

Filing # 192407957 E-Filed 02/21/2024 11:19:37 AM

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

INDIAN RIVER COUNTY, FLORIDA,
a political subdivision of the State of Florida,

CASE NO. 31-2022-CA-000905

Plaintiff,

v.

DIACKAMANN CAVALIER;
TWR AS CST FOR EBURY FUND 2FL, LLC.;
UNKNOWN OCCUPANT NO. 1;
and UNKNOWN OCCUPANT NO. 2,

Defendants.

_____ /

FINAL JUDGMENT OF FORECLOSURE

THIS ACTION was heard before the Court on February 20, 2024 via Zoom on the Plaintiff's Motion for Final Summary Judgment of Foreclosure and after reviewing the Court file, hearing arguments and receiving evidence and being otherwise duly advised in the premises, it is

ORDERED AND ADJUDGED that:

1. Plaintiff's Motion for Final Summary Judgment of Foreclosure is **GRANTED**. There is no dispute of material facts and Plaintiff, INDIAN RIVER COUNTY, FLORIDA, is entitled to a Final Judgment of Foreclosure as a matter of law.

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 **\$20,539.00**. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be **\$22,624.00**. 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 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. Plaintiff, INDIAN RIVER COUNTY, FLORIDA (1801 27th Street Vero Beach, FL 32960-3365) is owed:

| | | |
|--|------------|-------------------|
| Unpaid Code Enforcement Fine (March 26, 2018-February 20, 2024)..... | \$ | 215,700.00 |
| Unpaid Utility Services Charges (Water and/or Sewer)..... | \$ | 29,978.80 |
| Title search expenses..... | \$ | 200.00 |
| Attorney’s fees total..... | \$ | 2,816.00 |
| Court costs, now taxed | \$ | 1,436.00 |
| Filing Fee | \$1,096.00 | |
| Service of Process | \$ 200.00 | |
| Clerk of Court Auction Fee | \$ 140.00 | |
| Other..... | \$ | 400.00 |
| Publication of Notice of Sale | \$ 400.00 | |
| TOTAL AMOUNT DUE..... | \$ | 250,530.80 |

4. **Interest.** The total amount in paragraph 3 must bear interest at a rate of 9.09% per year.

5. **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:

Lots 5 & 6, Pinson Subdivision, according to the plat thereof, as recorded in Plat Book 2, Page 94, of the Public Records of Indian River County, Florida.

Address: 4230 20th Avenue, Vero Beach, FL 32967

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 the Court must sell the property at public sale on **April 10, 2024**, to the highest bidder for cash, except as prescribed in paragraph 7, by electronic sale at www.indian-river.realforeclose.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. 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 must advance all subsequent costs of this action and must 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 must file an affidavit within 5 business days and the Clerk must 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 must 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.

9. Right of Redemption/Possession. On filing the certificate of title, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens must be foreclosed of all estate or claim in the property and defendant's right of redemption as prescribed by section 45.0315, Florida Statutes, must be terminated, except as to the rights of a bona fide tenant occupying residential premises under the federal Protecting Tenants at Foreclosure Act, 12 U.S.C § 5220, note, or section 83.5615, Florida Statutes, and claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. On the filing of the certificate of title, the person named on the certificate of title must be let into possession of the property, subject to the rights of a bona fide tenant occupying residential premises under the federal Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220, note, or section 83.5615, Florida Statutes.

10. Attorneys Fees. The court finds, based upon the affidavits/testimony presented and upon inquiry of counsel for the Plaintiff that 12.8 hours were reasonably expended by Plaintiff's counsel and that an hourly rate of \$220.00 is appropriate. Plaintiff's counsel represents that the attorneys' fees awarded does not exceed its contract fee with the plaintiff. The court finds that there is/are no reduction or enhancement factors for consideration by the court under *Florida Patients Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985).

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.

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.

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 CONTACT THE CLERK OF THE COURT, INDIAN RIVER COUNTY, 2000 16th AVENUE, VERO BEACH, FL 32960, 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 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 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 21st day of February, 2024.

eSigned by Judge Cynthia L. Cox 02/21/2024 10:32 am
CYNTIA L. COX, Circuit Judge

Copies furnished to:

D. Johnathan Rhodeback, Esq., DILL, EVANS & RHODEBACK, attorneys@dillevans.com
Diackamann Cavalier, 10124 Boynton Place Circle, Boynton Beach, FL 33437,
Registered Agents Inc. c/o TWR as CST For Ebury Fund 2FL, LLC., 7901 4th Street North,
Suite 300, St. Petersburg, FL 33702

Plaintiff's counsel shall serve a copy of this FJ on all parties and efile his certificate of service