

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *20p* OF 2010

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

AND IN THE MATTER OF GEORGE TOWN BLOCK 14E PARCEL 735- H1,
H2, H4 AND H9

BETWEEN:

FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LTD

PLAINTIFF

AND

LEGACY VENTURES LTD

DEFENDANT



ORIGINATING SUMMONS

TO: Legacy Ventures Ltd of PO Box 31160, Grand Cayman KY1-1205

LET THE DEFENDANT, Legacy Ventures Ltd, 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, First Caribbean International Bank (Cayman) Ltd, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:-

1. Between April 2004 and February 2009 the Defendant further to various loans owed the sum of CI\$ 1.851 million to the Plaintiff. Further to a loan agreement dated 8th January 2009 the interest on the borrowing was to be repaid by monthly instalments until the third building in the Lemon Grove Apartment was completed and a Certificate of Occupancy was issued in which case all the outstanding principal was repayable.
2. The above sum was secured by a fixed and floating charge dated 5th February 2009 over the assets of the Company. The fixed charge dated 5th February 2009 secured the sum of CI\$ 1.683 million. The property that is subject to the charge is Block 14E Parcel 735.

Parcel 735 has yet to be subdivided into different lots apart from H1 and H9. The general charge is against 735 although when the rest of the parcel is subdivided new lots will be assigned to it.

3. The Property was at all material times registered in the name of the Defendant.
4. The Fixed Charge dated 5th February 2009 provided that interest on the Principal Sum would accrue at the rate of 1% per annum above the Plaintiff's prime lending rate for Cayman Islands Dollars.
5. The Fixed Charge also provided that:-

"At any time after the Chargee shall have demanded payment of the Principal sum and interest or any part thereof or if requested by the Chargor the Chargee may exercise without further notice all the powers conferred on mortgages by virtue of the Law as hereby varied or extended and all the powers and discretions hereby conferred either expressly or by reference on a receiver hereby appointed hereunder and the date of such demand shall (without prejudice to the equitable right to redeem) be the redemption date. Nothing that shall be done by or on behalf of the Chargee or a receiver appointed by it shall render it or him liable to account as a mortgagee in possession for any sums other than actual receipts.

"In addition to the remedies provided by Section 72 of the Law the Chargee, shall, whether or not a receiver has been appointed, have the right to foreclose or enter into possession of the charged property or both in the same circumstances as would allow the Chargee to exercise its power of sale or appoint a Receiver"


"Upon the exercise of its power of sale the Chargee shall have the right to sell the Charged property by private treaty as well as by public auction"

6. Since February 2009 the Defendant has failed to pay the monthly instalments in respect of interest.
7. By letters dated 8th February 2010 and served on the Defendant on 20th February 2010 Messrs. Ritch & Conolly, as Attorneys for the Plaintiff, served notices on the 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 Charge was repayable three months after the service of the Section 64(2) notice and indicating that unless the balance of the sum secured by the 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 taken.
8. The Defendant has not made any payment in respect of the Principal Sum outstanding and/or interest, or any payment.
9. 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. The Plaintiff avers that the letter dated 8th February 2010 and served on the Defendant on 20th February

2010 constitutes such a notice pursuant to Section 64(2) and that the total amount outstanding became due on or after 20th May 2010.

10. 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 Charge, as the case may be.
11. 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 or since 20th May 2010 there has accrued a right to the Plaintiff to sell the Charged Property and the Plaintiff seeks an order that it may do so.
12. 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 Block 14E Parcel 735 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 Block 14E Parcel 735.
13. The Plaintiff also seeks an order that if after any sale of Block 14E Parcel 735 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 day of May 2010



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.