hire Purchase agreement to start up a restaurant business on behalf of himself and Mrs. Kavanagh. The payments fell in arrears and the bailiff was called in to repossess. Mrs. Kavanagh paid off the arrears - Mr. Price was then off the island.

Findings

I find as a fact that the plaintiff Barrington Price and Mrs. Kavanagh had an intimate relationship between them from 1991 up to the time the plaintiff left the Island in August 1992. This finding is reinforced by the evidence of Bevan Callum who said that or negotiating the loan of $200,000.00 the plaintiff told him that Mrs. Kananagh was his fiancee and that he intended to marry her.

I also find as a fact that the plaintiff told Mr. Callum that the loan was needed to purchase equipment and for working capital to establish a restaurant at 84 Church Street, Kingston.

I find that the $200,000.00 loan lodged to the defendants' account was used by the plaitniff in his business and his own use and that neither Mrs. Kavanagh nor the defendant received any benefit from it.

I find that the plaintiff became impecunious in his business and was unable to pay his debts so much so equipment in the restaurant had to be repossessed by creditors.

I find on a balance of probabilities that the plaintiff did not pay any rental or utility bills for the premises during his occupation. He did not produce any receipts and in any event I find him to be an untruthful witness and cannot be believed.

I find that the intimate relationship which existed between the plaintiff and Mrs. Kavanagh allowed the plaintiff to take advantage of her so much so that she made him a director of both her companies and co-signing cheques drawn on one account albeit he owned

no shares in any of them. That he used this association to persuade Mrs. Kavanagh to get the loan from the Bank of Nova Scotia. I reject the evidence that the reason for the plaintiff's participation in this transaction was to assist Mrs. Kavanagh who had some financial difficulties.

In suit No 042/93 where the plaintiff claims $400,000.00 for repairs carried out on the premises, he contended that they were necessary and done in keeping with the terms of the lease agreement executed between the parties. On the other hand the defendant maintained that the building was in fair condition and did not require substantial repairs and that the repairs were never done. NO bills or invoices were presented to the Court by the plaintiff in support of his claim. In answer to this the plaintiff said all his papers including bills etc. were kept in his filing cabinet in his office at the time when Mrs. Kavanagh retook possession of the premises on the 24th September 1992. No attempt was made by the plaintiff in detailing the cost of the items he said were used nor of the labour costs. I do not find that there was any difficulty in obtaining duplicate invoices or prices of the individual items (such as zinc, louvre windows, ceiling, fans etc) or that for labour. Even if such repairs were done, as the claim is one of special damages, it is Mr. Codlin's contention that special damages must be strictly pleaded and strictly proved and it is not enough for the plaintiff to say he has spent $400,000.00 to improve the property,

there must be proof to show what expenditure was incurred and the cost of each of the several items. i.e. the cost of materials, cost of labour etc. either item by item or group or bulk of items. He cited authorities for this proposition.

In the case of Lawrence v Robinson & Co (1965) 9 JLR Fox J examined a number of authorities and quoted the following extracts and which I adopt.

> "In considering whether from the point of view of pleading the plaintiff's claim has been properly made under the head of special damage, the basic test is "whether particularity is necessary and useful to warn the defendant of the type of claim and evidence, or of the specific amount of claim, which he will be confronted with at the trial" (Mayne & McGregor, on Damages (12th edition paragraph 970)."

In the case of Robinson & Co. v Lawrence (1969) 11 JLR 453 Hercules J.A (Ag.) in delivering judgment referred to the case of Bonham-Carter v Hyde Part Hotel Ltd. (1948) 64 TLR at page 178 where Lord Goddard C.J. declared:

> "On the question of damages I am left in an extremely unsatisfactory position. Plaintiffs must understand that if they bring actions for damages, it is for them to prove their damage; it is not enough to write down the particulars and, so to speak, throw them at the head of the Court saying: 'This is what I have lost; I ask you to give me damages.
> They have to prove it."

