

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 99 OF 2007

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

AND IN THE MATTER OF GEORGE TOWN SOUTH, BLOCK 6D, PARCEL 59

BETWEEN:

CAYMAN NATIONAL BANK LTD

PLAINTIFF

AND:

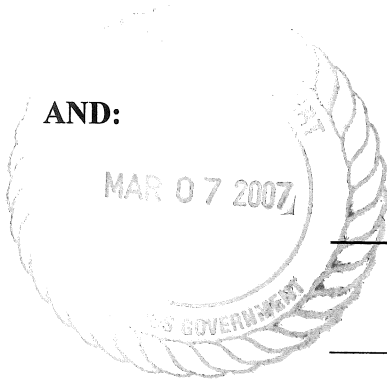
HERBERT HUDDLESTON

FIRST DEFENDANT

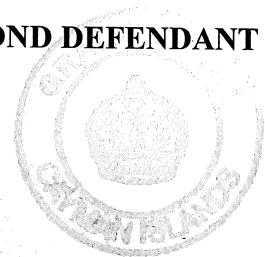
AND:

CAROL HUDDLESTON

SECOND DEFENDANT



ORIGINATING SUMMONS



TO: Herbert Huddleston and Carol Huddleston whose address for service is PO Box 482, Grand Cayman KY1-1106.

LET THE DEFENDANTS, Herbert Huddleston and Carol Huddleston, 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, George Town, Grand Cayman KY1-1106.

BY THIS SUMMONS which is issued on application of the Plaintiff, Cayman National Bank Ltd of Cayman National Building, Elgin Avenue, PO Box 1097, Grand Cayman, the Plaintiff claims against the Defendants relief pursuant to the Registered Land Law (1995 Revision) as follows: -

1. The Defendants applied to the Plaintiff for a loan in the sum of US\$18,000.00 and this loan was to be secured by a Charge on the land registered at the Lands & Survey Department as George Town South, Block 6D, Parcel 59 ("Parcel 59").
2. Parcel 59 was at all material times registered in the name of the Defendants and on or about 21st March 2003 the Plaintiff as Chargee and the Defendants as Chargors executed a Legal Charge in respect of Parcel 59.
3. The Legal Charge provided that:

- 3.1 The Plaintiff would lend and the Defendants would borrow the principal sum of US\$18,000.00.
 - 3.2 Interest on that amount would accrue at the rate of 4% above the United States Dollar Prime Lending Rate per annum.
4. On or about 21st March 2003 the Defendants applied for a further loan in the principal sum of CI\$30,000.00 and that loan was to be secured by a Second Legal Charge on the land registered at the Lands & Survey Department as George Town South, Block 6D, Parcel 59 ("Parcel 59").
5. The Second Legal Charge provided that:
 - 5.1 The Plaintiff would lend and the Defendants would borrow the principal sum of CI\$30,000.00.
 - 5.2 Interest on that amount would accrue at the rate of 3% above the Cayman Islands Dollar Prime Lending Rate per annum.
6. The Legal Charges also provided that:

"Section 72 of the ... [Registered Land] Law shall be varied in respect of this Charge and of any instrument of variation executed pursuant to this Charge so as to entitle the Chargee immediately upon default by the Chargor in payment of the principal sum or of any interest payable hereunder or in the performance or observance of any agreement expressed or implied herein to serve on the Chargor notice in writing to pay the moneys owing or due or to perform or observe the agreement as the case may be and further so as to provide that if the Chargor does not comply within one month of the date of service of such notice the Chargee may thereupon either appoint a receiver of the income of the Charged Property or sell the Charged Property by private treaty as well as by public auction or by tender or to foreclose on the Charged Property."
7. Since in or about October 2005 the Defendants have failed to pay the monthly instalments due in respect of the sums loaned and in respect of interest and failed to make any subsequent payments of either principal or interest.
8. 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."

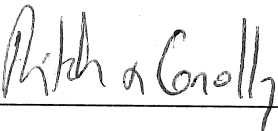
9. By a letter dated 10th November 2005, and acknowledged as received by the First Defendant on 24th November 2005 and the Second Defendant on the 28th November 2005, the Plaintiff served a notice on the Defendants pursuant to the provisions of Section 64(2) of the Registered Land Law (1995 Revision) demanding payment of the balance of the principal sum outstanding and accrued interest.
10. The Defendants did not make payment of the balance of the principal sum outstanding and/or accrued interest.
11. The Plaintiff avers that the letter dated 10th November 2005 and served on the Defendants on 24th November 2005 and 28th November 2005 respectively 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 10h March 2006.
12. 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.”
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 Defendants on or after 10th March 2006.
14. 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 sub-section (i) the chargee may
...
(b) sell the charged property.”
15. However, in accordance with the Registered Land Law (1995 Revision) Section 77 the Plaintiff seeks to vary the provisions of Section 72(2) so that the Plaintiff may proceed to take steps to sell Parcel 59 after one month of the date of service of the Section 72(1) Notice.
16. Therefore, on 28th March 2006 the Plaintiff served such a notice on the Defendants as described in paragraph 12 of the Legal Charges demanding payment of the full sums outstanding.

17. No response was received and since one month after the date of the Notice, that is 29th April 2006, 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.
- a. In the premises, the Plaintiff seeks an Order pursuant to the provisions of the Registered Land Law (1995 Revision) that:
- 17.1 The variations in the Legal Charge referring to the provisions of Section 72 of the Registered Land Law (1995 Revision) be allowed.
- 17.2 The Plaintiff be entitled to sell Parcel 59 either by private treaty or public auction in good faith and having regard to the interests of the Defendants.
- 17.3 For the purposes of any such sale, the Plaintiff be entitled to vacant possession of the property and that an Order for possession be made.
- 17.4 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.
18. The Plaintiff also seeks an Order that if after any sale of Parcel 59 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 7th day of March 2007.



RITCH & CONOLLY
Attorneys for the Plaintiff

If the Defendants do not acknowledge service, judgement 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.

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PLAINTIFF

AND:

HERBERT HUDDLESTON

FIRST DEFENDANT

AND:

CAROL HUDDLESTON

SECOND 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.

Please complete overleaf

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
Queensgate House
113 South Church Street
PO Box 1994
Grand Cayman KY1-1104

Ref:MB/CNB/10345_Huddleston,H&C

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

[Empty box for defendant's Attorney endorsement]