

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CAUSE NO. **358** OF 2012

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)
AND IN THE MATTER OF SAVANNAH, BLOCK 28C, PARCEL 397

BETWEEN:

THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION
CO-OPERATIVE CREDIT UNION LIMITED

PLAINTIFF

AND

NORMAN SOLOMON

FIRST DEFENDANT

AND

EVETERIA SOLOMON

SECOND DEFENDANT

ORIGINATING SUMMONS

TO: Norman Solomon and Eveteria Solomon of P.O Box 766, Grand Cayman KY1-1103, Cayman Islands.

LET THE DEFENDANTS, Norman Solomon and Eveteria Solomon, 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, The Cayman Islands Civil Service Association Co-Operative Credit Union Limited, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:-

1. In or about March 2009, the First and Second Defendants (hereinafter together referred to as the Defendants), members of the Plaintiff's Credit Union, applied to the Plaintiff for a loan which, together with the balance of previous loans made to them gave a total amount of borrowing of CI\$137,861.07. This loan was to be secured by a Variation of Charge over the land registered in the name of the Defendants at the Lands and Survey Department as Savannah, Block 28C, Parcel 397 ("Parcel 397").

2. At all material times Parcel 397 was registered in the name of the Defendants and on 20 April 2009, the Plaintiff as Chargee and the Defendants as Chargors executed a Variation of Charge in respect of Parcel 397.
3. The Variation of Charge dated 20 April 2009 provided that:-
 - 3.1 The Plaintiff would lend and the Defendants would borrow the principal sum of C\$137,861.07 ("the Principal Sum").
 - 3.2 Interest on the Principal Sum would accrue at the rate of 6.75% per annum on the reducing balance.
4. The Variation of Charge dated 20 April 2009 also provided that:

"Section 72 of the Registered Land Law (1995 Revision) 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 any interest payable hereunder (as defined by Section 64(2) of the Registered Land Law (1995 Revision), or in the performance or observance of any agreement, expressed or implied herein to

 - a. *appoint a receiver of the income of the Charged Property; or*
 - 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 enters 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. On and since November 2010 the Defendants have failed to pay the monthly instalments due in respect of the Principal Sum loaned and in respect of interest.
6. By letters dated 13 December 2010, the Plaintiff served on the First and Second Defendants on 18 December and 20 December 2010 respectively, through Messrs. Ritch & Conolly as Attorneys for the Plaintiff, notices pursuant to the provisions of Section 64(2) and Section 72(1) of the Registered Land Law (2004 Revision) ("the Notices") indicating that the sums secured by the Variation of Charge were

repayable three months after the service of the Section 64(2) notice and indicating that unless the balance of the sum secured by the Charges were 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.

7. Following service of the Notices, the Defendants agreed with the Plaintiff that they would make monthly payments of C£850.00 in order to regularise their loan. However, the Defendants have failed to maintain the agreed monthly payments in respect of the Principal Sum outstanding and/or interest.

8. 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 Notices constituted such a notice pursuant to Section 64(2) and that the total amount outstanding became due on or after 19 March 2011.

9. 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.

10. 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 s72(1) notice, the Chargee may sell the Charged Property. Therefore, on or since 19 March 2011 there has accrued a right to the Plaintiff to sell Parcel 397 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-

11.1 an order for possession be made in terms that the Plaintiff be at liberty to sell Parcel 397 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 Parcel 397.

12. The Plaintiff also seeks an order that if after any sale of the Parcel 397 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 20th day of August 2012


RITCH & CONOLLY
Attorneys for the Plaintiff

If the Defendants do not acknowledge service, such judgment 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 service 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.