

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR INDIAN RIVER COUNTY, FLORIDA

WELLS FARGO BANK, N.A.

Plaintiff,

CASE NO. 31-2012-CA-000661

v.

THE UNKNOWN HEIRS, GRANTEEES, DEVEISEES, LIENORS, TRUSTEES, AND CREDITORS OF LYON G. MARIETTE A/K/A LYON MARIETTE, DECEASED; RICHARD W. MARIETTE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LYON G. MARIETTE A/K/A LYON MARIETTE, DECEASED; PAUL ANDREW MARIETTE; UNKNOWN TENANT 1; UNKNOWN TENANT 2; AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER OR AGAINST THE ABOVE NAMED DEFENDANT(S), WHO (IS/ARE) NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES CLAIM AS HEIRS, DEVEISEES, GRANTEEES, ASSIGNEES, LIENORS, CREDITORS, TRUSTEES, SPOUSES, OR OTHER CLAIMANTS; REFLECTIONS ON THE RIVER ASSOCIATION, INC.

FILE IN OPEN COURT  
Date 1/25/13  
By JT

Defendants.

**FINAL JUDGMENT OF FORECLOSURE**

This action was heard before the court at Trial on January 25, 2013 and after hearing from Angela Moore of Wells Fargo Bank, the servicer for Fannie Mae on this loan and after receiving evidence, it is

**ORDERED AND ADJUDGED that:**

- Judgment Granted.** The Defendants have defaulted and plaintiff's Final Judgment of Foreclosure is granted.
- Amounts Due.** Plaintiff WELLS FARGO BANK, N.A., One Home Campus, Des Moines, IA 50328, is due:

Principal	\$ 140,000.00
Interest on the note and mortgage from October 1, 2011 to January 25, 2013	\$ 13,711.10
Per diem interest at \$26.85	
Title search expense	\$ 250.00
Attorneys' Fees:	

For the contested portion of the foreclosure action:

Finding as to reasonable number of hours: 10.10 hours

Finding as to reasonable hourly rate: \$150.00 per hour \$1,515.00

Other\*: For the uncontested portion of the foreclosure action \$2,550.00

(\* 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.)

Attorneys' Fee Total: \$ 4,065.00

Court Costs:

Filing Fee \$ 905.00

Service of Process \$ 378.00

Additional Costs:

Late Charges prior to acceleration \$ 40.83

Property Inspections \$ 165.00

Guardian Ad Litem Fee \$ 360.00

Recording Fee - Lis Pendens \$ 9.00

Lock Change \$ 60.00

Clerk - Issue Summons \$ 50.00

Investigative Search of Heirs \$ 280.00

Court Ordered Mediation \$ 575.00

**SUBTOTAL \$ 160,848.93**

LESS: Credit to Corporate Advances \$ 5.00

**TOTAL \$ 160,843.93**

3. **Interest.** The total amount in paragraph 2 shall bear interest from this date forward at the prevailing rate.

4. **Lien on Property.** Plaintiff, holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in INDIAN RIVER County, Florida:

**APARTMENT UNIT #102, REFLECTIONS ON THE RIVER III, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM, AS RECORDED IN OR BOOK 708, PAGE 2638, PUBLIC RECORDS OF INDIAN RIVER, COUNTY, FLORIDA, INCLUDING ALL COMMON ELEMENTS AND LIMITED COMMON ELEMENTS APPURTENANT THERETO, TOGETHER WITH ALL AMENDMENTS THERETO.**

**TOGETHER WITH PARKING SPACE NO. 102, ASSIGNED BY DEVELOPER ACCORDING TO THE DECLARATION OF CONDOMINIUM.**

Property address: **6155 S. MIRROR LAKE DRIVE, APT. 102, SEBASTIAN, FL 32958**

5. **Sale of Property.** If the total sum with interest at the rate described in paragraph 2 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on **MARCH 4, 2013**, to the highest bidder for cash, except as prescribed in Paragraph 6, by electronic sale at [www.indian-river.realforclose.com](http://www.indian-river.realforclose.com) beginning at 10:00 a.m. in accordance with Section 45.031, Florida Statutes **The public sale shall not be postponed or canceled without a court order, and shall proceed regardless of whether plaintiff, a plaintiff's representative, or plaintiff's counsel is present. All orders postponing or canceling the sale must be filed with the clerk of court no later than 5:00 p.m. two business days before the sale date. Counsel for plaintiff must be certain that the clerk has the original**

**proof of publication of the notice of sale on file no less than three business days before the sale date. Failure to file the original proof of publication of the notice of sale will not stop the sale, however the certificate of sale will not issue until the original proof of publication of notice of sale is filed. The failure of plaintiff's counsel to properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's counsel individually, and the law firm representing the plaintiff.** If the original proof of publication of the notice of sale is not filed with the clerk within ten calendar days after the sale, an order will be entered directing the plaintiff to show cause why the sale should not be vacated and the case dismissed with or without prejudice. The fact that an attorney has a high volume practice will not be a showing of good cause. Any electronic sale by the clerk shall be in accordance with the written administrative policy for electronic sales published by the clerk at the official website for the clerk and posted in the public areas of the clerk's offices.

6. **Costs.** Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The clerk shall receive the service charge imposed in Section 45.031, Florida Statutes

7. **Distribution of Proceeds.** On filing the certificate of title, the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

8. **Right of Redemption.** On filing of 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 to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property, subject to the provisions of the "Protecting Tenant At Foreclosure Act of 2009".

10. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment.

11. **Count II of Plaintiff's Complaint seeks to reform the legal description on the mortgage. The Court, after reviewing the evidence submitted by the Plaintiff and otherwise being fully advised in the matter, does hereby reform the mortgage and the correct legal description on the mortgage as reformed shall be as follows:**

**APARTMENT UNIT #102, REFLECTIONS ON THE RIVER III, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM, AS RECORDED IN OR BOOK 708, PAGE 2638, PUBLIC RECORDS OF INDIAN RIVER, COUNTY, FLORIDA, INCLUDING ALL COMMON ELEMENTS AND LIMITED COMMON ELEMENTS APPURTENANT THERETO, TOGETHER WITH ALL AMENDMENTS THERETO.**

**TOGETHER WITH PARKING SPACE NO. 102, ASSIGNED BY DEVELOPER ACCORDING TO THE DECLARATION OF CONDOMINIUM.**

12. Any purchaser at the foreclosure sale shall be responsible for assessments owed to Defendant, REFLECTIONS ON THE RIVER ASSOCIATION, INC., to the extent provided for in Section 718.116, Florida Statutes.

13. If there are any objections to the sale filed or other matters that would delay disbursement of the sale proceeds past the eleventh day after the sale, Plaintiff may be entitled to interest at the rate prescribed in Paragraph 4 from this date to the actual date of issuance of the Certificate of Disbursements and Certificate of Title.

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 THE FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU 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, INDIAN RIVER P.O. BOX 1028, VERO BEACH, FL 32961-1028 TELEPHONE 772-770-5185 WITHIN 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 (INDIAN RIVER) FLORIDA RURAL LEGAL SERVICES, TELEPHONE 772-466-4766 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 (INDIAN RIVER) FLORIDA RURAL LEGAL SERVICES, TELEPHONE 772-466-4766 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED on January 25, 2013.

  
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CYNTHIA L. COX, Circuit Judge

Copies furnished by U.S. Mailto:

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