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CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT

BANK OF AMERICA, N.A.

Plaintiff,

vs.

Case No. 17-0874
Part II

ROBERT PULLEN; UNKNOWN SPOUSE OF ROBERT PULLEN; PHILIP M. KLEINSMITH, AS TRUSTEE; FEDERAL NATIONAL MORTGAGE ASSOCIATION; AND CURRENT OCCUPANTS OF 1709 24th AVENUE NORTH, NASHVILLE, TN 37209

Karen Johnson Davidson County
Batch# 806959 ORDER
02/16/2022 03:11:30 PM 7 pgs
Fees: $37.00 Taxes: $0.00
20220216-0018237

Defendants.

AMENDED CONSENT ORDER

COMES NOW, Plaintiff, Bank of America, N.A. ("Plaintiff"), and Defendant, Robert Pullen ("Defendant"), and would announce to the Court they have agreed to a judgment in favor of Plaintiff as to real property more commonly known as 1709 24th Avenue North, Nashville, TN 37209 (the "Real Property") and the subject of this action.

WHEREFORE, for good cause shown, and by agreement of the abovementioned parties, it is hereby ordered as follows that:

1. On February 28, 2003, Defendant executed a Note in the principal sum of Sixty-Two Thousand, Eight Hundred Dollars and 00/100 ($62,800.00) (the "Note") in favor of America's Wholesale Lender.

2. Concurrently, Defendant executed and delivered to America's Wholesale Lender, a Deed of Trust dated February 28, 2003, upon the Real Property described more fully herein (the "Deed of Trust"). Said Deed of Trust was recorded in the real estate records of Davidson County, Tennessee on May 9, 2003 as Instrument No. 20030509-0062656.

3. The Deed of Trust was assigned to Plaintiff by Countrywide Home Loans, Inc. formerly doing business as America's Wholesale Lender via an Assignment of Deed of Trust recorded March 13, 2014 as Instrument Number 20140313-0021096.

4. The Real Property was sold at a foreclosure sale on May 4, 2006 in Davidson County, Tennessee. A Successor Trustee's Deed was filed for record in the real estate records of Davidson County, Tennessee on May 12, 2006, as Instrument No. 20060512-0055913.

5. Plaintiff was the highest and best bidder at the foreclosure sale.

6. Following the foreclosure sale, the parties entered into an agreement whereby, Plaintiff continued to accept payments made by Defendant. A permanent loan modification was entered into on November 17, 2011.

7. For reasons unknown, an affidavit to rescind the Trustee's sale was never executed following the loan modification.

8. The parties hereby agree the foreclosure sale held May 4, 2006 should be formally rescinded and the Successor Trustee's Deed set aside.

9. The parties further agree the Deed of Trust should be reinstated and that Plaintiff's lien should be declared valid and its senior priority re-established.

10. Pursuant to the terms of the Note, after applying the payments which have been made, the monthly installments maturing on or after January 1, 2016, have not been paid. There is now owing a principal balance of Fifty-Two Thousand One Hundred Seventy-Two Dollars and 12/100 ($52,172.12) bearing interest from December 1, 2015, at the rate of 5.00000% per annum until paid. The loan is now in default, Plaintiff's right to foreclose has become absolute, and it has elected to declare the entire unpaid balance owed under the terms of the loan documents due and payable.

11. That the Defendant, Robert Pullen, is divested of and forever barred from all claim to all estate or interest on the Real Property more particularly described as:

> Land in Davidson County, Tennessee, being Lot No. 134 and the southerly 10 feet of Lot No. 133 of Map of Cobb's subdivision of Lot No. 6 of the Harding Bosley Tract, as of record in Book 161, Page 155, Register's office for said County.

12. That any and all interest of Defendant, his heirs and assigns, including any unknown spouse of Defendant, is/are divested out of Defendant and to Plaintiff, as to the Real Property described more fully herein.

13. An Order dismissing separate Defendants, Federal National Mortgage Association and Phillip M. Kleinsmith, was entered in this matter on December 7, 2018.

