

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
Case #: 2011-CP-42-4002

Sharonview Federal Credit Union,)
)
Plaintiff,)
)
vs.)
)
Paulette B. O'Sullivan,)
)
Defendant.)
_____)

Judgment of Foreclosure and Sale
(Non-eligible Under the Home Affordable
Modification Program)
(Deficiency Judgment Requested as to
Paulette B. O'Sullivan)

Pursuant to Circuit Rule 53 of the South Carolina Rules of Civil Procedure the above-entitled matter was referred to the undersigned to make appropriate findings of facts and conclusions of law with authority to enter a final judgment in the case.

Pursuant to the Order of Reference a hearing was held, attended by Plaintiff's attorney of record. Testimony was taken (herewith reported). From the testimony and evidence I make the following Findings of Fact, Conclusions of Law, and Order.

Findings of Fact
As to First and Second Causes of Action

1. The Lis Pendens was filed in the Clerk of Court's Office for Spartanburg County on September 19, 2011.
2. The Summons and Complaint were filed on September 19, 2011.
3. Defendant Paulette B. O'Sullivan is in default. No demurrer, answer or notice of appearance have been filed with the attorneys for the Plaintiff, as shown by the Affidavit of

Default. Time for filing answers, demurrers, or notices of appearances has expired.

4. This is an action brought for the foreclosure of a real estate mortgages. Defendant has been served properly. The Court has jurisdiction of the parties and the real estate (which is located entirely in Spartanburg County, South Carolina).

5. The Mortgage loan which is the subject of this action is not owned, securitized or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), and the server is not participating in the Home Affordable Modification Program (HMP). The HMP is inapplicable.

6. The Administrative Order of the South Carolina Supreme Court #2011-05-02-01 is not applicable as will appear by the Affidavit filed by Plaintiff.

7. Plaintiff has filed the necessary affidavit(s) in connection with the requirements of the Soldiers and Sailors Civil Relief Act of 1940 USCA, Title 50 App., Section 501, et. seq. I can find no basis for a stay of this proceeding.

8. Plaintiff specifically demands a deficiency judgment against Paulette B. O'Sullivan pursuant to S. C. Code Ann. Section 29-3-660 (1976) for any deficiency remaining after sale of the mortgaged premises. Plaintiff reserves its right to withdraw its demand for deficiency judgment at any time prior to the foreclosure sale herein.

*Findings of Fact as to
First Cause of Action*

9. On May 10, 2007, Paulette B. O'Sullivan gave Plaintiff a written Promissory Note. On the same day, Paulette B. O'Sullivan executed and delivered to Plaintiff a Mortgage as security for the Note (both in the original amount of Seventy Thousand and no/100ths

(\$70,000.00) Dollars, with interest thereon at five point nine five (5.95%) percent and a maturity date of May 25, 2012. The Mortgage was recorded in the Records on May 11, 2007 in Mortgage Book 3889 at Page 145.

10. Consecutive monthly installment payments of interest were due until May 25, 2007 when the entire balance of principal, interest and all other indebtedness owed by Borrower to Note Holder (if any) were due and payable.

11. Paulette B. O'Sullivan has defaulted in payment of the interest installments which became due and payable. Plaintiff has exercised its option to declare the full amount due and payable. Therefore, Paulette B. O'Sullivan is in default. The entire balance of principal and accrued interest is due and payable, and Plaintiff is entitled to foreclosure.

12. Based on the complexity, responsibility, and time involved, \$2,500.00 is a reasonable fee for Plaintiff's attorney (for services performed and anticipated to be performed until final adjudication of this action) as provided for under the terms of the note and mortgage.

13. The amount due and owing on the note, with interest at the rate provided in the note (and other costs and expenses of collection, including an attorney's fee) is as follows:

(a)	Principal due through December 5, 2011	\$ 69,662.00
	Interest due through December 5, 2011	\$ 2,800.20
	Late Fees	\$ 116.90
(b)	Costs of collection prior to hearing:	
	Case Filing Fee	\$ 150.00
	Motion Fee	\$ 25.00
	Service fees	\$ 90.00
	Postage and copies	\$ 75.00
	Title Abstractor Fee	\$ 249.00
(c)	Attorney's fee	\$ 2,500.00

(d) Master's fee \$ 125.00

TOTAL DEBT secured by note and mortgage, including interest to date shown: \$ 75,793.10

Interest (at above-stated rate) for the period from the date shown in (a) above through the date of this judgment should be added to the "total debt" (above) and is the judgment debt herein.

