

Fees Paid \$150.00
Receipt No. 379460
Date 11/8/05

364
CAUSE NO. OF 2005

IN THE GRAND COURT OF THE CAYMAN ISLANDS
IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)
AND IN THE MATTER OF CAYMAN BRAC WEST, BLOCK 96C, PARCEL 29
BETWEEN:

THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION
COOPERATIVE CREDIT UNION LIMITED

PLAINTIFF

AND:

LILLENE CHRISTIE FOSTER

DEFENDANT

ORIGINATING SUMMONS

TO: Lillene Christie Foster whose address for service is The Rock, Cayman Brac.

LET THE DEFENDANT, Lillene Christie Foster, within 14 days after service of this Summons on her, counting the day of service, return the accompanying Acknowledgement of Service to the Court Office, P. O. Box 495 GT, Grand Cayman.

BY THIS SUMMONS which is issued on the application of the Plaintiff, The Cayman Islands Civil Service Association Cooperative Credit Union Limited, the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (1995 Revision) as follows:-

1. In or about July 1999 the Defendant, a member of the Plaintiff Credit Union, applied to the Plaintiff for a loan in the sum of CI\$25,000.00 which, together with the balance of previous loans made to the Defendant gave a total amount of borrowing of CI\$69,581.95. This borrowing was to be repaid by 96 monthly payments of CI\$1,085.41 and was to be secured by a First Legal Charge on the land registered at the Lands & Survey Department as Cayman Brac West, Block 96C, Parcel 29 ("Parcel 29").
2. Parcel 29 was at all material times registered in the name of the Defendant and on 19th July 1999 the Plaintiff as Chargee and the Defendant as Chargor executed a Legal Charge in respect of Parcel 29.

3. The Legal Charge dated 19th July 1999 provided that:
 - 3.1 The Plaintiff would lend to the Defendant and the Defendant would borrow the principal sum of CI\$69,581.95.
 - 3.2 Interest on that amount would accrue at the rate of 10.75% per annum on the reducing balance.
4. On 3rd February 2001 the Defendant applied to the Plaintiff for a loan in the sum of CI\$28,000.00 which, together the balance of previous loans made to the Defendant, gave a total amount of borrowing of CI\$88,822.80. This borrowing was to be repaid by 96 monthly payments of CI\$1,443.01 and was to be secured by a variation of the Legal Charge registered against Parcel 29 and dated 19th July 1999.
5. On 8th February 2001 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 29 and the Variation provided that:
 - 5.1 The principal sum would be increased from CI\$69,581.95 by CI\$19,240.85 to CI\$88,822.80.
 - 5.2 Interest on the amount borrowed would accrue at the rate of 1% per annum on the reducing balance.
6. On and since May 2001 the Defendant has failed to pay the monthly instalments due in respect of the sums loaned and in respect of interest.
7. 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 repayment 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”
8. The Registered Land Law (1995 Revision) also provides:

“Section 153 A notice under this Law shall be deemed to have been served on or given to any person if:

 - (a) *served on him personally;*
 - (b) *served on an attorney holding a power of attorney whereunder such attorney is authorised to accept such service;*

- (c) *sent by registered post to him at his last known postal address in the Islands or elsewhere and a receipt purporting to have been signed by him has been received in return; or*
- (d) *service cannot be effected in one of the above-mentioned ways, by displaying it in a prominent place on the land affected and by publishing it in three consecutive issues of the Gazette.:*

9. It is understood that the Defendant is no longer resident in the Cayman Islands and in the circumstances, a notice pursuant to the provisions of Section 64(2) of the Registered Land Law (1995 Revision) was posted at Parcel 29 on 31st July 2003 and published in the Cayman Islands Gazette issues numbered 14/2002, 15/2002 and 16/2002.
10. The notice demanded payment of the balance of the principal sum outstanding and accrued interest.
11. The Defendant did not make payment of the principal sum outstanding and/or accrued interest or any payments.
12. The Plaintiff avers that the notice posted at Parcel 29 on 31st July 2003 and gazetted in issue numbered 14/2002, 15/2002 and 16/2002 constituted a demand in writing pursuant to Section 64(2) of the Registered Land Law (1995 Revision) and that the amount outstanding became due on 1st November 2003.
13. The Registered Land Law (1995 Revision) further provides that:

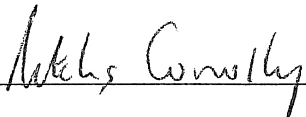
“Section 72(1) If default is made in payment of the principal sum or of any interest or any other periodical payment or of any part thereof, or in the performance or observance of any agreement expressed or implied in any charge, and continues for one month, the chargee may serve on the chargor notice in writing to pay the money owing or to perform and observe the agreement as the case may be”
13. 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 1st December 2003.
14. A notice pursuant to the provisions of Section 72(1) of the Registered Land Law (1995 Revision) was posted at Parcel 29 on 12th January 2004 and published in the Cayman Islands Gazette issue numbered 1/2004, 9/2004 and 10/2004.
15. The Registered Land Law (1995 Revision) by virtue of Section 72(2) provides that:

“Section 72(2) If the chargor does not comply within three months of the date of service, with a notice served on him under subsection (1) the chargee may -

... (b) sell the charged property”

16. Therefore, on and since the date of Gazette 10/2004, that is 18th May 2004 there has accrued a right in favour of the Plaintiff to sell the charged property and the Plaintiff seeks an Order that it may do so.
17. In the premises, the Plaintiff seeks an Order pursuant to the provisions of the Registered Land Law (1995 Revision) that:
 - 17.1 An Order for possession be made.
 - 17.2 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.
 - 17.3 The Plaintiff also seeks an Order that if after any sale of Parcel 29 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 this 11th day of August 2005.



RITCH & CONOLLY
Attorneys for the Plaintiffs

If the Defendant does not acknowledge service, judgement may be given, or made against, or in relation to her, 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)

AND IN THE MATTER OF CAYMAN BRAC WEST, BLOCK 96C, PARCEL 29

BETWEEN:

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

AND

LILLENE CHRISTIE FOSTER DEFENDANT

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 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 principal office.

Endorsement 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: RJH/8715/CICSA_
LilleneFoster

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

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS

The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Law Courts, P. O. Box 495 GT, 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 Courts 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 Defendant 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 Defendant 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.