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Successors Trustee's deed recorded on May 12, 2006 in the real estate records of Davidson County, Tennessee as Instrument No. 20060512-0055913 is hereby rescinded;

2. The Deed of Trust recorded on May 9, 2003 in the real estate records of Davidson County, Tennessee as Instrument No. 20030509-0062656 is hereby reinstated in its first lien position;

3. Plaintiff, Bank of America, N.A., is hereby given judgment *in rem* against the subject property in the principal amount of $52,172.12, together with accrued interest thereon from January 1, 2016 until paid, then in per diem amount in accordance with the terms of the Note, plus attorney's fees, title expenses, and costs, including late charges.

4. Defendant, Robert Pullen is released from personal liability as to the Note ("Note") and the Loan Modification ("Loan Modification"). Defendant is further released from personal liability for usage of the Real Property since February 18, 2003, and Defendant shall vacate the property on or before November 11, 2019;

5. The lien upon the Real Property should be and hereby is ordered foreclosed. That the Real Property subject to foreclosure sale is all that real property known as 1709 24th Avenue North, Nashville, TN 37209, which is more particularly described as follows:

> Land in Davidson County, Tennessee, being Lot No. 134 and the southerly 10 feet of Lot No. 133 of Map of Cobb's subdivision of Lot No. 6 of the Harding Bosley Tract, as of record in Book 161, Page 155, Register's office for said County.

6. Notice shall be provided according to law to Robert Pullen and Current Occupants at the Property.

7. The Clerk shall cause to be published in the *Nashville Ledger*, a newspaper published in Nashville, Davidson County, Tennessee, notice of this Judicial Foreclosure Sale for three (3) consecutive weeks, and thereafter shall sell the Property according to law and the procedure established by this Order.

8. The Property shall be struck off and sold to the highest bidder for cash, and in bar of any and all equity of redemption.

9. Plaintiff shall be permitted to credit bid up to the amount of its debt due and owing from Defendant.

10. The Clerk shall take account of any Court costs due and payable to the Clerk and Master and shall retain these amounts from the proceeds of the sale.

11. The Clerk shall receive a 3% commission from the sale, and the Clerk shall retain this amount from the proceeds of the sale.

12. Out of the proceeds of the sale, the Clerk shall first pay the costs of the sale, taxes, and the debt owed to the Plaintiff. Any funds received in excess of these amounts shall be held to the account of the Defendants.

Recording responsibilities reside with the purchaser. (ACM 1-27-20)

13. ~~Following the sale, the Clerk shall file a report of sale with the Court. Upon confirmation of sale, an Order shall be entered with this Court by Plaintiff vesting title in the purchaser, a copy of which shall be recorded by the Clerk and Master in the Register's Office of Davidson County, Tennessee.~~

IT IS SO ORDERED, ADJUDGED AND DECREED

Anne C. Martin
Chancellor

Date: 1-27-20

PREPARED & APPROVED BY:

/s/ Renee G. Kammer
Renee G. Kammer
Marinosci Law Group, P.C.
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901-203-0680
rkammer@mlg-defaultlaw.com
Attorney for Plaintiff
Bank of America, N.A.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 1st DAY OF Feb. 2022
MARIA M. DALVIS, CLERK & MASTER
BY _____ DEPUTY

/s/ Alan C. Housholder (w/permission RGK)
Alan C. Housholder
102 Woodmont Blvd., Suite 510
Nashville, TN 37205
Counsel for Robert Pullen

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Consent Order was sent via first –class US Mail, to the following parties on this 22nd day of January, 2020:

Alan C. Housholder
102 Woodmont Blvd., Suite 510
Nashville, TN 37205
Counsel for Robert Pullen

Current Occupants of
1709 24th Avenue North
Nashville, TN 37209

/s/ Renee G. Kammer
Renee G. Kammer

Tennessee Certification of Electronic Document

I Christopher K. Baxter, Esq., hereby state that I am a licensed Tennessee attorney of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact copy of the original document executed and authenticated according to law on February 7th, 2022.

Christopher K. Baxter
Tennessee BPR No. 038366

February 7 2022
Date

State of TEXAS

County of DALLAS

Sworn to and subscribed before me this 7th day of February, 2022.

JEHAN VALLIANI
Notary Public, State of Texas
Comm. Expires 01-06-2026
Notary ID 133519539

Notary's Signature

NOTARY'S SEAL