

Filing # 9244761 Electron Filed 01/16/2014 02:34:14 PM

IN THE CIRCUIT COURT IN AND FOR
SANTA ROSA COUNTY, FLORIDA

CASE NO: 12-000537-CA

GREEN TREE SERVICING, LLC

Plaintiff,

vs.

GEORGE N. ARSEMENT; KATHY L.
ARSEMENT A/K/A KATHY ARSEMENT;
UNKNOWN TENANT I; UNKNOWN TENANT
II; BANK OF AMERICA, N.A., and any unknown
heirs, devisees, grantees, creditors, and other
unknown persons or unknown spouses claiming by,
through and under any of the above-named
Defendants,

Defendants.

DONALD C. SPENCER
CLERK OF COURT &
COMPTROLLER
2014 JAN 17 AM 9 32
SANTA ROSA COUNTY, FL
CC FILED

SUMMARY FINAL JUDGMENT FOR FORECLOSURE

THIS ACTION came before the Court on Plaintiff's Motion for Summary Final Judgment and the Court, based upon the state of the record at the time of the hearing, finds that there is no material issue of fact or law and grants plaintiff's motion. It is therefore

ORDERED AND ADJUDGED:

1. JURISDICTION OVER THE PARTIES AND SUBJECT MATTER:

This Court has jurisdiction over foreclosure cases pursuant to Florida Statutes. Service of process has been secured upon all Defendants.

2. THE DEBT AND ITS VALIDITY:

Plaintiff holds a lien for the total sum in this Final Judgment which is superior, prior and paramount to the right, title, interest, claims, liens, encumbrances and equities of the following Defendants: GEORGE N. ARSEMENT; KATHY L. ARSEMENT A/K/A KATHY ARSEMENT; BANK OF AMERICA, N.A., and any unknown heirs, devisees, grantees, creditors, and other unknown persons or unknown spouses claiming by, through and under any of the above-named Defendants, and all persons claiming any interest since the filing of the Lis Pendens on the following real property:

**Commencing at the Northeast corner of Section 17, Township
1 South, Range 28 West, Santa Rosa County, Florida, thence S05**

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degrees 00'E (Government Bearing) along the East line of said Section a distance of 3458.80 feet, thence S85 degrees 00'W a distance of 250 feet, thence N89 degrees 14'W a distance of 2030.97 feet to the concrete monument, thence N05 degrees 00'W a distance of 50.25 feet for the Point of Beginning, thence continue N05 degrees 00'W a distance of 488.41 feet to a concrete monument, thence N41 degrees 44"E a chord bearing of a curve concave to the left having a radius of 867.27 feet for a chord distance of 30.11 feet, thence S88 degrees 13'E a distance of 150.40 feet to a concrete monument, thence S05 degrees 00"E a distance of 508.58 feet, thence N89 degrees 14'W for a distance of 172.15 feet to the Point of Beginning, being a portion of Lots 61, 62 & 63 of BEBE FOREST, an unrecorded subdivision by J.W. Cook.

3. PLAINTIFF'S LIEN ON PROPERTY & SUPERIORITY:

From the Affidavits in the file and the uncontested allegations of the Complaint, the correct legal description of the property is as shown hereinabove. Plaintiff has a lien upon the real estate hereinafter described and such lien and security interests are prior, paramount and superior to the right, title, interest, claims, liens, encumbrances and equities of all Defendants and all persons claiming any interest since the filing of the Lis Pendens in the property described above.

THIS JUDGMENT IS AGAINST GEORGE N. ARSEMENT AND KATHY L. ARSEMENT A/K/A KATHY ARSEMENT, IN REM, AND AS RECORD TITLE OWNERS TO THE REAL PROPERTY HEREIN DESCRIBED. All other Defendants' interests are in the form of inferior liens to Plaintiff's Note and Mortgage. As such said liens are extinguished subject to any statutory right of redemption as outlined further in this Final Judgment.

