

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

MORGUARD TRUST COMPANY

Plaintiff

- and -

HAY RIVER REALTY CORPORATION LTD.,
THE FOUNDATION COMPANY OF CANADA
LIMITED, AND FOUNDATION OF CANADA
ENGINEERING CORPORATION LIMITED

Defendants

BEFORE THE HONOURABLE) NORTHWEST TERRITORIES
MR. JUSTICE W. G. MORROW) ON THURSDAY THE 27th
IN CHAMBERS, YELLOWKNIFE) DAY OF APRIL, A.D. 1978.

ORDER NISI/ORDER FOR SALE

UPON THE APPLICATION of the Plaintiff AND UPON reading
the Statement of Claim and Statements of Defence filed herein,
the Notice of Motion, the Affidavits of Edgar Dauphinais,
Clifford C. Zeiner, and Thomas Hughes Cliff, the Certificates
of Search and General Register Certificates, all filed, AND
UPON hearing what was said by Counsel for the Plaintiff,
Counsel for the Defendant Hay River Realty Corporation Ltd.,
and Counsel for the Defendants The Foundation Company of Canada
Limited and Foundation of Canada Engineering Corporation Limited
AND UPON reading the Affidavit of Michael B. Harding;

AND UPON THE APPLICATION of the Plaintiff to adjourn
the application as against the Defendant Hay River Realty Corporation

COURT OF
TERRITORIES
APPLICANT
PROPERTY INVESTOR
RESPONDENT
AT
F.D.
1978
L.D.



Ltd. sine die AND UPON NOTING the consent of the Counsel for all the Defendants to the said Application AND UPON THE APPLICATION of the Defendants, The Foundation Company of Canada Limited and Foundation of Canada Engineering Corporation Limited, to amend the Statement of Defence filed on behalf of the said Defendants to a Demand of Notice;

AND UPON HEARING the Application of the Plaintiff for that relief claimed in the Notice of Motion dated the 28th day of March, A.D., with the exception of items 1 and 2 in the Notice of Motion which are not required in view of the aforesaid amendment by the Defendants, The Foundation Company of Canada Limited and Foundation of Canada Engineering Corporation Limited;

AND IT APPEARING that the Plaintiff is Mortgagee of the lands in questions in this action under and by virtue of a Memorandum of Mortgage dated the 25th day of October, A.D. 1973, as amended by an Amending Agreement between the Plaintiff and the Defendant, The Foundation Company of Canada Limited, dated the 20th day of February, A.D. 1975; AND IT APPEARING that the Plaintiff is Mortgagee of the Chattels in question in this action under and by virtue of a Chattel Mortgage dated the 12th day of June, A.D. 1975.

IT IS HEREBY ORDERED that the Application as against the Defendant, Hay River Realty Corporation Ltd., be and the same is hereby adjourned sine die, subject to the rights of

the parties or any of them to re-apply as hereinafter ordered.

2. IT IS DECLARED that the Statement of Defence filed in the within action by The Foundation Company of Canada Limited and Foundation of Canada Engineering Corporation Limited be and the same is henceforth to be treated as if the same were a Demand of Notice filed in accordance with the Rules of the Supreme Court of the Northwest Territories.

3. IT IS DECLARED that there is due and owing under the said Mortgage of land (as amended) and under the said Chattel Mortgage, as at the 27th day of April, A.D. 1978, the sum of \$ 2,471,454.30 being \$ 2,254,163.77 for principal \$ ~~216,323.35~~ ^{216,323.35} for interest on principal \$ ~~2,258.77~~ ^{2,258.77} for ~~tax charges~~ ^{Tax Credit} ~~interest on such tax charges, \$~~ ~~for other charges~~ and \$ 3,225.75 the Plaintiff's taxed costs, and that the said amount shall be realized by sale of the mortgaged lands and chattels, in default of which foreclosure may be ordered as hereinafter provided.

4. AND UPON the Defendants, The Foundation Company of Canada Limited and Foundation of Canada Engineering Corporation Limited, or either of them, or anyone entitled to do so, paying to the Plaintiff or into Court to the credit of this cause on or before the 27th day of October, A.D. 1978, or after the aforesaid date and before the Plaintiff obtains the final Order for foreclosure,

the sum of \$ 2,476,454.30 and subsequent costs, together with any other sums which the Plaintiff shall pay to protect its security, with interest on all such sums from the date of payment and on the said judgment at the rate of 9% per annum, IT IS ORDERED that the Plaintiff do execute and deliver to the persons so paying or from whom the said money shall have been received at the expense of the said person a discharge or transfer as the case shall require, of the said mortgaged security in the Statement of Claim mentioned, and deliver up all documents relating to the mortgaged premises, namely:

The whole of Lots Seven Hundred and Seventy-Two dash one dash one dash one (772-1-1-1) and Seven Hundred and Seventy-Two dash one dash one dash two (772-1-1-2) in the Town of Hay River, in the Northwest Territories according to a plan of survey filed in the Land Titles Office for the Northwest Territories under Number 940 (Title #8630)

- and -

The whole of Lot Seven Hundred and Seventy-Two dash one dash two (772-1-2) in the Town of Hay River in the Northwest Territories according to a plan of survey filed in the Land Titles Office for the Northwest Territories under the Number 845 (Title #8631).

and relating to the mortgaged chattels referred to in the aforesaid Chattel Mortgage.

