



848
CAUSE NO. OF 2002



IN THE GRAND COURT OF THE CAYMAN ISLANDS

IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)
AND IN THE MATTER OF LOWER VALLEY, BLOCK 38B, PARCEL 437

BETWEEN: CAYMAN NATIONAL BANK LTD

PLAINTIFF

AND: MERIC McBEAN (DECEASED) FIRST DEFENDANT
LORETTA McBEAN SECOND DEFENDANT
LLOYD H. McBEAN THIRD DEFENDANT

ORIGINATING SUMMONS

TO: MERIC McBean (Deceased), Loretta McBean and Lloyd H. McBean
whose address for service is PO Box 1278, George Town, Grand
Cayman.

LET THE DEFENDANTS, MERIC McBean (Deceased), Loretta McBean and Lloyd H. McBean, 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, P. O. Box 495 GT, George Town, Grand Cayman.

BY THIS SUMMONS which is issued on application of the Plaintiff, Cayman National Bank Ltd., the Plaintiff seeks relief pursuant to the Registered Land Law (1995 Revision).

1. On or about 13th December 2000 the Plaintiff as Chargee, and the Defendants as Chargors executed a Transfer of Legal Charge ("the Legal Charge") in respect of the land registered at the Lands and Survey Department as Lower Valley, Block 38B, Parcel 437 ("the Property").
2. On the same day, the Charge was varied. The Variation of Charge provides, inter alia, that:
 - 2.1. The Plaintiff would lend and the Defendants would borrow the principal sum of Two Hundred and Forty-two Thousand, Nine Hundred Cayman

Islands Dollars (CI\$242,900.00) (“the principal sum”) which was to be secured as a charge on the Property.

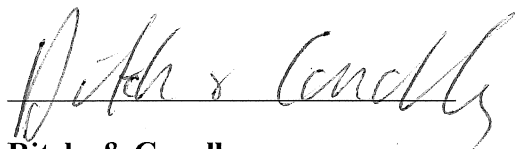
- 2.2. Interest on the principal sum will accrue at the rate of 2% per annum above the Cayman Islands Dollar base rate as determined by the Plaintiff from time to time.
 - 2.3. The Defendants will repay to the Plaintiff on demand the principal sum together with any interest then due. Pending such demand, the Defendants will repay to the Plaintiff such monthly or other sums as the Plaintiff shall from time to time specify.
 - 2.4. Immediately upon default by the Defendants in payment of the principal sum, or of any interest payable, or in the performance or observance of any agreement, expressed or implied, the Plaintiff will be entitled to serve on the Defendants notice in writing to pay the monies owing or perform or observe the agreement, as the case may be, and if the Defendants do not comply within one month of the date of service of this notice the Plaintiff will be entitled to appoint a receiver of the income of the property or sell the property by private treaty as well as by public auction, without further notice.
3. It was specified by the Plaintiff that the Defendants would repay the principal sum, and accrued interest, by monthly instalments.
 4. On or about 1st August 2001 the Defendants failed to pay the monthly instalments due in respect of the principal sum and interest, and have since that date failed to make any subsequent payments of either principal or interest.
 5. By letter dated 19th December 2001, sent by registered post to the Defendants, the Plaintiff duly served Notice on the Defendants pursuant to the Registered Land Law (1995 Revision) demanding payment of the balance of the principal sum and accrued

interest which, as at that date, amounted to CI\$242,900.00 (principal) and CI\$3,533.16 (interest and other charges).

6. On the same date, a further demand under the Registered Land Law (1995 Revision) was served demanding the same sums. Such demand was made pursuant to Section 72 of the Registered Land Law (1995 Revision), as amended by Clause 11 of the Charge.
7. On 22nd August 2002 the Plaintiff, through its attorneys, served a further notice on the Third Defendant demanding payment of the sums outstanding within one month of the date of the notice. The same notice was served on the Second Defendant on 7th October 2002.
8. Despite service of these Notices, the Defendants have failed to pay the balance due of the principal sum and accrued interest.
9. The provisions of the Registered Land Law (1995 Revision) provide that once a Notice of Demand has been served pursuant to Section 64 (2) the principal and interest becomes payable three months after service of that demand and the Plaintiff avers that the letter dated 19th December 2001 served on the Defendants by registered post constitutes Notice under Section 64 (2) of the Registered Land Law (Revised).
10. Section 72 of the Registered Land Law (1995 Revision) provides that if default is made in payment of the principal sum, or any interest, and continues for one month, the Chargee will then acquire a power to sell the property by public auction after three months have elapsed, from service on the Chargors of a second notice demanding payment. Such provisions are subject to variation with the approval of the Court to allow the Chargee to sell by either private sale or public auction, and to serve a second shorter notice period. The Legal Charge in this action contains such a provision at Clause 11 as described in paragraph 2.4 above.
11. The relief the Plaintiff therefore seeks in these proceedings is an Order of the Court that:

- 11.1. the variations in the charge to the provisions of the Registered Land Law (1995 Revision) be allowed, so that the Plaintiff is entitled to avoid the requirement to serve any further notice, having served notice under Section 64(2) of the Law and notice under the terms of the Legal Charge;
- 11.2. the Plaintiff be entitled to sell the property and that such sale be by either private treaty or public auction in good faith and having regard to the interests of the Defendants;
- 11.3. for the purposes of any such sale, the Plaintiff be entitled to possession of the property;
- 11.4. after the sale of the said property in accordance with the order sought herein, should there be any shortfall in the amount due and owing to the Plaintiff that the Plaintiff be at liberty to enter judgment against the Defendants for the said shortfall, together with interest and costs;
- 11.5. the costs of these proceedings be added to the principal and interest due from the Defendants and be deducted from the proceeds of sale.

Dated the ~~13th~~ day of November 2002.



Ritch & Conolly

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.

This Originating Summons was issued by Ritch & Conolly, Attorneys-At-Law for the Plaintiff, whose address for service is P O Box 1994 GT, Queensgate House, 113 South Church Street, George Town, Grand Cayman, Cayman Islands, BWI.