His Lordship then quoted with approval, the recognition of this principle as set out in the speech of Lord McNaughton in the case of Stroms Brucks Aktie Bolag v Hutchinson (7) (1905) AL PP. 525, 526.

> "Special damages are such as the law will not infer from the nature of the act. They do not follow in ordinary course. They are exceptional in their character and, therefore, they must be claimed specially and proved strictly."

It is my judgment that the plaintiff's case falls within the ambit of the definition laid down by Lord McNaughton and it fails to meet that test, although special damages was specially pleaded it was not strictly proved.

Mr. Manning however, submitted that the Court should find that extensive repair work was carried out by the plaintiff and which is corroborated by exhibits 2, 3 and 6 and that these three documents should be considered by the Court as written proof that the defendant had accepted liability for the cost of repairs.

The defendant through its managing director Mrs. Kavanagh testified that she signed exhibit 2 the letter of charge dated 6th August 1992 and exhibit 3 the mortgage, she did so under threat of violence by the plaintiff at gun point, and also that she did so in order to assist Barrington Price who needed to show ties in Jamaica to the Canadian authorities. Although this was pleaded in defence, it was never suggested to the plaintiff in cross-examiantion that he had used a gun to threaten Mrs. Kavanagh. Nor was there

any suggestion that she had signed another letter of charge dated 14th July , 1992 under duress or force of threats. There is no explanation whatever why it became necessary to have two letters of charge in the same amount regarding the same debt against the same property which is also secured by a mortgage against the said property to secure the said sum. It would appear an oppressive course to have adopted and might very well support the state of mind of Mrs. Kavanagh when she signed these documents.

Mr. Manning contends that the plea of 'non est factum' as raised by the defence casts upon the party raising it a heavy burden of proof, a fortiori where the duress alleged is a criminal act, the plea must be kept within its narrow limits See Norwich & Peterborough BS v Steed (1933) 1 AER 336 J and see Saunders v Anglia Building Society (1970) 3 AER 961 H2, I accept the submission of Mr. Manning that a person's signature in the absence of clear evidence to the contrary, binds that person to the document he signs.

It is the defendant who is challenging the document and therefore it is the defendant who has to prove the allegation of duress - The question is, has the defendant failed to meet the required test? As I have already found, Mr. Price is untruthful when he denied being on intimate term with Mrs. Kavanagh. Why the denial? Is it that he knew he had forced her to sign the above documents and is now distancing himself from that relationship. In any event I find that there is no proof that threats were used by the plaintiff to secure her signature on the several instruments. The plea of 'non est factum' cannot succeed.

But this is not the end of the matter Mr. Colin has further submitted that if the Court is not satisfied on the evidence regarding the plea of 'non est factum , the very documents on which the plaintiff relies to establish the case against the defendant can neither form the basis of a contract nor be admitted in evidence as they have not been stamped as required by Law. And even if they had been admitted in evidence without the objection of the defence, their validity cannot be determined by consent as they are tainted with illegality and unforceable.

Section 4 of the Statute of Fraud require that all transactions concerning all interest in land must be in writing in order to be enforceable.

The provisions of Section 32 of the Stamp Act sets out the instruments to which stamp duty is applicable which includes mortgage, lease , instruments of any kind whatsoever creating a security.

Section 36 of The Stamp Duty Act reads:

> "No instrument not duly stamped according to law, shall be admitted in evidence as valid or effectual in any court or proceeding for the enforcement thereof."

This section mandates that there must be full compliance with the requirements of the Act in order that the aforementioned exhibits may be admitted. It follows that exhibits 1, 2, 3 and 6 being unstamped ought not to have been admitted in evidence and all evidence which flowed from their admission is rendered invalid; and is therefore now struck from the records. This being so, the plaintiff's action collapses and any determination on the

question of duress has become purely academic.

Turning now to the counter-claim, the defendant claims the sum of $52,819.70 for light bill; $30,250.00 for water; rent from September 1990 to August 1992 $57,500 and loan together with interest $318,059.76. Reference was made to two bills which accompanied an affidavit filed by Kavanagh, supporting her claim for sums owing in respect of light and water. Although these bills are dated March 1993, she said in evidence that these amount represent arrears up to the 3rd week in October, 1992 when services were disconnected, and that these services were used by the plaintiff during his occupation.

