

CAUSE NO 285 OF 2004

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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

AND IN THE MATTER OF GEORGE TOWN EAST, BLOCK 20D, PARCEL 133

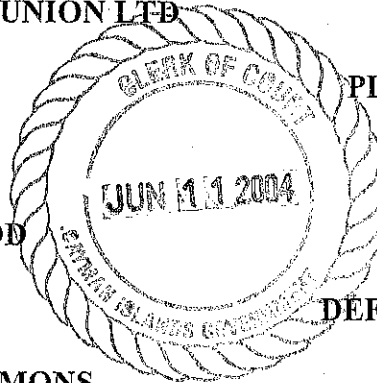
BETWEEN:

THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION
CO-OPERATIVE CREDIT UNION LTD



AND

CHARLES WOOD



PLAINTIFF

DEFENDANT

ORIGINATING SUMMONS

TO: Charles Wood whose address for service is PO Box 39 GT, George Town, Grand Cayman.

LET THE DEFENDANT, Charles Wood, within 14 days after service of this Summons on him, counting the day of service, return the accompanying Acknowledgement of Service to the Court's office, PO Box 495 GT, George Town, Grand Cayman.

BY THIS SUMMONS which is issued on application of the Plaintiff, The Cayman Islands Civil Service Association Co-operative Credit Union Ltd, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (1995 Revision).

- 1 On 23 April 1996 the Defendant, a member of the Plaintiff Credit Union, applied to the Plaintiff for a loan in the sum of CI\$47,300.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$76,853.23. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,251.54 and was to be secured by a first Legal Charge on the land registered at the Lands & Survey Department as George Town East, Block 20D, Parcel 133 ("Parcel 133").
- 2 Parcel 133 was at all material times registered in the name of the Defendant and on 13 May 1996 the Plaintiff as Chargee and the Defendant as Chargor executed a Legal Charge in respect of Parcel 133.

- 3 The Legal Charge dated 13 May 1996 provided that:
- 3.1 The Plaintiff would lend and the Defendant would borrow the principal sum of CI\$76,853.23.
 - 3.2 Interest on that amount would accrue at the rate of 1% per month on the reducing balance.
- 4 On 10 June 1997 the Defendant applied to the Plaintiff for a loan in the sum of CI\$11,000.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$90,388.33. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,471.96 and was to be secured by a variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996.
- 5 On 26 June 1997 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation provided that:
- 5.1 The principal sum would be varied from CI\$76,853.23 by CI\$13,535.10 to CI\$90,388.33.
 - 5.2 Interest on the amount borrowed would accrue at the rate of 1% per month on the reducing balance.
- 6 On 18 November 1997 the Defendant applied to the Plaintiff for a loan in the sum of CI\$3,000.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$91,107.64. This borrowing was to be re-paid by 92 monthly instalments of CI\$1,522.22 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996, as varied on 26 June 1997.
- 7 On 20 November 1997 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation provided that:
- 7.1 The principal sum would be varied from CI\$90,388.33 by CI\$719.31 to CI\$91,107.64.
 - 7.2 Interest on that sum would accrue at the rate of 1% per month on the reducing balance.
- 8 On 26 May 1998 the Defendant applied to the Plaintiff for a loan in the sum of CI\$2,680.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$90,011.66. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,465.83 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996, as varied on 26 June 1997.

- 9 On 26 May 1998 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation of Charge dated 26 May 1998 provided that:
- 9.1 The principal sum would be reduced from CI\$91,107.64 by CI\$1,095.98 to CI\$90,011.66.
 - 9.2 Interest on that sum would accrue at the rate of 1% per month on the reducing balance.
- 10 On or about 2 November 1998 the Defendant applied to the Plaintiff for a loan in the sum of CI\$15,000.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$102,128.65. This borrowing was to be re-paid by 96 month instalments of CI\$1,663.15 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996, as varied on 26 June 1997, 20 November 1997 and 26 May 1998.
- 11 On 4 November 1998 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation of Charge provided that:
- 11.1 The principal sum would be varied from CI\$90,011.66 by CI\$12,116.99 to CI\$102,128.65.
 - 11.2 Interest on that sum would accrue at the rate of 1% per month on the reducing balance.
- 12 On 2 August 1999 the Defendant applied to the Plaintiff for a loan in the sum of CI\$7,500.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$103,092.40. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,605.66 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996, as varied on 26 June 1997, 20 November 1997, 26 May 1998 and 4 November 1998.
- 13 On 15 February 2000 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation of Charge provided that:
- 13.1 The principal sum would be varied from CI\$102,128.65 by CI\$963.75 to CI\$103,092.40.
 - 13.2 Interest on that sum would accrue at the rate of .90% per month on the reducing balance.

