

Filing # 197423977 E-Filed 05/01/2024 04:07:55 PM

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

CASE NO. 31 2023 CA 000038

LOANDEPOT.COM, LLC

Plaintiff,

v.

OSCAR CISNEROS; MARIA ROJAS
DE CISNEROS; UNKNOWN TENANT
1; UNKNOWN TENANT 2;

Defendants.

CONSENT FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE came before the court on plaintiff's Motion for Summary Final Judgment on May 01, 2024, and on the evidence presented and being otherwise duly advised in the premises, finds that the Defendant does not oppose the entry of the Final Judgment in exchange for a 90 day sale date to satisfy the debt and it is thus

ORDERED AND ADJUDGED that:

1. Motion Granted for Final Judgment. There is no dispute of material facts and plaintiff's motion for summary judgment is granted.

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 \$213,200.09. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$241,969.68, 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 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, LOANDEPOT.COM, LLC, 5465 Legacy Drive, S-200, Plano TX 75024, is due:

Principal	\$ 196,034.08
Pre-Judgment Interest good through 01/28/2024	\$ 19,362.13
Per Diem Interest at \$22.83 from 01/29/2024 through 05/01/2024	\$ 2,146.02
Title Search Expense	\$ 155.00
Tax Disbursements	\$ 9,217.11
Hazard Insurance Disbursements	\$ 5,961.26
Attorneys' Fees:	
For the contested portion of the foreclosure action: \$2,227.00	
Finding as to reasonable number of hours: 9.2 hours	
Finding as to reasonable hourly rate up to: \$330.00 per hour	
Other*: For the uncontested portion of the foreclosure action \$4,750.00	
(* 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:	\$ 6,977.00
Court Cost:	
Filing Fee	\$ 1,045.00
E File Convenience Fee	\$ 5.00
Service of Process	\$ 316.00
Recording Fee - Lis Pendens	\$ 5.00
Clerk - Issue Summons	\$ 40.00
LP Update & Examination	\$ 75.00
Other:	
Pre-acceleration Late Charges	\$ 301.08
NSF Check Charges	\$ 30.00
Property Inspections	\$ 300.00
TOTAL	\$ 241,969.68

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, holds a first mortgage lien for the total sum superior to all claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in INDIAN RIVER County, Florida:

LOT 1, BLOCK 199, SEBASTIAN HIGHLANDS UNIT - 10, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 6, PAGE(S) 37, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

Property address: **398 WATERCREST ST, SEBASTIAN, FL 32958-5553**

6. 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 must sell the property at public sale on **AUGUST 1, 2024**, to the highest bidder for cash, except as prescribed in Paragraph 6, by electronic sale at online at www.indianriver.realforeclose.com, beginning at 10:00 AM in accordance with Section 45.031, Florida Statutes. **The public sale must 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 must 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 must 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 must 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 3 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 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 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 Protection Tenants at Foreclosure Act, 12 U.S.C. sec. 5220, note, or section 83.5615, Florida Statutes, and claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

10. Right of Possession. Upon the filing of the certificate of title, the person named on the certificate of title must 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 must be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.5615, 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. Jurisdiction Continued. The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, orders authorizing supplemental proceedings to eliminate any interest omitted from this action, cure any title defects, determine amounts owed to associations, an award of attorney's fees, and to enter deficiency judgment if the borrower has not been discharged in bankruptcy.

13. Assignment. The Plaintiff may assign the judgment and credit bid by the filing of an assignment prior to the issuance of the certificate of title without further order of the court.

14. Lost Note. The Court finds that the Plaintiff has re-established the terms of the lost note and its right to enforce the instrument as required by Section 673.3091, Florida Statutes. Plaintiff must hold the Defendant(s) maker of the note harmless and must indemnify Defendant(s) from any loss they may incur by reason of a claim by any other person to enforce the lost note. Adequate protection is provided as required by Section 673.3091, Florida Statutes, by the following means: a written indemnification agreement, a surety bond, a letter or credit or cash collateral or other, which include specific detail Judgment is hereby entered in favor of Plaintiff as to its request to enforce the lost note.

15. 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 3 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, 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 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 in Indian River County, Florida, on this May 1, 2024.

eSigned by Judge Cynthia L. Cox 05/01/2024 2:54 pm

Circuit Judge

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL:

eXL Legal, PLLC
12425 28TH ST NORTH, STE. 200
ST. PETERSBURG, FL 33716-1826
EFILING@EXLLEGAL.COM

KINLEY I. ENGVALSON, ESQ. (OPPOSING COUNSEL FOR OSCAR CISNEROS)
1615 FORUM PLACE, 5TH FLOOR
WEST PALM BEACH, FL 33401
KENGVALSON@KRASKERLAW.COM

COUNSEL FOR PLAINTIFF SHALL IMMEDIATELY SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE:

MARIA ROJAS DE CISNEROS 398 WATERCREST ST SEBASTIAN, FL 32958-5553