

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

142
CAUSE NO: OF 2010

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)
AND IN THE MATTER OF WEST BAY NORTH SIDE BLOCK 49B PARCEL 71

BETWEEN:

CAYMAN ISLANDS DEVELOPMENT BANK



PLAINTIFF

AND:

LINDA RANKIN & GINA RANKIN



DEFENDANTS

ORIGINATING SUMMONS

TO: Linda Rankin
Gina Rankin

LET THE DEFENDANTS, Linda Rankin and Gina Rankin, within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgment of Service to the Courts office, P.O. Box 495, George Town, Grand Cayman.

BY THIS SUMMONS, which is issued on the application of the Plaintiff, Cayman Islands Development Bank, 36B Dr Roy's Drive, George Town, P.O. Box 2576, Grand Cayman, KY1-1103 seeks the following relief pursuant to the provisions of the Registered Land law (2004 Revision) as follows;

1. On or about 13th December 2004 the Defendants as Chargors and the Plaintiff as the Chargee executed a First Legal Charge (the "Charge") which was registered on the 15th August 2005 in respect of the property registered at the Lands and Survey Department as North Side, Block 49B, Parcel 71("Parcel NS49B71")
2. The Charge provided, inter alia, that:

2.1 The Chargee would lend and the Chargors would borrow the principal sum of Eighty Five Thousand CI Dollars (CI\$85,000) which was to be secured as a Charge on Parcel NS49B71.

2.2 Interest on the outstanding amount of the Principal shall be calculated at the rate of Eight and three quarters per cent per annum (8 $\frac{3}{4}$ %) with the rate of interest subject to variation from time to time in the future, in accordance with market forces at the rate for similar loans at the CIDB.

3. The Charge also provides that:

Para 3 (d): "If default be made in the payment of any instalment the balance of the said principal sum then remaining unpaid together with the interest aforesaid then accrued shall become immediately due and repayable and may be sued for forthwith and/or enforced against any and all of the securities entered into in pursuance of clause 4 hereof, and shall bear interest at the rate of eleven and three quarters per cent per annum (11 $\frac{3}{4}$ %) from the date of such default until date of payment, such rate of interest being hereby agreed to be inclusive of liquidated damages."

4. Since 29th February 2008 the Defendants have failed to pay the full amount of the monthly instalments due in respect of the principal sum loaned and in respect of interest.
5. By letter dated 26th November 2009 and personally served on Linda Rankin on the 27th November 2009 and personally served on Gina Rankin on the 26th November 2009, the Plaintiff duly served notice on the Defendants pursuant to Section 72(1) of the Registered Land Law (2004 Revision) indicating that the sum secured by the Charge was repayable 28 days after the service of the notice and indicating that pursuant to Section 72(2) unless the balance of the sum secured by the Charge was repaid legal proceedings would be taken.
6. The notice demanded payment of the balance of the principal sum outstanding and accrued interest.
7. The Defendants have failed to make the required payments in respect of the principal sum and/or accrued interest as demanded and the Defendants have been in default on the terms of the loan from the 29th February 2008.
8. The Registered Land Law (2004 Revision) by virtue of Section 72(1) provides that once there is a default in the payment of the principal, or any other periodical payment for one month 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, such notice having been served on the 26th and 27th November 2009 upon the Defendants.

9. The Registered Land Law (2004 Revision) by virtue of Section 72(2) provides that if a Chargor has not complied with 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 or since the 27th February 2010 there has accrued a right to the Plaintiff to sell the Property and the Plaintiff seeks an order that it may do so.
10. In the premises, the Plaintiff seeks an Order pursuant to the provisions of the Registered Land Law (2004 Revision) that:
 - (a) That an order for possession is made.
 - (b) The Plaintiff is entitled to sell the property either by private treaty or public auction in good faith and having regard to the interests of the Defendant.
 - (c) The Plaintiff does have leave pursuant to the Grand Court Rules Order 45 Rule 3(1) and (2) to issue a Writ of Possession in this matter in respect of this property.
11. The Plaintiff also seeks an Order that if after any sale of Parcel NS49B71 there should be any shortfall in the amount due and owing to the Plaintiff that the Plaintiff be at liberty to enter judgment for such shortfall, together with interest and costs.
12. An Order for costs against the Defendant.

30th
Dated the day of March 2010

Samson d McGrath

Samson and McGrath

Attorneys at Law for the Plaintiff

If the Defendant does not acknowledge service, such judgment may be given or order made against or in relation to him 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 service out of the jurisdiction, 6 months) beginning with that date unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

Acknowledgement of service of originating summons (0.10, r.5)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Originating Summons)".
5. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
6. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the

form at the Courts Office.

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ACKNOWLEDGMENT 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.

-
1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.
-
2. State whether the Defendant intends to contest or otherwise participate in the proceedings (tick appropriate box)
- yes no
-

Service of the Originating Summons is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address

in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box

Samson & McGrath
5th Floor Genesis Building
PO Box 446
Grand Cayman KY1 – 1106
Cayman Islands

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

[Empty box for defendant's Attorney indorsement]