I find on a balance of probabilities that these sums were not paid by Mr. Price (on behalf of Calabash Enterprises) and also that he did not give Mrs. Kavanagh the cash to pay these bills. By the same token I find that no rental had been paid to the defendant over the period, all this because of the relationship between the parties and the impecuniosity of Mr. Price.

Regarding the claim for $200,000.00 plus interest as I have already found, although this sum was lodged to the defendant's account, it was used by the plaintiff in his business and that he solely benefitted from it.

There is therefore, judgment for the defendant on the claim and on the counter-claim with costs.

As regards the second suit C.L. C-259 of 1993 the claim for $300,000 represents the value of items the plaintiff said were left on the premises when Mrs. Kavanagh took over. She denied this saying only a few pots and bar fixtures remained on the

premises. Here as in the first claim Mr. Codlin submitted that this is an item of special damages and although itemised there is no indication of the cost of each item or group of items and therefore not proved strictly, and he relied on the authorities cited earlier. I find the plaintiff to be in no better position than in the earlier case, the submission is accordingly upheld.

The other item on the suit is a claim for breach of quiet enjoyment. This was approached on two limbs, firstly under the terms of the 10 year lease and secondly under the provisions of the Rent Restriction Act. Here again it follows from the findings in the first suit, that the claim under the terms of the lease fails as the lease exhibited offends the provisions of the Stamp Duty Act which bars it from being admitted inevidence.

However, Section 3(1) of the Rent Restriction Act provides as follows:

> "3(1) This Act shall apply, subject to the provisions of Section 8 to all land which is building land at the commencement of this Act or becomes building land thereafter, and to all dwelling houses and public or commercial buildings whether in existence or let at the commencement of this Act or erected or let thereafter and whether let furnished or unfurnished."

The premises 84 Church Street is therefore subject to the provisions of the Rent Restriction Act.

In order to recover possession, the defendant must either wait for the tenancy to run its course or to comply with the Act by serving a valid notice to quit pursuant to Section 25 of the said Act.

I am in agreement with Mr. Manning that the defendant is not able to show any legal defence to the claim of trespass to the premises in that Mrs. Kavanagh wrongfully took possession thereof thus avoiding the provisions of the said Act. All references to the terms of the lease are disallowed for the reasons given earlier. What is left therefore is a monthly tenancy of $2,500. How should damages be calculated? It cannot be based on the terms of the lease which is now excluded from the evidence. Mr. Manning has suggested that the sum of at least $750,000.00 be awarded. He has not said how he arrived at this figure.

The normal measure of damages where the lessor is evicted from the whole property, or fails even to get possession of it at all, is the value of the unexpired term which will be calculated as the rental value of the premises less the contractual rent which would have fallen to be paid in the future. The authority for this proposition is the decision in **Williams v. Burrel** (1845) 1 C.B. 402 where the plaintiff was ejected by the rightful owner and recovered inter alia the value of the term lost.

In the instant case, the rental was to have been paid monthly for no fixed term. There is absolutely no evidence that the business operated at a profit and if so, how much. The only equitable remedy therefore is to take into account the period that it would require to recover possession legally.

Under the Rental Restriction Act there is a requirement of one month's notice and thereafter Court proceedings if the tenant fails to deliver up the premises. This could take another three months from the service of notice making an overall period

of four months. Using the reference point as $2,500 that is, the monthly rental for four months the sum of $10,000 would have been arrived at. The plaintiff is awarded the sum of $10,000 for damages for wrongful taking of possession/trespass to land. Judgment for the plaintiff in the sum of $10,000 with costs to be agreed or taxed.

In conclusion there will be judgment for the defendant in the sum of $448,624.46 with interest @3% p.a. form the 29th October, 1993 to the 17th December, 1999.

Costs to the Defendants to be agreed or taxed.