

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *G 0075* OF 2015

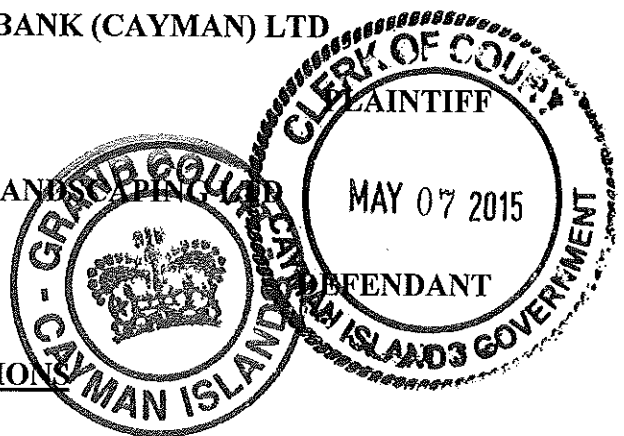
IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)

BETWEEN:

AND: **FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LTD**



**GREEN THUMB NURSERY & LANDSCAPING LTD**



ORIGINATING SUMMONS

**TO GREEN THUMB NURSERY & LANDSCAPING LTD** of Cayman International Corporate & Marine Services Ltd, PO Box 822, 2nd Floor, Jack & Jill Building, 19 Fort Street, Cayman Islands, attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the *22<sup>nd</sup>* day of *May* 2015, at *9:30<sup>am</sup>* o'clock on the hearing of an application by the Plaintiff of PO Box 68, George Town, 25 Main Street, Grand Cayman, Cayman Islands for relief pursuant to the Registered Land Law (2004 Revision) and pursuant to Order 45 Rule 3 of the Grand Court Rules as follows:

1. On 13 July 2010, the Plaintiff entered into a non-revolving demand loan agreement with the Defendant for the sum of US\$3,822,953.00 ("the Loan") in order to consolidate and restructure the Defendant's other loans and overdraft facilities.
2. The Loan was secured by a legal charge dated 17 June 2010 registered over George Town Central, Block 13D, Parcel 37 ("the Property") registered in the name of the Defendant.
3. The Defendant defaulted on the terms of the Loan Agreement.

4. By letters dated and served on 12 March 2012, the 2010 Ritch & Conolly, as Attorneys for the Plaintiff, served notices on the Defendant pursuant to the provisions of Section 64(2) and Section 72(1) of the Registered Land Law (2004 Revision) indicating that the sum secured by Charge, was repayable three months after the service of the Section 64(2) notice and indicating that pursuant to section 72(1) unless the balance of the sum secured by the Charge was 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.
5. The Defendant has failed to make the required payments in respect of the principal sum outstanding and/or interest as demanded.
6. 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 and served on the Defendants on 12 March 2012 constitute such a notice pursuant to Section 64(2) and that the total amount outstanding became due on or by 12 June 2012.
7. 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.
8. 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 12 June 2012 there has accrued a right to the Plaintiff to sell the Property.
9. Section 75 (2) of the Registered Land Law (2004 Revision) provides that: "Where the Chargor is in possession of the charged land or the land comprised in the charged lease, the Chargee shall become entitled to recover possession of the land upon a bid being accepted at the auction sale."

10. The Plaintiff has accepted a bid of US\$2,300,000 for the Property and has entered into a Sale and Purchase Agreement dated 23 March 2015. The Sale and Purchase Agreement provides, inter alia:

5.1 This Agreement shall be conditional upon the approval of the Grand Court of the Cayman Islands of the sale of the Property to the Purchaser at the Purchase Price within 90 days of execution of this Agreement.

5.2 This Agreement shall be conditional upon the granting by the Grand Court of the Cayman Islands of an Order for Possession of the Property and a Writ of Possession to be executed within 90 days of the execution of this Agreement.

11. In the premises, the Plaintiff seeks an order pursuant to the provisions of the Registered Land Law (2004 Revision) that:-

- 1) The Plaintiff is entitled to sell the Property for US\$2,300,000.
- 2) The Plaintiff is entitled to immediate possession of all that the property registered in the Cayman Islands Land Register being particularly known as Registration Section: George Town Central, Block 13D, Parcel 37 ("the Property").
- 3) The Plaintiff is granted leave, pursuant to Grand Court Rules Order 45 Rule 3(1) and (2), to issue a Writ of Possession in respect of respect of the Property.
- 4) Such further or other relief as this honourable Court may deem appropriate.

**AND LET THE DEFENDANT** within 14 days after service upon him of this summons, including the day of service or the next day but one before the date of the hearing referred to above, return the accompanying Acknowledgment of Service to the Courts office.

Dated the <sup>7</sup>4<sup>th</sup> day of May 2015.

*Ritch & Conolly*  
RITCH & CONOLLY

**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 Ritch & Conolly, attorneys for the Plaintiff, whose address for service is 113 South Church Street, PO Box 1994, Grand Cayman, KY1-1104.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2015

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

BETWEEN:

FIRSTCARIBBEAN INTERNATIONAL BANK (CAYMAN) LTD

PLAINTIFF

AND:

GREEN THUMB NURSERY & LANDSCAPING LTD

DEFENDANT

ACKNOWLEDGMENT OF SERVICE  
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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

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2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*)

Yes

No

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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 Defendants are 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 or 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*

Ritch & Conolly  
Attorneys-at-Law  
Queensgate House  
PO Box 1994  
113 South Church Street  
George Town  
Grand Cayman KY1-1104  
Cayman Islands

MJD/12769

*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.