

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁵⁶⁹ OF 2012

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)
AND IN THE MATTER OF SOUTH SOUND, BLOCK 15B, PARCEL 209

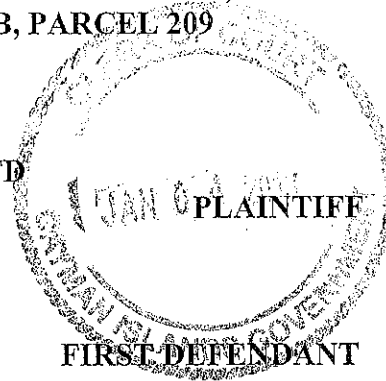
BETWEEN:

CAYMAN NATIONAL BANK LTD

AND

DAVID ALLEN BODDEN

KATHY CARROL BODDEN



SECOND DEFENDANT

ORIGINATING SUMMONS

TO: DAVID ALLEN BODDEN AND KATHY CARROL BODDEN of P.O Box 186,
Grand Cayman KY1-1701

LET THE DEFENDANTS, within 14 days after service of this Summons, 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, Cayman National Bank Ltd., Elgin Avenue, George Town, Grand Cayman KY1-1102, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:-

1. In or about May 2010, the Defendants applied to the Plaintiff for a loan which, together with the balance of previous loans made to them, gave a balance of US\$405,878. This borrowing was to be paid monthly in instalments of US\$3,198 and was to be secured by a Variation of First Legal Charge (“the Charge”) over the following property:
 - 1.1. South Sound, Block 15B, Parcel 209 (“Parcel 209”).
2. At all material times, Parcel 209 was registered in the name of the Defendants.

3. The Charge dated 23 July 2008 provided that:-

3.1. The Principal Sum loaned to the Defendants would be US\$416,593.

3.2. Interest on the Principal sum would accrue at a rate of 2% per annum above the Chargee's Prime Rate for United States Dollars lending.

4. The Charge further provided that:-

"7. In the event that the Chargor shall fail to discharge all monies and liabilities in full in accordance with the terms hereof or in the event that the Chargor shall be in breach of any of the Chargor's covenants or obligations herein contained whether express or implied or in the event that the Chargor commits any act of bankruptcy or makes any assignment or composition for the benefit of the Chargor's creditors or, being a company, goes into voluntary liquidation (other than a voluntary liquidation for the purposes of a reconstruction only the terms of which have been previously approved in writing by the Chargee) or suffers the appointment of a receiver over any part of the Chargor's assets then any such event the whole of the Principal Sum and all interest thereon and any other sums owing hereunder to the Chargee shall become immediately due and payable and the provisions of sections 72 to 75 of the said Law shall apply subject to the modifications hereinafter set forth:-

(3) Upon the exercise of the Chargee's power of sale the Chargee shall have the right and power to sell the charged property by private treaty or public auction or part in one way or part the other;"

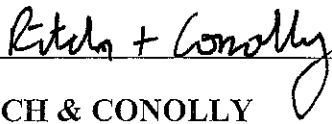
5. On or since January 2010, the Defendants have failed to make the monthly instalments due in respect of the Principal Sum loaned and in respect of interest.

6. By letters dated 24 March 2010, the Plaintiff served on the Defendants, on 30 March 2010, Notices pursuant to Section 64(2) and Section 72(1) of the Registered Land Law (2004 Revision), indicating that the sum secured by the Charge was repayable three months after service of the notices and indicating that unless the balance of the sum secured by the Charge was repaid proceedings would be issued.

7. Since service of the Section 64(2) and Section 72(1) notices were served on the Defendants, they have not made payments in respect of the Principal Sum outstanding and/or interest in accordance with their Loan Agreement. .
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. Therefore the Plaintiff avers that the letters dated 24 March 2010 and served on the Defendants on 30 March 2010 constituted such a notice pursuant to Section 64(2) and that the total amount outstanding became due on 29 June 2010.
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 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 Legal 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 notice served on him under Section 72(1), the Chargee may sell the Charged Properties. Therefore, on or since 29 June 2010 there has accrued a right to the Plaintiff to sell the Properties and the Plaintiff now 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 209 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 this matter in respect of the Parcels.

12. The Plaintiff also seeks an Order that if after any sale of Parcel 209 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.

Dated the 10 day of December 2012



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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2012

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)
AND IN THE MATTER OF SOUTH SOUND, BLOCK 15B, PARCEL 209

BETWEEN:

CAYMAN NATIONAL BANK LTD

PLAINTIFF

AND

DAVID ALLEN BODDEN

FIRST DEFENDANT

KATHY CARROL BODDEN

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.

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

Edwin Gomez
Ritch & Conolly
Queensgate House
113 South Church Street
PO Box 1994
Grand Cayman KY1-1104

Ref: 13073

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

**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 495, George Town, Grand Cayman KY1-1106.

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.