

IN THE COMMONWEALTH OF DOMINICA

IN THE HIGH COURT OF JUSTICE

SUIT NO. DOMHCV 0266 OF 2001

IN THE MATTER OF THE COMPANIES ACT 1994

BETWEEN:

COCONUT BEACH RESIDENCE LTD

Applicant

AND

COCONUT BEACH HOTEL LTD

Respondent

Appearances:

Mr. Michael Bruney for the Petitioner

Mrs. Dawn Yearwood-Stewart for the Respondent

23 JULY 2002

DECISION: 26 JULY 2002

DECISION

[1] **CENAC J.**, This is a Petition filed by the Petitioner the Coconut Beach Residence Ltd that the Coconut Beach Hotel (1989) Co. Ltd may be wound up by the Court under the provisions of the **Companies Act 1994 (No. 21 of 1994)** and in particular section 377 © thereof which states:-

"A company may be wound up by the Court if –

(a).....

(b).....

© The Company is unable to pay its debts".

[2] Section 378 (1)© states:-

"A Company is deemed to be unable to pay its debts if

(a).....

(b).....

© It is proved to the satisfaction of the Court that the Company is unable to pay its debts as they become due".

- [3] The Company is indebted to the Petitioner in the sum of \$426,165.00 the amount of a final judgment obtained by the Petitioner against the Company in High Court Suit No. 280 of 1998 with interest in the said sum at 5% and costs of obtaining the said judgment.
- [4] The said judgment remains wholly unpaid and unsatisfied.
- [5] The fact that the Company is owing the debt to the Petitioner was conceded in an affidavit sworn to and filed by Peter Karam on the 17th July 2002 one of the Managing Directors of the Respondent Company and at the hearing of the Petition on 23rd July 2002 Counsel for the Respondent has conceded that the Company is in dire straits and unable to pay its debts”.
- [6] Accordingly I will grant the application as prayed in the Petition. The Respondent will pay the Petitioner’s cost of \$500.00.
- [7] Mr. Austin Nevin Winston was appointed provisional liquidator by the Court for the winding up of the Company Coconut Beach Hotel Ltd. and is hereby appointed liquidator.

Dunbar Cenac
HIGH COURT JUDGE