

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 214 OF 2000

In the matter of THE REGISTERED LAND LAW (1995 REVISION)

And in the matter of AN APPLICATION BY CIBC BANK & TRUST COMPANY (CAYMAN) LTD AS CHARGEES OVER CERTAIN CHARGED PROPERTY FOR AN ORDER DIRECTING THAT THE APPLICANT BE PERMITTED TO SELL THE PROPERTY CHARGED BY THE RESPONDENT TO THE APPLICANT BY WAY OF PRIVATE TREATY

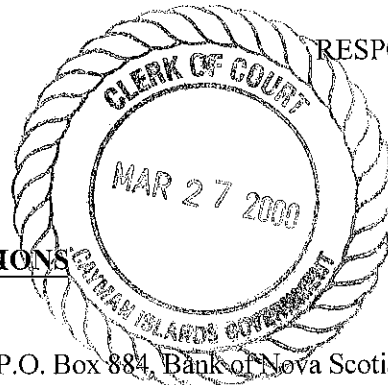
BETWEEN: CIBC BANK & TRUST COMPANY (CAYMAN) LTD APPLICANT

AND: MARGUERITA MARTINEZ RESPONDENT

BEFORE [] in Chambers



ORIGINATING SUMMONS



TO: Marguerita Martinez, c/o Bruce Campbell & Company, P.O. Box 884, Bank of Nova Scotia Building, George Town, Grand Cayman, Cayman Islands, B.W.I.

LET THE RESPONDENT, within fourteen days after service of this Summons on her, counting the day of service, return the accompanying acknowledgment of service to the Court's Office, P.O. Box 495G, George Town, Grand Cayman, Cayman Islands, B.W.I.

By this Originating Summons, which is issued on the application of CIBC Bank & Trust Company (Cayman) Ltd., P.O. Box 694 George Town, Grand Cayman, Cayman Islands, the Applicant seeks the following declarations:


1. That this Honourable Court sanction the variation and/or addition permitting the Applicant to rely upon the powers including the power to sell by private treaty contained in the Charge by the Respondent in favour of the Applicant dated 23rd August, 1993 and registered in the Land Registry on 10th November, 1993 over West Bay Block 4E Parcel 535H3.
2. That this Honourable Court sanction the variation and/or addition permitting the Applicant to

foreclose or enter into possession of the charged premises contained in the Charge referred to in paragraph 1 above.

3. That the Applicant be awarded the costs of this application from the proceeds of sale of West Bay Block 4E 13B Parcel 535H3

If the Respondent does not acknowledge service, such judgment may be given or order made against or in relation to her as the Court may think just and expedient.

DATED this 22nd March 2000



WALKERS
Attorneys-at-Law for the Applicant

NOTE – this Originating Summons may not be served later than four calendar months (*or, if leave is required to effect service out of the jurisdiction, six months*) beginning with that date unless renewed by order of the Court.

IMPORTANT

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

THIS ORIGINATING SUMMONS was issued by WALKERS, Attorneys-at-Law for the Applicant herein, whose address for service is that of its said Attorneys-at-Law, Walker House, P.O. Box 265, George Town, Grand Cayman, Cayman Islands.

In the matter of THE REGISTERED LAND LAW (1995 REVISION)

And in the matter of AN APPLICATION BY CIBC BANK & TRUST COMPANY (CAYMAN) LTD AS CHARGEES OVER CERTAIN CHARGED PROPERTY FOR AN ORDER DIRECTING THAT THE APPLICANT BE PERMITTED TO SELL THE PROPERTY CHARGED BY THE RESPONDENT TO THE APPLICANT BY WAY OF PRIVATE TREATY

BETWEEN: CIBC BANK & TRUST COMPANY (CAYMAN) LTD APPLICANT

AND: MARGUERITA MARTINEZ RESPONDENT

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. Delay may result in judgment being entered against the Respondent whereby he may have to pay the costs of applying to set it aside.

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

2. State whether the Respondent intends to contest the proceedings (tick where appropriate)

yes

no

3. If the claim against the Respondent is for a debt or liquidated demand, AND he does not intend to contest the proceeding, state if the Respondent intends to apply for a stay of execution against any judgment entered by the Applicant or Respondent (tick box)

yes

Service of the Originating Summons is acknowledged accordingly

(Signed) _____

[Attorney] for

[Respondent in person]

Address for service:

Please complete overleaf

Notes on address for Service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent is acting in person, he must give his post 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 Applicant's Attorney of his name, address and reference, if any, in the box below.

Walkers
P.O. Box 265
Walker House
Grand Cayman

Ref: SJC/as/C196-10840

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

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF
ORIGINATING SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Respondent or by the Respondent 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.

2. A Respondent who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Applicant (or on the Applicant if acting in person).

If a Statement of Claim is indorsed on the Originating Summons (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Originating Summons, unless in the meantime a summons for judgment is served on the Respondent.

If the Statement of Claim is not indorsed on the Originating Summons, the Defence need not be served until 14 days after a Statement of Claim has been served on the Respondent.

If the Respondent fails to serve his defence within the appropriate time, the Applicant may enter judgment against him without further notice.

3. A *Stay of Execution* against the Respondents goods may be applied for where the Respondent is unable to pay the money for which any judgment is entered. If a Respondent to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Respondent desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Respondent (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Court's office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a notice served on the Respondent personally is treated as having been served on the day it was delivered to him.
3. Where the Respondent 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 Third Party Notice*)".
4. Where the Respondent 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.
5. Where the Respondent 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.
6. Where the Respondent 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.
7. Where the Respondent is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Respondent acting in person may obtain help in completing the form at the Court's office.