Interest (after the date of judgment at the judgment rate of 7.25%) should be added to the judgment debt to comprise Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

14. Plaintiff is entitled to have judgment on the note and the mortgage aforementioned foreclosed with the equity of redemption of Paulette B. O'Sullivan forever barred. Plaintiff is entitled to have the premises sold at public auction on Legal Sales Day on January 3, 2012 or some subsequent Legal Sales Day. The sale shall bar the equity of redemption. The sale shall be subject to Spartanburg County property taxes and easements, to existing easements and to existing restrictions of record. The proceeds derived from the sale (after payments of costs and expenses of this action, including attorney's fees) shall be applied to the satisfaction of Paulette B. O'Sullivan's, indebtedness to Plaintiff.

**Findings of Fact as to
Second Cause of Action**

15. On April 11, 2008, Paulette gave Plaintiff a written HomEquity Open-end Credit Plan (hereafter 'Note'). On the same day Paulette B. O'Sullivan executed and delivered to Plaintiff a HomEquity RevolvingCredit Mortgage (hereafter 'Mortgage' as security for the Note (both in the original amount of Twelve Thousand Six Hundred Fifty and no/100ths (\$12,650.00) Dollars with interest thereon at a variable rate of Index plus Margin or nine point two five

(9.25%) per cent per annum and a maturity date of April 15, 2038. The second Mortgage was recorded in the Records on April 21, 2008 in Mortgage Book 4072 at Page 551.

16. Consecutive monthly installment payments of interest were due until April 15, 2038 when the entire balance of principal, interest and all other indebtedness owed by Borrower(s) to Note Holder (if any) were due and payable.

17. Paulette B. O'Sullivan defaulted in payment of the interest installments which became due and payable. Plaintiff has exercised its option to declare the full amount due and payable. Therefore, Paulette B. O'Sullivan is in default. The entire balance of principal and accrued interest is due and payable, and Plaintiff is entitled to foreclosure.

18. Based on the complexity, responsibility, and time involved, \$900.00 is a reasonable fee for Plaintiff's attorney (for services performed and anticipated to be performed until final adjudication of this action) as provided for under the terms of the note and mortgage.

19. The amount due and owing on the note, with interest at the rate provided in the note (and other costs and expenses of collection, including an attorney's fee) is as follows:

(a)	Principal due through December 5, 2011	\$ 12,095.55
	Interest due through December 5, 2011	\$ 651.74
	Late Charges	\$ 34.21
(b)	Attorney's fee	\$ 900.00

TOTAL DEBT secured by note and mortgage, including interest to date shown: \$ 13,681.50

Interest (at above-stated rate) for the period from the date shown in (a) above through the date of this judgment should be added to the "total debt" (above) and is the judgment debt herein.

Interest (after the date of judgment at the judgment rate of 7.25%) should be added to the judgment debt to comprise Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

20. The liens of Plaintiff constitutes a First Lien and Second Lien on the property. Plaintiff should have judgment on the notes and foreclosure of the mortgages.

21. The mortgaged property should be ordered sold at public auction after due advertisement. The sale shall be subject to Spartanburg County taxes and assessments (due on the day of sale), to existing easements of record, to existing restrictions of record. After making the required deposit at the time of bid, the successful bidder at the sale should be required to pay interest (from the date of sale through the date of compliance) at the rate set forth above.

22. The proceeds arising from such sale should be applied as set out below. a). First, to costs and disbursements of the First Cause of Action (plus reasonable attorney's fees); b). Second, to payment of the mortgage debt due Plaintiff on the mortgage recorded in Mortgage Book 3889 at page 145 (First Lien); c). Third, to payment of the costs and expenses of the Second Cause of Action, (including reasonable attorney's fees for Plaintiff's attorney); d). Then, to payment of the amount found to be due on Plaintiff's mortgage recorded in Mortgage Book 4072 at page 551 (Second Lien); e). Last, any surplus to held pending further order of this court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows.

A. This matter is properly before the Court

B. Plaintiff is due \$75,793.10 on its mortgage which constitutes a First Lien on the Subject Property and \$13,681.50 on its mortgage which is a Second Lien on the Subject Property. This amount is the "Total Debt" due Plaintiff as set out in paragraphs 13 and 19, infra, (together with interest at the rate provided in said obligation on the balance of principal from aforesaid date to the date hereof).

C. The amount due in the preceding paragraph (the "Total Debt" as set forth in paragraphs 13 and 19, infra, and later accrued interest on the principal) constitutes the total judgment debt due Plaintiff. Plaintiff's total judgment debt shall bear interest hereafter at the rate of 7.25% per annum.

D. On or before the date of sale of the property (hereinafter described), Paulette B. O'Sullivan shall pay to Plaintiff, (or Plaintiff's attorney), the amount of Plaintiff's total debt mentioned above, plus costs and disbursements of this action.

