

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>220</sup> OF 2009

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)

AND IN THE MATTER OF GEORGE TOWN EAST, BLOCK 19E, PARCELS 208H4, 208H5, 208H6 AND 208H7

BETWEEN:

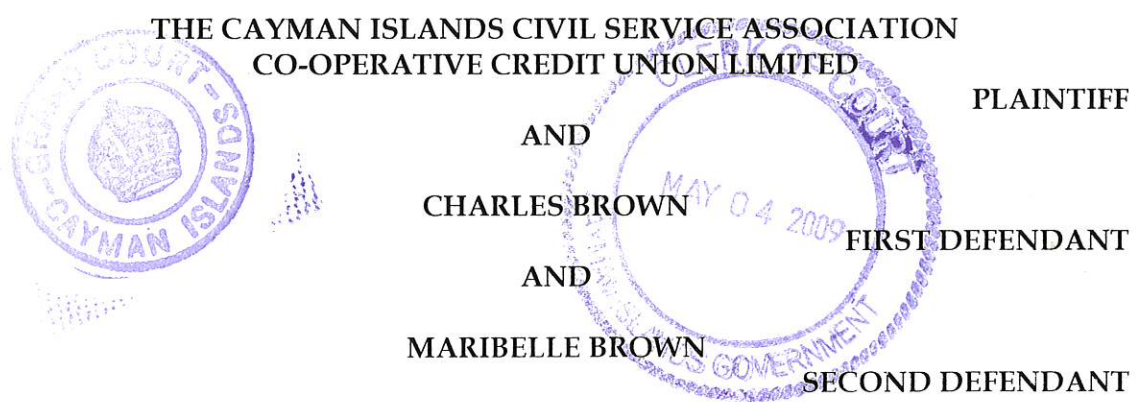
THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION  
CO-OPERATIVE CREDIT UNION LIMITED PLAINTIFF

AND

CHARLES BROWN FIRST DEFENDANT

AND

MARIBELLE BROWN SECOND DEFENDANT



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ORIGINATING SUMMONS

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TO: Charles Brown and Maribelle Brown of PO Box 10355, Grand Cayman KY1-1004

LET THE DEFENDANTS, Charles Brown and Maribelle Brown, within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgement of Service to the Court office, PO Box 495, George Town, Grand Cayman KY1-1106.

BY THIS SUMMONS which is issued on the application of the Plaintiff, the Cayman Islands Civil Service Association Co-Operative Credit Union Limited, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:-

1. In or about September 2007 the First Defendant Charles Brown, a member of the Plaintiff Credit Union, applied to the Plaintiff for a loan which, together with the balance of previous loans made to him gave a balance due of CI\$643,872.96. This borrowing was to be repaid by monthly instalments of CI\$6,436.00 and was to be secured by Variations of Charge over the properties registered in the name of the

First Defendant and the Second Defendant, Maribelle Brown, at the Lands and Survey Department as George Town East, Block 19E, Parcels 208H4, 208H5, 208H6 and 208H7 ("Parcels 208H4, 208H5, 208H6, 208H7").

2. Parcels 208H4, 208H5, 208H6 and 208H7 were at all material times registered in the names of the First Defendant and the Second Defendant and on 17<sup>th</sup> October 2007 the Plaintiff as Chargee and the First Defendant and the Second Defendant as Chargors executed Variations of Charge in respect of Parcels 208H4, 208H5, 208H6 and 208H7.
3. The Variations of Charge dated 17<sup>th</sup> October 2007 provided that:-
  - 3.1 The Principal Sum loaned to the Defendants would be increased to CI\$643,872.96 ("the Principal Sum").
  - 3.2 Interest on the Principal Sum would accrue at the rate of 0.81% per month on the reducing balance.
4. The Variations of Charge dated 17<sup>th</sup> October 2007 also provided that:

*"Section 72 of the Registered Land Law (1995 Revision) shall be varied in respect of this Charge and of any instrument or variation executed pursuant to this Charge, so as to entitle the Chargee immediately upon default by the Chargor in payment of the principal sum or any interest payable hereunder (as defined by Section 64(2) of the Registered Land Law (1995 Revision), or in the performance or observance of any agreement, expressed or implied herein to*