- 14 On 5 February 2001 the Defendant applied to the Plaintiff for a loan in the sum of CI\$9,000.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$101,236.82. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,644.68 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated on 13 May 1996, as varied on 26 June 1997, 20 November 1997, 26 May 1998, 4 November 1998 and 15 February 2000.
- 15 On 7 February 2001 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation of Charge provided that:
- 15.1 The principal sum would be reduced from CI\$103,092.40 by CI\$1,855.58 to CI\$101,236.82.
- 15.2 Interest on that sum would accrue at the rate of 1% per month on the reducing balance.
- 16 On 2 October 2001 the Defendant applied to the Plaintiff for a loan in the sum of CI\$5,750.00 which, together with the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$103,234.61. This borrowing was to be re-paid by 96 monthly instalments of CI\$1,607.77 and was to be secured by a further variation of the Legal Charge registered against Parcel 133 and dated 13 May 1996 as varied on 26 June 1997, 20 November 1997, 26 May 1998, 4 November 1998, 15 February 2000 and 7 February 2001.
- 17 On 4 October 2001 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 133 and the Variation of Charge provided that:
- 17.1 The principal sum would be varied from CI\$101,236.82 by CI\$1,997.79 to CI\$103,234.61.
- 17.2 Interest on that sum would accrue at the rate of .1075% per month on the reducing balance.
- 18 On and since April 2002 the Defendant has failed to pay the monthly instalments due in respect of the sums loaned and in respect of interest.
- 19 The Registered Land Law (1995 Revision) provides:

Section 64(2) A date for the repayment of the money secured by a charge may be specified in the charge instrument and, where no such date is specified or re-payment is not demanded by the chargee on the date specified, the money shall be deemed to be repayable three months after the service of a demand in writing by the chargee"

20 By a letter dated 7 March 2003 and handed to the Defendant on 29 August 2003 Messrs Ritch & Conolly as attorneys for the Plaintiff served a notice on the Defendant pursuant to the provisions of Section 64(2) of the Registered Land Law (1995 Revision) demanding payment of the balance of the principal sum outstanding and accrued interest.

21 The Defendant did not make payment of the balance of the principal sum outstanding and/or accrued interest or any payments.

22 The Plaintiff avers that the letter dated 7 March 2003 and served on the Defendant on 29 August 2003 constituted a demand in writing pursuant to Section 64(2) and that the amount outstanding became due on 29 November 2003.

23 The Registered Land Law (1995 Revision) also provides that:

"Section 72(1) If default is made in payment of the principal sum or of any interest or any other periodical payment or of any part thereof, or in the performance or observance of any agreement expressed or implied in any charge, and continues for one month, the chargee may serve on the chargor notice in writing to pay the money owing or to perform and observe the agreement as the case may be."

24 The Plaintiff avers that a notice in writing to pay the money owing pursuant to Section 72(1) of the Registered Land Law (1995 Revision) could be served on the Defendant on or after 29 December 2003.

25 By a letter dated 13 January 2004 and handed to the Defendant on 12 February 2004 Messrs Ritch & Conolly as attorneys for the Plaintiff served a notice on the Defendant pursuant to Section 72(1) of the Registered Land Law (1995 Revision) demanding payment of the balance of the principal sum outstanding and accrued interest.

26 The Registered Land Law (1995 Revision) by virtue of Section 72(1), provides that if a Chargor has not complied within three months of the date of service, with a notice served on him under Section 72(1) the Chargee may sell the Charged property. Therefore, on and since 12 May 2004 there has accrued a right in favour of the Plaintiff to sell the Charged property and the Plaintiff seeks and Order that it may do so.

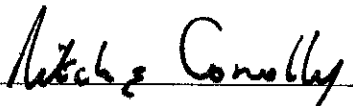
27 In the premises, the Plaintiff seeks an Order pursuant to Section 77 of the Registered Land Law (1995 Revision) that:

27.1 An Order for possession be made.

27.2 The Plaintiff have leave pursuant to Grand Court Rules, Order 45, Rule 3(1) and (2) to issue a Writ of Possession in this matter in respect of the property registered at the Lands & Survey Department as George Town East, Block 20D, Parcel 133.

28. The Plaintiff also seeks an Order that if after any sale of Parcel 133, there should be any shortfall in the amount due and owing to the Plaintiff, that the Plaintiff be at liberty to enter judgment for such shortfall, together with interest and costs.

Dated the 10th day of June 2004.


Ritch & Conolly

If the Defendant does 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 PO Box 1994 GT, Queensgate House, 113 South Church Street, George Town, Grand Cayman, Cayman Islands, BWI.