E. On default of payment (at or before the time herein indicated), the mortgaged premises (described hereafter) shall be sold by the Master in Equity for Spartanburg County, at public auction, at the Spartanburg County Court House, in Spartanburg, South Carolina on January 3, 2012 or some convenient Sales Day thereafter. Should the regular day of judicial sales fall on a legal holiday, then the Sales Day shall be on Tuesday next succeeding such holiday. The following terms shall govern the sale.

(a) CASH: The Master shall require a deposit of five (5%) per cent of the bid (in cash or equivalent) at the time of the bid, (if the successful bidder be other than Plaintiff). Such deposit shall be applied on the purchase price only upon compliance (within twenty (20) days)

with the bid. In case of non-compliance the deposit will be forfeited and applied to the costs and to Plaintiff's debt.

(b) INTEREST: Interest on the balance of the bid shall be paid through the day of compliance at the rate of 7.25%.

(c) SALE: The sale shall be subject to Spartanburg County taxes and assessments, to existing easements and to existing restrictions of record.

(d) PURCHASER: Purchaser shall pay for the preparation of the deed, deed stamps, and costs of recording the deed.

F. If Plaintiff is the successful bidder at sale (for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full), then Plaintiff may pay to the Master only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

G. Since a personal or deficiency judgment is demanded, bidding will remain open for thirty (30) days after the date of sale (as provided by law in such cases), unless Plaintiff withdraws its demand prior to sale pursuant to S. C. Code Ann. Section 29-3-660 (1976) as amended.

H. The Master in Equity will advertise according to law. The advertisement shall give notice of the time and place of such sale and the terms thereof. The Master in Equity will execute to the purchaser(s) a deed to the premises sold subject to Spartanburg County taxes and assessments (due on the day of sale), to existing easements of record, and to existing restrictions of record. Plaintiff, or any other party to this action, may become a purchaser at such sale. If, upon such sale being made, the purchaser(s) should fail to comply with the terms thereof within

twenty (20) days after date of sale, then the Master in Equity may advertise the premises for sale on the next (or some other subsequent Sales Day) at the risk of the former highest bidder, (and so from time to time thereafter until a full compliance shall be secured). If Plaintiff is the successful bidder, then at its option (or the option of its assignee), the deed may be taken subject to payment by grantee of any taxes or assessments constituting a lien against the property sold under this Order.

I. The proceeds arising from such sale should be applied as set out below. a). First, to costs and disbursements of the First Cause of Action (plus reasonable attorney's fees); b). Second, to payment of the mortgage debt due Plaintiff on the mortgage recorded in Mortgage Book 3889 at page 145 (First Lien); c). Third, to payment of the costs and expenses of the Second Cause of Action, (including reasonable attorney's fees for Plaintiff's attorney); d). Then, to payment of the amount found to be due on Plaintiff's mortgage recorded in Mortgage Book 4072 at page 551 (Second Lien); e). Last, any surplus to held pending further order of this court.

J. If the successful bidder is other than Plaintiff in possession of the property, the Sheriff of Spartanburg County is ordered and directed to eject and remove the occupant(s) of the property sold, together with all personal property located thereon. The Sheriff of Spartanburg County shall put the successful bidder (or his assigns) in full, quiet and peaceable possession of the premises without delay and shall keep the successful bidder (or his assigns) in such peaceable possession. Any interference with the activities of the Sheriff, or any of his deputies, as herein authorized, may constitute contempt of this Court and subject the persons(s) causing or responsible for such interference to punishment for this offense. Certified copies of the deed and

this decree shall constitute sufficient warrant and authority to permit the summary eviction and ejection hereby authorized, without the need for a separate Writ of Assistance.

K. Paulette B. O'Sullivan (and all persons claiming under him, her, them, or it) are forever barred and foreclosed of all right, title, interest, and equity of redemption in the mortgaged premises sold (or any part thereof).

L. The deed of conveyance made pursuant to the sale shall contain the names of only the first-named Plaintiff and the named Defendant who is the titleholder of the mortgaged property (at the time of filing the notice of pendency of this action) and the name of the grantee(s). The Clerk of Court for Spartanburg County is authorized to omit from the indices pertaining to such conveyance the name(s) of all parties not contained in the deed.

M. The following is a description of the premises herein ordered to be sold:

ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 0.52 acre, more or less, and being shown upon plat of survey prepared for Rodney K. & Deborah F. Settle by Souther Land Surveying, dated January 20, 2006 and recorded in Plat Book 161 at page 530 in the Office of the Register of Deeds for Spartanburg County. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

Tax Map # 1 44-00 068.02

Property Address: 16 W. Clark Rd., Inman, SC 29349

IT IS SO ORDERED.

Gordon G. Cooper
Master in Equity
Spartanburg, South Carolina

December __, 2011