

IN THE GRAND COURT OF THE CAYMAN ISLANDS

297
CAUSE NO: OF 2012

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

BETWEEN: RBC ROYAL BANK (CAYMAN) LIMITED PLAINTIFF

AND: DASMINE JOY SEYMOUR AND ROBERTO SEYMOUR JR DEFENDANTS

ORIGINATING SUMMONS

TO: DASMINE JOY SEYMOUR and ROBERTO SEYMOUR JR. of #17 Rosemary Street, Prospect, P.O. Box 381, Grand Cayman, KY1-1106.

LET THE DEFENDANTS, DASMINE JOY SEYMOUR and ROBERTO SEYMOUR JR., 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, P.O. Box 495, George Town, Grand Cayman KY1-1106.

BY THIS SUMMONS which is issued on the application of the Plaintiff, RBC Royal Bank (Cayman) Limited, 24 Shedden Road, George Town, Grand Cayman, KY1-1104, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:-

1. The Defendants as Chargors and the Plaintiff as Chargee executed loan agreement dated 25 November 2008 (the "Agreement") whereby the Defendants transferred their existing mortgage from the Credit Union to the Plaintiff and the Plaintiff lent to the Defendants the principal sum of CI\$51,382.78 for a total loan amount of CI\$145,000 ("Loan Sum") upon which interest accrued at 3% per annum above the Chargee's prime rate for the Cayman Islands dollar lending ("Loan"). The Loan Sum together with interest accrued thereon at the agreed rate was repayable pursuant to the Agreement by monthly instalments of CI\$1,024

payable by the 30th day of each month for (25) twenty-five of years ("Term"). The Agreement provided that if at any time during the Term a monthly instalment was not paid as required then the whole of the Loan Sum together with interest accrued thereon became payable immediately.

2. The Defendants transferred, from Credit Union to the Plaintiff, the charge over the property registered at the Cayman Islands Lands and Survey Department as Spotts, Block 24E, Parcel 122 (the "Property"), and the transfer was registered on 23 December 2008 and shown on the Cayman Islands Land Register as instrument number 16884/08 (the "Transfer of Charge"). As security for the Loan the Defendants varied the charge over the Property to CI\$145,000 and the variation was registered on 23 December 2008 and shown on the Cayman Islands Land Register as instrument number 16888/08.
3. In breach of the terms of the Loan since 31st January 2011 the Defendants failed to pay the full amount of the monthly instalments due in respect of the principal sum loaned and interest accrued thereon pursuant to the terms of the Agreement. The default continued for one month which, according to Section 72(1) of the Registered Land Law (2004 Revision) (the "Law), permits the Plaintiff to serve notice on the Defendants to pay the whole of the Loan Sum together with interest accrued thereon.
4. By letters dated 20 September 2011, the Plaintiff duly served notice on the Defendants pursuant to Section 72(1) of the Registered Land Law (2004 Revision) on 22 September 2011 ("Section 72 Notice"). The notice demanded payment of the whole of the Loan Sum together with interest accrued thereon. The Defendants failed to pay the whole of the Loan Sum together with interest accrued thereon within three months of the date of service of the Section 72 Notice which, according to Section 72(2)(b) of the Law, permits the Plaintiff to sell the Property.
5. The amount of CI\$137,496.26 by way of principal and CI\$14,020.68 by way of interest is in arrears as at 23 May 2012 and the total sum outstanding on the Loan is CI\$151,516.94 and interest continues to accrue at the daily rate of CI\$24.52.

6. The right to sell the Property has accrued in favour of the Plaintiff since 22 December 2011. Accordingly, the Plaintiff now seeks an order for sale of the Property.
7. The Plaintiff seeks an order pursuant to the provisions of the Law that:
 - 7.1 That the Charge be enforced by sale of the Property by private treaty as well as by public auction according to the terms of the Agreement;
 - 7.2 That the terms and conditions of the sale of the Property by private treaty and public auction be determined, if any;
 - 7.3 That the Defendants and any other person occupying the Property do, within 28 days of this Order, vacate the Property and take all appropriate steps to give the Plaintiff vacant possession of the Property;
 - 7.4 The Plaintiff do have leave to issue a Writ of Possession in relation to the Property at the expiry of the 28 days referred to in paragraph 4 above;
 - 7.5 Such further or other relief at the Court may deem appropriate;
 - 7.6 Costs.

Dated the 31st day of MAY 2012.



SOLOMON HARRIS

Attorneys for the Plaintiff

NOTES:-

- (1) 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 the above date unless renewed by order of the Court.

- (2) If a defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient.

IMPORTANT

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

This Originating Summons was issued by Solomon Harris whose address for service is 3rd Floor, FirstCaribbean House, George Town, Grand Cayman, Cayman Islands.

**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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

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

BETWEEN: RBC ROYAL BANK (CAYMAN) LIMITED PLAINTIFF

**AND: DASMINE JOY SEYMOUR AND
ROBERTO SEYMOUR JR DEFENDANTS**

**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.

Please complete overleaf

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

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