

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

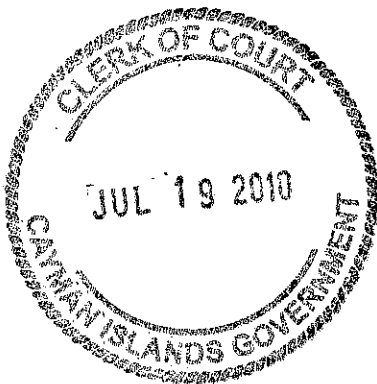
CAUSE NO: 258 OF 2010

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)
AND IN THE MATTER OF GEORGE TOWN EAST BLOCK 20D PARCEL 26

BETWEEN:

CAYMAN ISLANDS DEVELOPMENT BANK

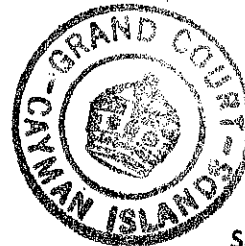
PLAINTIFF



AND:

SYLVIA WILKS

MICHAEL WILKS



FIRST DEFENDANT

SECOND DEFENDANT

ORIGINATING SUMMONS

TO: Sylvia Wilks
Michael Wilks

LET THE DEFENDANTS, Sylvia Wilks and Michael Wilks, 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. By way of written acceptance of terms offered by the Plaintiff for the loan of the sum of CI\$80,150 the Defendants on the 7th February 2006 agreed to borrow the said sum on terms included as set out in a letter from the Plaintiff dated 2nd February 2006.
2. In accordance with the terms of the said loan agreement on the 6th April 2006 the Defendants as Chargor and the Plaintiff as the Chargee executed and filed a First Charge (the "Charge") in respect of the Defendants property at Spotts, Block 24E, Parcel 418H2 (hereinafter "the parcel") by way of charge over the property in the sum of CI\$80,150.

the Chargee's own use and benefit or to make use of all or any of the Chargee's present or future securities in such order and lawful or equitable manner as the Chargee may be advised."

Para 20: *"Section 72 of the above Law 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 of any interest payable hereunder or in the performance or observance of any agreement expressed or implied herein to serve on the Chargor notice in writing to pay the money owing or to perform and observe the agreement as the case may be and further so as to provide that if the Chargee may thereupon without further notice either: -*

- (a) Appoint a receiver of the income of the Charged Property.*
- (b) Sell the Charged Property by 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 enter 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. Since 1st December 2008 the Defendant has failed to pay the full amount of the monthly instalments due in respect of the principal sum loaned and in respect of interest.
6. By letter dated 31st March 2010 sent by registered mail to the Defendants by an officer of the Plaintiff, the Plaintiff duly served notice on the Defendants pursuant Section 72(1) of the Registered Land Law (2004 Revision) as amended by Paragraphs 7, 19 and 20 of the Loan agreement indicating that the sum secured by the Charge was repayable one month 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.
7. The notice demanded payment of the balance of the principal sum outstanding and accrued interest. At that time principal owing was \$84,258.56 and interest and other charges amounted to \$8,307.20.
8. The Defendant has failed to make the required payments in respect of the principal sum and/or accrued interest as demanded and the Defendant has been in default on the terms of the loan from the 1st December 2008.

9. 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 and if such default continues 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 in this case on the 31st March 2010.

10. 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 them under Section 72(1) the Chargee may sell the Charged Property. Therefore, on or since 30th June 2010 there has accrued a right to the Plaintiff to sell the Property 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:
 - (a) The variations in the Legal Charge referring to the provisions of Section 72 of the Registered Land Law are allowed.
 - (b) That an order for possession is made.
 - (c) 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 Defendants.
 - (d) 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.

12. The Plaintiff also seeks an Order that if after any sale of the Parcel 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.

13. An Order for costs against the Defendants.

Dated the 16th day of July 2010

Samson & 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.

**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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SECOND DEFENDANT

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 below.

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]