4. ATTORNEY'S FEES:

The mortgage provides for Plaintiff's attorney's fees. Plaintiff has retained an attorney. The Court finds N/A hours as a reasonable attorney's fee, as set forth on said attorney's Affidavit. Plaintiff has filed a supporting attorney's fee Affidavit by an independent attorney. The hourly fee of \$175.00 is a reasonable hourly fee. Below is the total fee awarded pursuant to Florida Patient's Compensation Fund v. Rowe, 472 So2d 1145 (Fla. 1985).

5. DAMAGES:

There is now due and owing to Plaintiff under the note and mortgage sued upon herein, the following sums of money, to-wit:

| | |
|--|--------------|
| PRINCIPAL BALANCE DUE | \$66,487.90 |
| Court Costs Due | \$ 2,438.17 |
| ADVANCES BY MORTGAGEE: (ITEMIZED) | |
| Real Estate Taxes for years _____, _____, _____ | \$ 3,964.85 |
| Hazard or Property Insurance for term _____ to _____ | \$ 13,861.52 |
| P.M.I. paid for term _____ to _____ | \$ 1,583.76 |

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| | |
|---|-------------|
| Late charges Accrued From: ___ Through: ___ | \$ 63.51 |
| Property Inspections dates _____ | \$ 1,581.60 |
| Appraisals / BPO dates _____ | \$ 0.00 |
| Condo Maintenance Expense Dates | \$ 0.00 |
| Payment to Superior Mortgages | \$ 0.00 |
| Utilities Assessment with Priority | \$ 0.00 |
| Other | \$ 25.00 |

LESS CREDITS DUE TO DEFENDANTS:

| | |
|-------------------------|--------------------|
| Positive Escrow Balance | |
| Others: Credits | -\$ 150.00 |
| | -\$ 0.00 |
| Sub Total | \$89,856.31 |

PLUS REASONABLE ATTORNEY'S FEES* \$ 1,300.00

*The requested attorney's fee is a flat rate fee that the firm's client has agreed to pay in this matter. Given the amount of the fee requested and the labor expended, the Court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.

| | |
|---|--------------|
| Interest on Principal Balance from November 1, 2008 to July 1, 2013 (5.75%) | \$ 11,109.16 |
|---|--------------|

| | |
|--|-------------|
| Interest on Principal Balance from July 2, 2013 to January 14, 2014 (\$5.6924 per diem x 197 days) | \$ 1,121.40 |
|--|-------------|

TOTAL DUE \$ 103,386.87

6. ADDITIONAL COSTS & ADVANCES:

- 6.1. Any third party bidder is responsible for paying the Registry Fee and Documentary Stamps. The Clerk shall compute the Registry Fee and Documentary Stamps and collect said amounts from the third party bidder. Also, additional advances made by Plaintiff such as real estate taxes, insurance, and superior mortgagee payments may be added upon filing of an affidavit listing them. Any such amount will be added to the total bid.
- 6.2. Additionally, the total sum due Plaintiff shall include publication of Notice of Sale costs, interest at the legal rate per Sect. 55.03, F.S.(1994), from the date of this Final Judgment to the date of sale. Said interest shall be applied in accordance with paragraph 5 above.

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7. **CLERK'S SALE:**

DIRECTIONS TO SELL: Unless the Defendants shall, at any time prior to the sale of the real estate and other property and fixtures heretofore described, pay to the Plaintiff or its attorneys, the total sums found to be due Plaintiff, then said property shall be sold by the Clerk of the Court to the highest bidder for cash at public sale, free and clear of all right, title, interest, claim, lien, encumbrance, remainder, reversion, homestead, dower or equity of redemption whatsoever of the Defendants named herein, and all persons, firms or corporations claiming interest in said property subsequent to the filing of the Notice of Lis Pendens. If subsequent to the date of Plaintiff's Affidavit of Indebtedness and prior to the foreclosure sale, Plaintiff shall be required to advance any monies to protect its mortgage lien, then Plaintiff or its attorneys shall so certify to the Clerk of this Court, and the amount found due to Plaintiff shall be increased by the amount of such advances without further order of the Court.