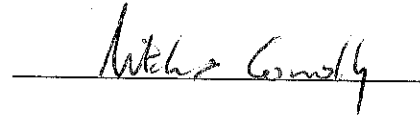
  - a. appoint a receiver of the income of the Charged Property; or*
  - b. sell the Charged Property to private treaty as well as by public auction; or*
  - c. foreclose or enter into possession of the Charged Property; or*
  - d. in the event that the Chargee does appoint a receiver or enters into possession of the Charged Property, exercise its powers of sale or foreclosure or appointment of a receiver at any time thereafter without further notice."*
5. On or since August 2008 the First Defendant and the Second Defendant have failed to make the monthly instalments due in respect of the Principal Sum loaned and in respect of interest.
6. By letters dated 13<sup>th</sup> January 2009 and served on the First Defendant on 19<sup>th</sup> January 2009 and by letters dated 15<sup>th</sup> January 2009 and served on the Second Defendant on 22<sup>nd</sup> January 2009, Messrs. Ritch & Conolly, as Attorneys for the Plaintiff, served notices on the First Defendant and on the Second Defendant pursuant to the provisions of Section 64(2) and Section 72(1) of the Registered

Land Law (2004 Revision), indicating that the sum secured by the Variations of Charge was repayable three months after the service of the notices and indicating that unless the balance of the sum secured by the Variations of Charge was repaid, or the loan repayments were brought up to date and thereafter the monthly sums due under the Loan Agreement were maintained, proceedings would be issued.

7. Since service of the section 64(2) and section 72(1) notices were made the Defendants have not made any payments in respect of the Principal Sum outstanding and/or interest.
8. The Registered Land Law (2004 Revision) provides that once a notice of demand has been served pursuant to Section 64(2) the total amount of outstanding principal and interest becomes due and payable three months after service of that notice. Therefore, the Plaintiff avers that the letters dated 13<sup>th</sup> January 2009 and 15<sup>th</sup> January 2009 and served on the First Defendant on 19<sup>th</sup> January 2009 and on the Second Defendant on 22<sup>nd</sup> January 2009, respectively, constituted such a notice pursuant to Section 64(2) and that the total amount outstanding became due on 22<sup>nd</sup> April 2009.
9. The Registered Land Law (2004 Revision) by virtue of Section 72(1) provides that once there is a default in the payment of principal, or any other periodical payments and if such default continues for three months, the Chargee may serve on the Chargor notice in writing to pay the money owing, or to perform and observe the terms of the Legal Charge, as the case may be.
10. The Registered Land Law (2004 Revision) by virtue of Section 72(2) provides that if a Chargor has not complied, within three months after the date of service of the notice served on him under Section 72(1), the Chargee may sell the Charged Property. Therefore, on and since 22<sup>nd</sup> April 2009, there has accrued a right to the Plaintiff to sell the properties and the Plaintiff seeks an order that it may do so.
11. In the premises, the Plaintiff seeks an order pursuant to the provisions of the Registered Land Law (2004 Revision) that:-
  - 11.1 an order for possession be made in terms that the Plaintiff be at liberty to sell Parcels 208H4, 208H5, 208H6 and 208H7 either by public auction or private treaty.
  - 11.2 the Plaintiff have leave pursuant to Grand Court Rules Order 45 Rule 3(1) and (2) to issue a Writ of Possession in respect of Parcels 208H4, 208H5, 208H6 and 208H7.

12. The Plaintiff also seeks an order that if after any sale of the parcels there should be any shortfall in the amount due and owing to the Plaintiff, the Plaintiff be at liberty to enter Judgment for the said shortfall, together with interest and costs.

Dated this 4<sup>th</sup> day of May 2009



**RITCH & CONOLLY**  
Attorneys for the Plaintiff

If the Defendants do not acknowledge service, judgement may be given, or made against, or in relation to them, as the Court may think just and expedient.

**NOTE:** This Summons may not be served later than 4 calendar months (*or if leave is required to effect Notice out of the jurisdiction, 6 months*) beginning with that date, unless renewed by Order of the Court.

**IMPORTANT:**

Directions for acknowledgement of service are given with the accompanying forms.

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PLAINTIFF

AND

CHARLES BROWN

FIRST DEFENDANT

AND

MARIBELLE BROWN

SECOND DEFENDANT

ACKNOWLEDGEMENT OF SERVICE  
OF ORIGINATING SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

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2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*)

Yes

No

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Service of the Originating Summons is acknowledged accordingly.

(Signed) .....

[Attorney] for

[Defendant in person]

Address for service: