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CAUSE NO. OF 2005

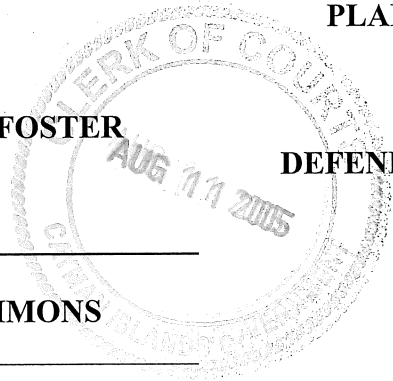


IN THE GRAND COURT OF THE CAYMAN ISLANDS  
IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)  
AND IN THE MATTER OF CAYMAN BRAC WEST, BLOCK 96C, PARCEL 30  
BETWEEN:

**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 Autrey Foster , a member of the Plaintiff Credit Union, applied to the Plaintiff for a loan in the sum of CI\$8,400.00. This borrowing was to be repaid by 96 monthly payments of CI\$131.03 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 30 ("Parcel 30").
2. Parcel 30 was at all material times registered in the name of another member of the Plaintiff Credit Union, the Defendant Lillene Christie Foster and on 21<sup>st</sup> September 1999 the Plaintiff as Chargee and the Defendant as Chargor executed a Legal Charge in respect of Parcel 30.

3. The Legal Charge dated 21<sup>st</sup> September 1999 provided that:
  - 3.1 The Plaintiff would lend to the Defendant and the Defendant would borrow the principal sum of CI\$8,400.00.
  - 3.2 Interest on that amount would accrue at the rate of 0.90% per annum on the reducing balance.
4. On 27<sup>th</sup> June 2000 Autry Foster applied to the Plaintiff for a loan in the sum of CI\$42,000.00 which, together the balance of previous loans made to him, gave a total amount of borrowing of CI\$49,937.60. This borrowing was to be repaid by 96 monthly payments of CI\$811.59 and was to be secured by a variation of the Legal Charge registered against Parcel 30 and dated 21<sup>st</sup> September 1999.
5. On 30<sup>th</sup> June 2000 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 30 and the Variation provided that:
  - 5.1 The principal sum would be increased from CI\$8,400.95 by CI\$41,537.60 to CI\$49,937.60.
  - 5.2 Interest on the amount borrowed would accrue at the rate of 1% per annum on the reducing balance.
6. On 7<sup>th</sup> November 2000 Autry Foster applied to the Plaintiff for a loan in the sum of CI\$29,900.00 which, together with the balance of previous loans made to him gave a total amount of borrowing of CI\$78,389.14. This borrowing was to be repaid by 96 monthly payments of CI\$1,274.05 and was to be secured by a variation of the Legal Charge registered against Parcel 30 and dated 21<sup>st</sup> September 1999 as varied on 30<sup>th</sup> June 2000.
7. On 15<sup>th</sup> November 2000 the Plaintiff as Chargee and the Defendant as Chargor executed a Variation of Charge in respect of Parcel 30 and the variation provided that:
  - 7.1 The principal sum would be varied from CI\$49,937.60 by CI\$28,451.54 to CI\$78,389.14.
  - 7.2 Interest on the amount borrowed would accrue at the rate of 1% per annum on the reducing balance.
8. On and since May 2001 Autry Foster has failed to pay the monthly instalments due in respect of the sums loaned and in respect of interest.

9. 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”*

10. 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.:*

11. By their letter dated 26<sup>th</sup> November 2002 Ritch & Conolly as attorneys for the Plaintiff Credit Union wrote to Autry Foster and demanded the principal sum outstanding and accrued interest and Autry Foster replied on 27<sup>th</sup> January 2003 indicating that he believed the Defendant in this matter had come to a settlement agreement with the Credit Union that she would assume responsibility for the loans at the Credit Union and that since she had not the Credit Union could proceed and initiate repossession proceedings.

12. 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 30 on 31<sup>st</sup> July 2003 and published in the Cayman Islands Gazette issues numbered 13/2003, 14/2003 and 15/2003.

13. The notice demanded payment of the balance of the principal sum outstanding and accrued interest.

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

15. The Plaintiff avers that the notice posted at Parcel 30 on 31<sup>st</sup> July 2003 and gazetted in issue numbered 13/2003, 14/2003 and 15/2003 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 1<sup>st</sup> November 2003.

16. 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”*

17. 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 1<sup>st</sup> December 2003.

18. A notice pursuant to the provisions of Section 72(1) of the Registered Land Law (1995 Revision) was posted at Parcel 30 on 12<sup>th</sup> January 2004 and published in the Cayman Islands Gazette issue numbers 1/2004, 9/2004 and 10/2004.

19. 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”*

20. Therefore, on and since the date of Gazette 10/2004, that is 18<sup>th</sup> 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.

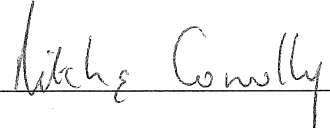
21. In the premises, the Plaintiff seeks an Order pursuant to the provisions of the Registered Land Law (1995 Revision) that:

21.1 An Order for possession be made.

21.2 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.

21.3 The Plaintiff also seeks an Order that if after any sale of Parcel 30 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 11<sup>th</sup> 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.