

Filing # 175207695 E-Filed 06/13/2023 01:07:31 PM

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

Case No: 2022 CA 000800

312022CA000800XXXXXX

**WILMINGTON SAVINGS FUND SOCIETY,
FSB AS TRUSTEE OF WV 2017-1 GRANTOR
TRUST,**

Plaintiff,

v.

**UNKNOWN HEIRS, DEVISEES, GRANTEES,
ASSIGNEES, LIENORS, TRUSTEES, AND
ANY OTHER PARTIES CLAIMING BY,
THROUGH, UNDER OR AGAINST ROGER
EDGERLY, DECEASED; CONSTANCE ROSS;
ROGER WILLILAM LOWD; MELISSA ANN
CARLON N/K/A MELISSA MCKEE,**

Defendants.

_____ /

FINAL JUDGMENT OF FORECLOSURE IN REM

This action was heard before the court on June 7, 2023 on Plaintiff's Motion for Summary Judgment In Rem and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. **Final Judgment** in favor of the Plaintiff, WILMINGTON SAVINGS FUND SOCIETY, FSB AS TRUSTEE OF WV 2017-1 GRANTOR TRUST, is **GRANTED** as to all counts and against the following Defendants: UNKNOWN HEIRS, DEVISEES, GRANTEES, ASSIGNEES, LIENORS, TRUSTEES, AND ANY OTHER PARTIES CLAIMING BY, THROUGH, UNDER OR AGAINST ROGER EDGERLY, DECEASED; CONSTANCE ROSS; ROGER WILLILAM LOWD; MELISSA ANN CARLON N/K/A MELISSA MCKEE. There is no dispute of material facts and Plaintiff is entitled to entry of final judgment.

2. **Value of Claim.** At the initiation of this action, in accordance with section 28.241(1)(a)2.b., Florida Statutes, plaintiff estimated the amount in controversy of the claim to be **\$207,027.03**. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be **\$223,831.43**, as set forth below. For any difference between the estimated amount in controversy and the actual value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determining whether the filing fee needs to be adjusted, the graduated filing fee scale in section 28.241(1)(a)2.d., Florida Statutes, controls. If an excess filing fee was paid, the Clerk shall provide a refund of the excess fee. If an additional filing

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fee is owed, the plaintiff shall pay the additional fee at least five business days prior to the judicial sale. If any additional filing fee owed is not paid prior to the judicial sale, the Clerk shall cancel the judicial sale without further order of the Court.

3. **Amounts due.** The following amounts are due and owed to the Plaintiff:

Principal due on the note secured by the mortgage foreclosed:	\$124,522.39
Interest on the note and mortgage from 8/26/2005 to 3/13/2023	\$74,602.67
Per diem interest at 5.39% from 3/13/2023 to 6/7/2023	\$1,581.40
Escrow Balance	\$3,208.69
Corporate Advance	\$7,402.37
Expense Advance	\$3,248.42
Court costs:	\$2,597.49
SUBTOTAL	\$217,163.43
Attorney's fees	\$6,668.00
Less: Undisbursed escrow funds	\$0.00
Less: Unearned insurance premiums	\$0.00
Less: Miscellaneous deductions or credits	\$0.00
TOTAL SUM	\$223,831.43

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

5. **Lien on Property.** Plaintiff, whose address is: 1600 South Douglass Road, Suite 200-A, Anaheim, California 92806 holds a lien for the total sum specified in Paragraph 3 herein superior to all claims or estates of defendants, (with the exception of any assessments that are superior pursuant to Sections 718.116 or 720.3085) The lien of the Plaintiff is superior in dignity to any right, title, interest or claim of the following Defendants: **UNKNOWN HEIRS, DEVISEES, GRANTEES, ASSIGNEES, LIENORS, TRUSTEES, AND ANY OTHER PARTIES CLAIMING BY, THROUGH, UNDER OR AGAINST ROGER EDGERLY, DECEASED; CONSTANCE ROSS; ROGER WILLILAM LOWD; MELISSA ANN CARLON N/K/A MELISSA MCKEE** and all persons, corporations, or other entities claiming by, through or under the Defendants or any of them, and the property will be sold free and clear of all claims of the Defendants, with the exception of any assessments that are superior pursuant to Sections 718.116 or 720.3085, Florida Statutes or the Declaration of Covenants, whichever provides the most protection for the Plaintiff from liability for past due assessment. Additionally, all liens and/or property transfers recorded after the recording of the *lis pendens* in this action are hereby foreclosed of their interest pursuant Fla. Stat. § 48.23. If the United States of America is a Defendant in this action, then pursuant to 28 U.S.C. § 2410(c), it shall have a period of 120 days from the date of sale to redeem the subject property. All municipal liens recorded after the mortgage, which do not have an independent statutory basis for super-priority are hereby foreclosed pursuant to *City of Palm Bay v. Wells Fargo Bank, N.A.*, 114 So.3d 924 (Fla. 2013),

