

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO: ³⁵ OF 2004

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

B E T W E E N:

FIDELITY BANK (CAYMAN) LTD.

AND

1. DENZIL CLARKE
2. SANDRA CLARKE

Defendants



ORIGINATING SUMMONS

TO: Mr. Denzel Clarke of PO Box 130 GT, Grand Cayman, Cayman Islands
A Chargor under the legal charge hereinafter mentioned.

AND TO:

Ms. Sandra Clarke of PO Box 130 GT, Grand Cayman, Cayman Islands
A Chargor under the legal charge hereinafter mentioned.

LET THE DEFENDANTS of the address set out above attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the ^{16th} day of ^{March} 2004 at ^{9:30} o'clock in the hearing of an application by the Plaintiff of P.O. Box 914 GT, Grand Cayman, Cayman Islands for the following orders:

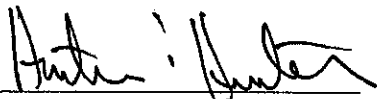
1. A declaration that the Defendants are in default of payment of the principal sum payable under a Charge
 - Registered on 5th January 1995 and shown by instrument # 74/95;
 - varied on 5th January 1995 and shown by instrument 75/95;
 - varied on 23rd October 1995 and shown by instrument 5993/95;
 - varied on 2nd June 1998 and shown by instrument 4685/98; and

made between the Defendants and the Plaintiff, (formerly named British American Bank Ltd. ("the Charge")), by virtue of which the property in the Registration Section South Sound, Block 15C, Parcel 157 was charged by the Defendants by way of legal charge in favour of the Plaintiff to secure the principal sum of CI\$212,000 and interest at the rate specified in the schedules thereto.

2. Delivery by the Defendants to the Plaintiff of possession of the Property.
3. An order that the Charge be enforced by the sale by private treaty of the Property (as well as by Public Auction).
4. An Order determining the terms and conditions of sale by private treaty, if any.
5. Such further or other relief as the Court thinks fit.
6. Costs.

AND LET THE DEFENDANTS within 14 Days after service of this summons on them counting the day of service, return the accompanying Acknowledgement of Service to the Courts Office.

Dated: 20 January 2004



Hunter & Hunter
Attorneys for the Plaintiff

- NOTE:
1. This Summons may not be served later than 4 calendar months beginning with the above date unless renewed by order of the Court.
 2. If the Defendants do not attend personally or by their attorney at the time and place above mentioned such order will be made as the Court may think just and expedient

IMPORTANT

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

This Originating Summons was filed by Hunter & Hunter Attorneys-at-Law for the Plaintiff whose address for service is 75 Fort Street, P.O. Box 190 GT, George Town, Grand Cayman (Ref: WAS/09430.032)

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

BETWEEN:

FIDELITY BANK (CAYMAN) LTD.

Plaintiff

AND

- 1. DENZEL CLARKE
- 2. SANDRA CLARKE

Defendants

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 Defendants by whom or on whose behalf the service of the Originating Summons is being acknowledged.
 - 2. State whether the Defendants 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

[Defendants 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. Defendants may not act by a foreign attorney.

Defendants in person: where the Defendants are 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.

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.

Hunter & Hunter
75 Fort Street
The Huntlaw Building
P.O. Box 190 GT
Grand Cayman
Cayman Islands

Ref: WAS/09430.032

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

[Empty box for defendant's attorney indorsement]

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS

The accompanying form of *Acknowledgement of Service* should be completed by an Attorney acting on behalf of the Defendants or by the Defendants 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.

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 Court's 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 Defendants 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 Defendants 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.