7.1. **DATE:** Said sale shall be held by the Clerk of this Court at **6865 Caroline Street, Santa Rosa County Courthouse in Milton, Florida, on February 18, 2014 at 11:00 A.M.**, after the publication of notice thereof as required by Section 45.031 of the Florida Statutes, and promptly after such sale the Clerk shall complete and file a Certificate of Sale. If Plaintiff is the successful bidder at foreclosure sale it has the right to assign its bid by filing an Assignment of Bid form naming the party to which the bid has been assigned. The Clerk of the Circuit Court is to issue the Certificate of Title in accordance with Plaintiff's Assignment of Bid without further order of Court.

7.2. **PLAINTIFF'S BID RIGHTS:** Plaintiff is hereby given leave to bid at said sale and to apply against any bid made by it the amount found to be due Plaintiff in this Final Judgment. Section 45.031(2) F.S. requires that the high bidder post with the Clerk a deposit equal to five percent of the final bid. However, if the Plaintiff or its assignee is the successful bidder, they are excluded from the deposit requirement. In the event that the successful bidder fails to place the requisite deposit in accordance with Florida Statutes with the Clerk, said bid is void. Additionally, if the final payment is not made within the prescribed period, the clerk shall readvertise the sale and pay all costs of the sale from the deposit in accordance with Florida Statutes. Any remaining funds shall be applied toward the judgment.

7.3. **CLERK'S DISBURSEMENT:** Out of the proceeds arising from the sale, the Clerk shall retain their fee, then shall pay to the attorneys for Plaintiff the attorney's fees and Court costs allowed by this Court in this Judgment, and this shall be in a separate check made payable to Butler & Hosch, P.A., and mailed to 3185 S. Conway Rd., Ste. E, Orlando, Florida 32812. From the remainder of the proceeds, as far as they shall apply in satisfying the Plaintiff's remaining sum due, they are to send their check to Butler & Hosch, P.A., at the above address, and payable to Plaintiff.

7.4. **SURPLUS FUNDS:** If this property is sold, at public auction, there may be additional money from the sale after payment of persons who are entitled to be paid from the sale proceeds pursuant to this Final Judgment. If said real property and other property shall sell for more than enough to pay Plaintiff all sums due it, then the Clerk shall report any surplus proceeds to this Court. The Clerk of

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Court shall hold the surplus in the Registry of this Court. Thereafter, upon motion and notice of hearing to all parties, even those defaulted, the Court will adjudicate the rights thereto according to law and equity. GENERAL BANK v. WESTBROOK POINTE, INC., 548 So.2d 736, (Fla. 3rd DCA 1989).

Subordinate lienholders claiming a right to funds remaining after the sale, must file a claim with the clerk no later than 60 days after the sale. If a subordinate lienholder fails to file a claim, said lienholder will not be entitled to any remaining funds.

If you are the property owner, you may claim these funds yourself. You are not required to have a lawyer or any other representation and you do not have to assign your rights to anyone else in order for you to claim any money to which you are entitled. Please check with the clerk of the court, Santa Rosa County Clerk of Court ALL PAPERWORK MUST GO TO PO BOX Santa Rosa County Courthouse, Attn: Circuit Civil P.O. Box 472 Milton, FL 32572, within ten (10) days after the sale to see if there is additional money from the foreclosure sale that the clerk has in the registry of the court.

If you decide to sell your home or hire someone to help you claim the additional money, you should read very carefully all papers you are required to sign, ask someone else, preferably an attorney who is not related to the person offering to help you, to make sure that you understand what you are signing and that you are not transferring your property or the equity in your property without the proper information. If you cannot afford to pay an attorney, you may contact Legal Services of North Florida, Inc., at (850) 432-8222 to see if you qualify financially for their services. If they cannot assist you, they may be able to refer you to a local bar referral agency or suggest other options. If you choose to contact Legal Services of North Florida, Inc. for assistance, you should do so as soon as possible after receipt of this notice.