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but the holders of any such liens may retain a right of redemption as provided by Fla. Stat. § 45.0315. The lien of the Plaintiff encumbers the following described property in Indian River County, Florida:

LOT 12, STIRLING LAKE ESTATES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12 AT PAGE 13, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA

Property address: 960 32nd Ave. SW, Vero Beach, FL 32968

6. **Sale of Property.** If the total sum with interest at the rate described in paragraph 3 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on July 7, 2023, to the highest bidder for cash, except as prescribed in paragraph 7,: by electronic sale at **Indian River beginning at 10:00 a.m., www.indian-river.realforeclose.com** in accordance with section 45.031, Florida Statutes. **The public sale shall not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the Clerk of Court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and Clerk fees are paid and that the original proof of publication is filed no less than five (5) business days before the sale date. Failure to timely file the original proof of publication of the notice of sale and pay the sale and Clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and 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.** 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.

7. **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, plaintiff shall file an affidavit within 5 business days and the Clerk shall credit plaintiff's bid with the total sum with post-judgment 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.

8. **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 4 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

9. **Right of Redemption.** On filing the certificate of sale, defendants and all persons claiming under or against defendants 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,

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Florida Statutes, if any. On filing of the certificate of sale, defendants' right of redemption as provided by section 45.0315, Florida Statutes shall be terminated.

10. **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. If any defendant or tenant remains in possession of the property, an Order Granting the Motion for Writ of Possession shall be entered without further notice of hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

11. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, writs of possession and such supplemental relief or judgments as may be appropriate.

12. **Plaintiff's Additional Expenses.** If the Plaintiff incurs additional expenses subsequent to the entry of this final judgment but prior to the sale date specified in paragraph 5, Plaintiff may, by written motion served on all parties and adjudication at a hearing with notice, seek to amend this final judgment to include said additional expenses.

13. **Attorneys' Fees.** The Court finds, based upon the affidavits/testimony presented and upon inquiry of counsel for the Plaintiff, that the total fee of \$6,668.00 is reasonable and the hourly rate of \$215.00 is appropriate. PLAINTIFF'S COUNSEL CERTIFIES THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation Fund v. Rowe*, 427 So. 2d 1145 (Fla. 1985).

14. Only the judgment owner will be allowed to credit bid. An assignment of the final judgment of foreclosure filed with the Clerk of the Circuit Court prior to the public sale will effectively transfer with it the right to credit bid at the sale. Court approval of the assignment of the final judgment is not required.

15. **Jurisdiction Retained.** The Court retains jurisdiction of this action to enter further orders that are proper, including without limitation: any action to reforeclose any junior liens or interests that have been omitted from this Final Judgment of Foreclosure, any actions for collection or execution of any deficiency judgments against any borrowers, orders authorizing writs of possession, an award of attorney's fees, and to enter a deficiency judgment if the Defendant has not been discharged in bankruptcy.

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, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

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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, 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 FLORIDA RURAL LEGAL SERVICES MONDAY THROUGH FRIDAY AT 1-888-582-3410 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 FLORIDA RURAL LEGAL SERVICES AT 1-888-582-3410 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED in Indian River County, Florida this ____ day of June, 2023.

06/13/2023 13:06:19
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eSigned by JANET CARNEY CROOM (NOT) 06/13/2023 13:06:19 hvL8EtR

CIRCUIT JUDGE

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Copies furnished to:

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Unknown Heirs, Devisees, Grantees, Assignees, Lienors, Trustees, and any other Parties
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