

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 312 OF 2012

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

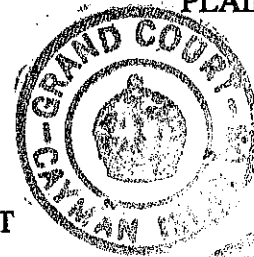
BETWEEN:

BUTTERFIELD BANK (CAYMAN) LIMITED

PLAINTIFF

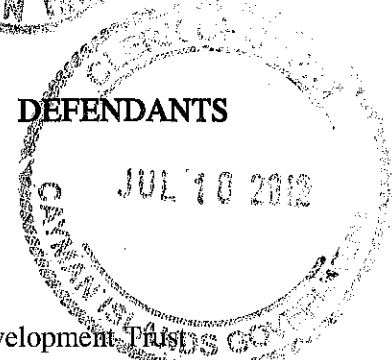
AND:

1. AVEL ANDREW MCFARLANE
2. VASHTIE FERSANNA MCFARLANE
3. NATIONAL HOUSING DEVELOPMENT TRUST (AS GUARANTOR)



DEFENDANTS

ORIGINATING SUMMONS



TO:

Avel Andrew McFarlane
PO Box 576
Grand Cayman KY1-1101

Vashtie Fersanna McFarlane
PO Box 576
Grand Cayman KY1-1101

National Housing Development Trust
PO Box 2379
Grand Cayman KY1-1105

LET THE DEFENDANTS of the addresses set out above attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the _____ day of _____ 2012, at _____ o'clock on the hearing of an application by the Plaintiff of P.O. Box 70, Grand Cayman KY1-1107, Cayman Islands for the following orders:

1. That a declaration be made that the First and Second Defendants are in default of payment of the principal sum payable under the following:
 - First Charge registered on 24 November 2009 and shown by instrument # 11901/09;
made between the First and Second Defendants and the Plaintiff (the "Charge"), by virtue of which the property in the Registration Section **Spotts, Block 24E, Parcel 138H4** (the "Property") was charged by the First and Second Defendants by way of

legal charge in favour of the Plaintiff to secure the principal sum of CI\$180,000.00 and interest at the rate specified in the schedules thereto.

2. That a declaration be made that the Third Defendant as guarantors are liable to the Plaintiff in the amount of CI\$63,000.00 with interest from the date of default.
3. That by a guarantee in writing dated 30 July 2009 and in consideration of the Plaintiff granting a mortgage to the First and Second Defendants, the Third Defendant guaranteed the payment of all sums of money any time due on the mortgage from the First and Second Defendants to the Plaintiff provided that the total amount recoverable should not exceed CI\$63,000.00 with interest from the date of demand on the Third Defendant under the guarantee at a rate not exceeding 1% per centum per annum above the Cayman Islands Dollar Prime Lending Rate from the date of receipt of demand until payment thereof, without set off, counterclaim or other deductions.
4. On 20 September 2011, the amount owing from the First and Second Defendants to the Plaintiff on the mortgage was CI\$192,813.87 inclusive of interest and arrears. By letter dated 21 September 2011, the Plaintiff demanded repayment of the said sum within 3 months from the date of demand from the First and Second Defendants, but they have failed to repay the said sum or any part thereof.
5. By letter dated 21 September 2011, the Plaintiff notified the Third Defendant that demand for payment had been made to the First and Second Defendant and that should the First and Second Defendant fail to repay the demanded amount within 3 months that the Plaintiff would enforce its right to sell the Property and will seek the recovery of any shortfall from the proceeds of sale thereof from the Third Defendant.
6. That the Charge be enforced by the sale by private treaty of the Property (as well as by Public Auction).

7. That the Plaintiff be entitled to recover any shortfall from the proceeds of sale by private and/or public auction from the Third Defendant as guarantors up to a CIS\$63,000.00 of the principal sum with interest from the date of default.
8. That the First and Second Defendants deliver vacant possession of the Property to the Plaintiff.
9. That the terms and conditions of sale by private treaty be determined, if any.
10. That leave be granted to issue a Writ of Possession with respect to the Property.
11. Such further or other relief as the Court thinks fit.
12. Costs.

AND LET THE DEFENDANTS 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.

Dated the 10th day of July 2012.

PEARSON & ASSOCIATES
Attorney 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 Pearson & Associates, Attorney-at-Law for the Plaintiff whose address for service is 2nd Floor, Barnett Music Centre, 24 Huldah Ave, P.O. Box 5, Grand Cayman KY1-1801, Cayman Islands.

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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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.

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

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| PEARSON & ASSOCIATES 2 nd Floor Barnett Music Centre 24 Huldah Ave Grand Cayman KY1-1801 CAYMAN ISLANDS Phone: 345 946 7043 Fax:345 946 7044 Email: npearson@candw.ky |
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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