5. AND IT IS FURTHER ORDERED that, in the event that all arrears of principal, interest, taxes, costs and other charges made pursuant to the said Land Mortgage and Chattel Mortgage together with all additional monthly installments that have fallen or will fall due is paid to the Plaintiff before the aforesaid

27th day of October, A.D. 1978, then this Order and all the provisions hereof, with the exception of paragraph one of this Order, shall be stayed for so long as the monthly payments called for in the aforesaid mortgages are made at the time and place specified in the aforesaid Land and Chattel Mortgages.

6. IT IS FURTHER ORDERED that in default of payment of the said moneys as aforesaid, the said mortgaged premises and the said mortgaged chattels shall be offered for sale by tender upon the terms mentioned in the advertisement and subject to the directions for advertising as approved by me and filed into Court, and that all tenders received be submitted to this Honourable Court for approval.

7. AND IT IS FURTHER ORDERED that the Application of the Plaintiff for the Order appointing a Receiver and Manager of the undertaking, property and assets of the Defendants, The Foundation Corporation of Canada Limited and Foundation of Canada Engineering Corporation Limited, and the Application of the Plaintiff for those Orders dependent upon such an appointment, are hereby dismissed.

8. AND IT IS FURTHER ORDERED that service of this Order upon the Defendants shall be effected by mailing a copy of the same in a fully prepaid registered envelope addressed as follows:

Hay River Realty Corporation Ltd.
c/o Messrs. Searle Richard & Kingsmill
Barristers and Solicitors
P.O. Box 939
YELLOWKNIFE, N.W.T.

The Foundation Company of Canada Limited
c/o Messrs. Ayotte, Cooper & Company
Barristers and Solicitors
P.O. Box 818
4908 Franklin Avenue
YELLOWKNIFE, N.W.T.
XOE LHO

Foundation of Canada Engineering Corporation Limited
c/o Messrs. Ayotte, Cooper & Company
Barristers and Solicitors
P.O. Box 818
4908 Franklin Avenue
YELLOWKNIFE, N.W.T.
XOE LHO

9. AND IT IS FURTHER ORDERED that all subsequent encumbrancers be served with notice pursuant to Rule 687 and a copy of this Order pursuant to Rule 687(4) of the Rules of Court of the Supreme Court of the Northwest Territories.
10. AND IT IS FURTHER ORDERED that any party interested shall have the liberty to apply from time to time as he may be advised, on three (3) clear days notice given to all other parties to the within action.
11. AND IT IS FURTHER ORDERED that costs shall be to the Plaintiff taxed on double column 5 of the Rules of Court of the Supreme Court of the Northwest Territories, no limiting rule to apply, and to include as disbursements the appraisal fees for the Valuator's Report filed herein up to the sum of \$2,000.00, together with hotel

accommodation and transportation from Edmonton to Yellowknife return for Counsel for the Plaintiff.

12. AND IT IS FURTHER ORDERED that the Clerk of the Court shall tax the costs, check the Plaintiff's computation, and insert the correct amounts in the judgment.

13. AND IT IS FURTHER ORDERED that upon the expiration of the period of redemption, and upon filing the proof of service of Notice required by Rule 694 of the Rules of Court of the Supreme Court of the Northwest Territories, the Clerk of the Court will insert the date in the advertisement and in the directions for advertising, and the Clerk is hereby authorized to do so.

[Signature]
CLERK OF THE SUPREME COURT OF
THE NORTHWEST TERRITORIES

ENTERED THIS 3rd DAY OF August

A.D. 1978.

[Signature]
CLERK OF THE SUPREME COURT

I hereby certify that the foregoing is a true copy of the original of which it purports to be a copy.
CLERK OF THE COURT

APPROVED AS BEING THE ORDER MADE

Morguard Trust Company by its Solicitors Messrs. Reynolds, Agrios & Mirth

Hay River Realty Corporation Ltd. by its Solicitors Messrs. Searle Richard & Kingsmill

PER: [Signature]
FRANCIS PRICE

PER: [Signature]

Foundation Company of Canada Limited and Foundation of Canada Engineering Corp. [Signature] Solicitors

NO. SC 4041 ✓

A.D.

NOTICE TO SUBSEQUENT ENCUMBRANCERS

notice first that from the date of service of this Notice, you will be bound by the proceedings in this cause in the same manner as if you had originally made a party unless you, within 15 days after service hereof, appear to the Court to discharge, or add to the within Judgment, and secondly, that you may, upon being called upon the Plaintiff of a party of your desire so to do, participate in the proceedings under the within Judgment.

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

MORGUARD TRUST COMPANY

Plaintiff

- and -

HAY RIVER REALTY CORPORATION LTD.,
THE FOUNDATION COMPANY OF CANADA
LIMITED and FOUNDATION OF CANADA
ENGINEERING CORPORATION LIMITED

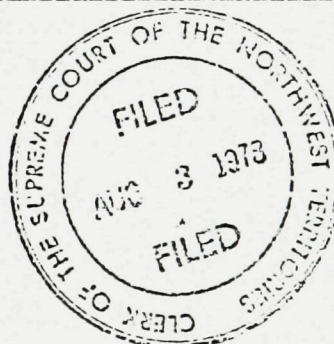
Defendants

REYNOLDS, AGRIOS & MIRTH

Solicitors for the Plaintiff

8234 AUG 3 4 -5.00 P.

ORDER NISI/ORDER FOR SALE
8234 AUG 3 -5.00 P.



REYNOLDS, AGRIOS & MIRTH
Barristers and Solicitors

1700 Century Place
9803 - 102A Avenue

Edmonton Alberta T5J 2C7

FILE 30363-011