- 7.5. PRESENCE OF PLAINTIFF AT SALE: The said sale shall not take place unless a representative of the Plaintiff is present. If there is no representative, then the sale shall be cancelled by the Clerk. The Plaintiff's attorney shall secure a new sale date. If a sale shall take place, it shall be null and void and no documents issued by the Clerk, except to inform this Court of what may have occurred.
- 7.6. U.S.A. REDEMPTION: The right of redemption of any Defendant other than the United States of America is terminated upon the issuance of the Certificate of Sale by the Clerk of Court pursuant to the provisions of Florida Statutes Chapter 45. If the United States of America is a Defendant, it shall be accorded its right of redemption pursuant to 28 U.S.C. Sec. 2410 (c), from the date of the foreclosure sale.
- 7.7. RIGHT OF REDEMPTION: On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as otherwise stated in this Judgment or as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

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8. TITLE TO SUCCESSFUL BIDDER:

If no objections to said sale are filed in this proceeding within ten days from the filing of the Certificate of Sale, the Clerk shall forthwith complete and file a Certificate of Title as prescribed by law, after which the sale of the real estate and other property and fixtures shall stand confirmed as certified by the Clerk. Title shall pass fully and completely to the purchaser named in the Certificate of Title free and clear of any right, title, interest, estate, claim or other equity of the Defendants or any person claiming by, through or under them or any person claiming any interest in said real estate or other property and fixtures herein ordered to be sold shall stand confirmed as certified by the Clerk. Title to the real estate and other properties sold shall pass fully and completely to the purchaser named in the Certificate of Title, free and clear of any right, title, interest estate, claim or other equity of the Defendants or any person claiming by, through or under them or any person claiming any interest in said real estate or other property and fixtures since the filing of the Notice of Lis Pendens herein. Plaintiff if successor bidder at the foreclosure sale, may assign its Bid by filing a Notice of Assignment and the Clerk of the Court shall issue the Certificate of Title to said assignee without further Order of Court.

8.1. CERTIFICATE OF TITLE: On filing the Certificate of Title the defendants in this action as mentioned above and all persons claiming under or against said defendants since the filing of the Lis Pendens shall be foreclosed of all estate or claim in the real property and the purchaser at the sale shall be let into possession of the property, subject to the provisions of the "Protecting Tenant at Foreclosure Act of 2009."

9. WRITS OF POSSESSION ISSUANCE:

If the Plaintiff is the purchaser at the sale, Plaintiff, its heirs, representatives, successors or assigns shall be placed in immediate possession of the aforescribed premises. In the event the defendants fail to vacate said premises within ten days of the date of the foreclosure sale as provided above, the Clerk of the Court is directed to issue a Writ of Possession to the Plaintiff forthwith and upon further Order from this Court for the premises located at 1778 Amy Ln, Milton, FL 32583.

10. COMPLIANCE WITH FLORIDA STATUTES CHAPTER 55:

Pursuant to Florida Statutes Chapter 55 the following is the address of the Plaintiff:
P.O. Box 6172 Rapid City, SD 57709-6172

11. RETENTION OF JURISDICTION:

This Court retains jurisdiction for the purpose of making any further orders and judgments as may be necessary and appropriate herein, including, but not limited to, all claims for writs of possession, deficiency judgments and supplemental post-judgment proceedings to add an omitted party or parties.

DONE AND ORDERED in Chambers at Milton, Santa Rosa County, Florida this 14th day of January, 2014.



Circuit Judge

Designed by JOHN SIMON, JR. 8/11/2014 04:15:14 SP80000

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Copies to:
Sujata J. Patel, Esquire
BUTLER & HOSCH, P.A.
3185 South Conway Road, Suite E
Orlando, Florida 32812
Attorney for Plaintiff
sp82344@butlerandhosch.com
FLPleadings@butlerandhosch.com

George N. Arsement
233 Topeka Road
Scott, LA 70583

Kathy L. Arsement a/k/a Kathy Arsement
233 Topeka Road
Scott, LA 70583

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