709260

RECEIVED
MAY - 8 2009
Dav. Co. Chancery Court

IN THE CHANCERY COURT OF DAVIDSON COUNTY

STATE OF TENNESSEE

WELLS FARGO BANK NA, AS TRUSTEE UNDER POOLING AND SERVICING AGREEMENT DATED AS OF FEBRUARY 1, 2005 ASSET BACKED PASS THROUGH CERTIFICATES SERIES 2005 WHQ1,	
Plaintiff,	CIVIL ACTION FILE NUMBER 08-1487-II
v.	
CHARLCIE JOHNSON BEENE,	
Defendant.	

FILED
2009 MAY 14 PM 2:49
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

FO-4

TI

BILL GARRETT, Davidson County
Trans:T20090032873 ORDER
Recvd: 05/19/09 10:41 6 pgs
Fees:32.00 Taxes:0.00
20090519-0045843

ORDER AND DEFAULT JUDGMENT

This cause came to be heard on May 8, 2009 on the Plaintiff's Motion for Default Judgment.

Based upon the pleadings, Plaintiff's Motion for Default and Brief in Support thereon, and the record as a whole, the Court finds as follows:

Wells Fargo Bank NA, as Trustee Under Pooling and Servicing Agreement dated as of February 1, 2005 Asset Backed Pass Through Certificates Series 2005 WHQ1 ("Plaintiff"), filed its Complaint to Set Aside Foreclosure Sale (the "Complaint") on July 7, 2008. Charlcie Johnson Beene ("Defendant") was personally served on August 25, 2008. Defendant has not filed an answer to the Complaint within the time allowed by law, and Plaintiff is entitled to verdict and judgment against Defendant.

Plaintiff is entitled to judgment as if every item and paragraph of the Complaint were supported by proper evidence.

All legal prerequisites to the bringing of this action and ordering the relief sought by Plaintiff, as stated in the Complaint have been met or waived by Defendant's default.

Plaintiff moved this Court to enter a default judgment against Defendant as a result of her failure to answer the Complaint filed in the above-captioned matter.

On or about July 16, 1993, William E. Coleman Jr. and his wife, Verica H. Coleman, executed and delivered a Warranty Deed conveying ownership of the Property to Defendant. The Warranty Deed was duly recorded on July 19, 1993, in the Office of the Register of Deeds for Davidson County, Tennessee in Book 9017, Page 300.

On or about December 3, 2004, Defendant executed and delivered a Promissory Note in favor of Olympus Mortgage Company (the "Note") in the principal amount of $84,000.00.

On or about December 3, 2004 in order to secure the indebtedness evidenced by the Note, Defendant executed and delivered a Deed of Trust (the "Deed of Trust") to Olympus Mortgage Company. The Deed of Trust was duly recorded on December 7, 2004 in the office of the Register of Deeds for Davidson County, Tennessee at Instrument No. 20041207-0145944.

The Deed of Trust was subsequently assigned to Wells Fargo.

Defendant defaulted under the terms of the Note and the Deed of Trust by failing to make payments of the indebtedness as and when due.

By virtue of the default, Plaintiff elected to and did declare the full amount of the indebtedness, including principal and interest, to be due and payable.

The Deed of Trust contains a power of sale provision authorizing the holder thereof, in case of default, to sell the Property at public auction.

Plaintiff Fargo appointed Nationwide Trustee Services, Inc., as Substitute Trustee. The Appointment of Substitute Trustee was recorded in the Register's Office of Davidson County, Tennessee at Instrument No.200805270053470.

On or about May 1, 2008, the Property was offered for sale in accordance with the laws of the State of Tennessee and the terms and provisions of the Deed of Trust at the courthouse in Davidson County, Tennessee, to the highest bidder for cash.

At the auction, the Property was knocked down and sold to Plaintiff, the highest bidder for $80,603.25.

On or about May 1, 2008, the Substitute Trustee, Nationwide Trustee Services, Inc. executed and delivered a Substitute Trustee's Deed (the "Substitute Trustee's Deed") conveying the legal title of the Property to Plaintiff. The Substitute

Trustee's Deed was duly recorded on May 1, 2008 in the office of the Register of Deeds for Davidson County, Tennessee, at Instrument No. 200805270053470.

Plaintiff was the holder and owner of the Deed of Trust at the time of the foreclosure sale.

Plaintiff and Defendant have entered into an agreement to reinstate the Note and Deed of Trust.

Plaintiff has requested that the Court enter an order and judgment declaring the foreclosure sale held on May 1, 2008, to be void and of no effect.

Plaintiff has further requested that the Court enter an order and judgment declaring the Substitute Trustee's Deed and any other deed executed pursuant to the foreclosure sale is null and void.

Plaintiff has further requested that the Court enter an order and judgment reinstating the Deed of Trust held by Plaintiff with the parties thereto having the same rights and remedies as if the foreclosure sale had not taken place.

THEREFORE, it is ORDERED and ADJUDGED:

(a) That Default Judgment be entered against Defendant Charlcie Johnson Beene;

(b) That the foreclosure sale held on May 1, 2008 is void and of no effect;

(c) That the Substitute Trustee's Deed or an other deed executed pursuant to the foreclosure sale is null and void;

(d) That the Deed of Trust held by Plaintiff Wells Fargo at the time of the foreclosure sale is hereby reinstated and remains a lien against the Property and that the parties thereto have the same rights and remedies thereto as if the foreclosure sale had not taken place.

SO ORDERED this ___ day of _____, 2009.

Costs are taxed to the Plaintiff.

Carol L McCoy

CHANCELLOR
Chancery Court of Shelby County

APPROVED FOR ENTRY:

Rick Piliponis, Esq.
B.P.R. 16249
Higgins, Himmelberg & Piliponis
116 Third Avenue South
Nashville, Tennessee 37201
Attorney for Plaintiff, in appearance

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 15th DAY OF May 2009
CRISTI SCOTT, CLERK & MASTER
BY _____ DEPUTY

COPIES TO ATTORNEYS AND PRO SE LITIGANTS
AT THE ABOVE ADDRESSES
DATE 5-15-09 CLERK TL

DISTRIBUTION LIST

Lori L. McGowan, Esq.
Johnson & Freedman, LLC
1587 Northeast Expressway
Atlanta, Georgia 30329

Ms. Charlcie Johnson Beene
605 Neill Avenue
Nashville, Tennessee 37206-3923