

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN WESTERN BANK

PETITIONER

AND:

DAVID EDGAR LOVE
CHRISTINE MARY LOVE
WENDY ANNE PRENTY

RESPONDENTS

ORDER NISI OF FORECLOSURE

BEFORE

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TUESDAY, THE 9TH DAY OF
FEBRUARY, 1999

THE APPLICATION of the Petitioner coming on for hearing at Courtenay, British Columbia this day, and on hearing Christopher R. Sinclair, counsel for the Petitioner, and no one appearing for or on behalf of the Respondents although duly served with notice of this application; AND UPON READING the Petition herein and the material filed;

THIS COURT DECLARES that the Indenture of mortgage made April 27, 1997 (the "Mortgage"), between the Respondents, David Edgar Love and Christine Mary Love, as Mortgagors and the Petitioner as Mortgagee, and registered in the Land Title Office, Victoria, British Columbia, on May 1, 1997 under No. EL51871, is a mortgage charging all and singular that certain parcel or tract of lands and premises situate in the City of Courtenay, in the Province of British Columbia, and being more particularly known and described as:

Parcel Identifier: 000-342-416
Strata Lot 8, District Lot 96, Comox District, Strata Plan 215

(the "Mortgaged Property")

AND THIS COURT DECLARES that the Respondents, David Edgar Love and Christine Mary Love, have made default under the Mortgage and that all money secured by the Mortgage is charged upon the Mortgaged Property and is due and owing to the Petitioner.

AND THIS COURT DECLARES AND ORDERS that as at the date of this Order the amount of money due and owing under the Mortgage and the amount of money required to redeem the Mortgaged Property is the sum of \$48,178.10 together with interest on all amounts currently due and all amounts which may become due under the

Mortgage at the rate of 6.5% per annum, presently equal to the rate of \$8.41 per day from and including February 9, 1999, and compounded half yearly not in advance, all of which to accrue until the Mortgaged Property is redeemed or sold, whether or not redemption or sale occurs prior to or after the last date set for redemption by this Order, plus the Petitioner's costs of this proceeding calculated on a party and party basis, pursuant to scale 2, Appendix B of the Rules of Court.

AND THIS COURT FURTHER ORDERS that the Petitioner do recover its costs of this proceeding on a party and party basis and that such costs form a part of the amount of money due and owing under the Mortgage and of the amount of money required to redeem the Mortgaged Property.

AND THIS COURT FURTHER ORDERS that the last date for redemption of the Mortgaged Property is February 10, 1999.

AND THIS COURT FURTHER ORDERS that the Respondents, David Edgar Love and Christine Mary Love, jointly and severally, pay to the Petitioner the amount of \$48,178.10, together with post-judgment interest and the Petitioner's costs of this proceeding on a party and party basis, pursuant to Scale 2, Appendix B, of the Rules of Court.

AND THIS COURT FURTHER ORDERS that upon the Respondents, or any of them, paying into Court to the credit of this proceeding at the Courtenay Court Registry, Courthouse, 420 Cumberland Road, Courtenay, B.C., or paying to the solicitor of record for the Petitioner, or paying to the Petitioner if no such solicitor exists, the amount required to redeem the Mortgaged Property as aforesaid on or before pronouncement of either Order Absolute of Foreclosure or an Order confirming the sale of the Mortgaged Property, the Petitioner shall reconvey the Mortgaged Property free and clear of the Mortgage and shall deliver upon, upon oath if required, all deeds, titles and documents in its custody, possession or power relating thereto to the Respondents so paying or to whom the shall appoint.

AND THIS COURT FURTHER ORDERS that if the Mortgaged Property is not redeemed the Petitioner may apply for an Order Absolute of Foreclosure and upon pronouncement of an Order Absolute of foreclosure the Respondents and all persons claiming by, through or under them shall stand absolutely debarred and foreclosed of an from all right, title, interest, and equity of redemption in and to the Mortgaged Property, and all monies paid under the Mortgage shall come the property of the Petitioner free from any right of the Respondents, and the Petitioner shall recover vacant possession of the Mortgaged Property.

AND THIS COURT FURTHER ORDERS that the Petitioner may apply for further summary accounting of all amounts which become due to the Petitioner for principal, interest, taxes, arrears of taxes, insurance premiums, costs, charges, expenses or otherwise from the date of pronouncement of this Order.

AND THIS COURT FURTHER ORDERS that the Mortgaged Property be sold out of Court by being offered for sale, by private sale, free and clear of all encumbrances save and except the reservations, provisos, exceptions and conditions expressed in the original grant from the Crown.

AND THIS COURT FURTHER ORDERS that the Petitioner do have exclusive conduct of the sale and may forthwith list the Mortgaged Property for sale during the redemption period and until further order of this Court, and may pay to any real estate agent or firm who may arrange a sale of the Mortgaged Property and premises a commission of not more than 7% of the first \$100,000.00 and 2 1/2% of the balance of the gross selling price plus any Goods and Services Tax payable from the proceeds of the sale.

AND THIS COURT FURTHER ORDERS that the sale shall be subject to the approval of the Court unless otherwise agreed by all parties.

AND THIS COURT FURTHER ORDERS that the Respondents, David Edgar Love and Christine Mary Love, and any person or persons on these Respondents' behalf, upon reasonable notice, do forthwith permit any duly authorized agent on behalf of the Petitioner to post signs on the Mortgaged Property, to inspect, appraise, or show to any prospective purchaser the Mortgaged Property and premises including the interior of the premises between the hours of 9:00 a.m. and 7:00 p.m. on any day of the week, except Sundays, holidays or such other day as the court may order.

BY THE COURT

DISTRICT REGISTRAR

APPROVED AS TO FORM:

Counsel for the Petitioner