

file

CHEYENNE RIVER SIOUX TRIBAL COURT
CHEYENNE RIVER SIOUX TRIBE
CHEYENNE RIVER INDIAN RESERVATION

IN CIVIL COURT

LONG FAMILY LAND AND CATTLE
COMPANY, Inc. - RONNIE AND LILA LONG,
Plaintiffs,

vs.

MOTION FOR SUMMARY
JUDGMENT

EDWARD AND MARY MACIEJEWSKI
and RALPH H. AND NORMA J. PESICKA,
and THE BANK OF HOVEN,
Defendants.

R-120-99

Comes now Defendant, Plains Commerce Bank, formerly known as the Bank of Hoven, by and through its attorney, David A. Von Wald, and moves the Court for Summary Judgment on its counterclaim for the following reasons:

1. This Motion is brought pursuant to Rule 56 of the Rules of Civil Procedure of the Cheyenne River Sioux Tribal Law and Order Code.
2. The Court has jurisdiction over Long Family Land and Cattle Company, Inc. and Ronnie Long and Lila Long in that the majority ownership of the corporation is owned by Ronnie Long and Lila Long, enrolled members of the Cheyenne River Sioux Tribe and the Court has jurisdiction over the subject matter of this action.
3. There are no genuine issues of material fact.
4. Plaintiffs have wrongfully held over possession of a portion of the real estate described in Plaintiff's Amended Complaint after the execution of a Lease With An Option To Purchase entered into on December 5, 1996.
5. The Lease With Option To Purchase wherein Bank of Hoven, now Plains Commerce Bank, was the Lessor and Long Family Land and Cattle Company, Inc. by its terms expired on expired December 5, 1998.

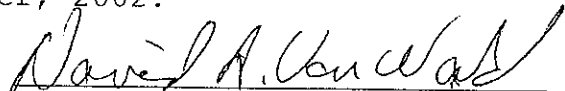
6. Defendant, Plains Commerce Bank, has sold a portion of the real estate which was leased to the Long Corporation to Ralph H. and Norma J. Pesicka and the remaining portion to Edward Maciejewski and Mary Jo Maciejewski. The Maciejewskis, however, have been able to take possession of only about one half of the real estate they bought since Plaintiffs are wrongfully holding over possession of a portion of the real estate. The legal description of the wrongfully retained real estate is as follows:

The Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty Five (25), all of Section Twenty Eight (28), and the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty Four (34), all in Township Seventeen (17), Range Twenty Five (25), East of the Black Hills Meridian, subject to easements, reservations and conveyances, if any, existing and of record.

7. This Motion is made based on the Affidavit of Charles Simon, attached hereto as Exhibit "1", the depositions of the parties, the pleadings and the entire file in this case.

WHEREFORE, Defendant, Plains Commerce Bank, prays the Court grant its Motion for Summary Judgment against Plaintiffs and order that Plaintiffs be evicted from possession of said real estate, granting Defendants possession of the same. And additionally, the Court enter a judgment against Plaintiffs for damages sustained by Defendants for the wrongful possession of said real estate by Plaintiffs, and for whatever other relief as to the Court is deemed just and equitable in the premises.

Dated this 12th day of September, 2002.


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for Plains Commerce Bank
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