

IN THE GRAND COURT OF THE CAYMAN ISLANDS

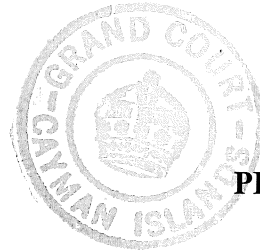
CAUSE NO. 214 OF 2003

IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)

And in the matter of Savannah, Block 28E, Parcel 79
And in the matter of Savannah, Block 27C, Parcel 598
And in the matter of Savannah, Block 27C, Parcel 607

BETWEEN:

CAYMAN NATIONAL BANK LTD



PLAINTIFF

AND:

MAR 27 2003

GEORGE PHILIP SAMUELS
MARLENE ALICE SAMUELS

FIRST DEFENDANT
SECOND DEFENDANT

ORIGINATING SUMMONS

TO: George Philip Samuels and Marlene Alice Samuels whose address for service is PO Box 75, Savannah, Grand Cayman.

LET THE DEFENDANTS, George Philip Samuels and Marlene Alice Samuels, 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 the application of the Plaintiff, Cayman National Bank Ltd, the Plaintiff seeks relief pursuant to the Registered Land Law (1995 Revision).


- 1) On 4th February 2000, the Plaintiff as Chargee, and the Defendants as Chargor executed a legal charge ("the First Legal Charge") in respect of the land and building registered at the Lands and Survey Department as Savannah, Block 28E, Parcel 79 ("the First Property"). The said Legal Charge was registered at the Lands and Survey Department on 29th February 2000.
- 2) On 4th February 2000, the Plaintiff as Chargee, and the Defendants as Chargor executed a legal charge ("the Second Legal Charge") in respect of the land and building registered at the Lands and Survey Department as Savannah, Block 27C, Parcel 598 ("the Second Property"). The said Legal Charge was registered at the Lands and Survey Department on 29th February 2000.
- 3) On 3rd February 2000, the Second Legal Charge was varied by increasing the principal sum from CI\$27,000.00 to CI\$48,000.00.

- 4) On 4th February 2000, the Plaintiff as Chargee, and the Defendants as Chargor executed a legal charge (“the Third Legal Charge”) in respect of the land and building registered at the Lands and Survey Department as Savannah, Block 27C, Parcel 607 (“the Third Property”). The said Legal Charge was registered at the Lands and Survey Department on 29th February 2000.
- 5) The three above-mentioned Charges provided, inter alia, that:
 - 5.1) In consideration of the Plaintiff granting facilities for loans and/or overdrafts and continuing to give time for payment of such facilities and/or further time and facilities to the Defendants, as beneficial owners, charged their freehold interest in the First, Second and Third Properties;
 - 5.2) The sum charged was and comprised all such sums of money owing by the Defendants up to the amount of CI\$314,546.00 under the First Legal Charge; CI\$48,000.00 under the Second Legal Charge; and CI\$32,000.00 under the Third Legal Charge.
 - 5.3) Interest on the said sums would accrue at the rate of 2% per annum over the Cayman Island Dollar Prime Rate as determined by the Plaintiff from time to time.
 - 5.4) The Defendants covenanted to repay the said sums on demand, together with any interest then due, subject to the provisions contained in the First, Second and Third Legal Charges.
 - 5.5) In the event that the Defendants failed to discharge all monies and liabilities in full in accordance with the terms of the First, Second and Third Legal Charges, the whole of the principal sum and all interest thereon and any other sums owing to the Plaintiff shall become immediately due and payable and the Plaintiff would be entitled, without further notice to, inter alia, exercise the power of sale by private treaty or by public auction.
- 6) In or about February 2002, the Defendants failed to pay the monthly instalments due in respect of the principal sum and interest.
- 7) By a letter dated 5th June 2002, 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 due under the First, Second and Third Legal Charges which, as at 5th June 2002, amounted to CI\$306,386.48 (principal) and CI\$338.30 (interest and other charges).
- 8) A further demand on the same date was served under Section 72 of the Registered Land Law (Revision).

- 9) Despite the service of such notices, the Defendants failed to pay the balance due of the principal sum and accrued interest.
- 10) The First, Second and Third properties which are in the joint names of the Defendants, consist of residential premises. It is believed that the properties are occupied by the Defendants.
- 11) 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 total amount of principal and interest becomes payable three months after service of that Notice. The Plaintiff avers that the letter dated 5th June 2002 served on the Defendants as aforesaid, constitutes Notice under Section 64(2) of the Registered Land Law (Revised).
- 12) The provisions of the Registered Land Law (1995 Revision) also provide that if default is made in payment of the principal sum, or any interest, and continues for one month, the Plaintiff will then acquire a power to sell the charged property by public auction after three months have elapsed, from service on the Defendants of a second notice demanding payment. Such provisions are subject to variation with the approval of the Court to allow the Plaintiff to sell by either private sale or public auction, without the service of a second notice.
- 13) The First, Second and Third Legal Charges in this action contain such a variation to the Statutory procedure and by this Originating Summons, the Plaintiff seeks the approval of the Court to the exercise of the powers under those provisions in the Legal Charge. The Plaintiff asserts that, in any event, it has served the appropriate notices under Section 64(2) and Section 72 of the Registered Land Law (Revision).
- 14) The relief the Plaintiff therefore seeks in these proceedings is an Order of the Court that:
 - 14.1) The Plaintiff be entitled to sell the First, Second and Third Properties and that such sale be by either private treaty or public auction in good faith and having regard to the interests of the Defendants;
 - 14.2) That the Plaintiff be entitled to vacant possession of the First, Second and Third Properties for the purposes of a sale of the First, Second and Third Properties;
 - 14.3) After the sale of the First, Second and Third Properties 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;

- 14.4) 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 25th day of March 2003.



Ritch & Conolly

If the Defendants do not acknowledge service, 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 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.

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AND: GEORGE PHILIP SAMUELS FIRST DEFENDANT
MARLENE ALICE SAMUELS SECOND DEFENDANT

ACKNOWLEDGEMENT 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 or principal office.

Please complete overleaf

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

Messrs. Ritch & Conolly
PO Box 1994 GT
Grand Cayman

Ref: DAM/has
CNB - #8922

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