

LOCATED IN THE NW ¼ OF NE ¼ OF SECTION 10, T4S, R7E, TAYLOR COUNTY, FLORIDA.

and commonly known as: 2433W GAS PLANT RD, PERRY, FL 32347; including the building, appurtenances, and fixtures located therein, at public sale, to the highest and best bidder, for cash, on the front steps of the Taylor County Courthouse, on February 20, 2024 at 11:00 A.M..

Any persons claiming an interest in the surplus from the sale, if any, other than the property owner as of the date of the lis pendens must file a claim before the clerk reports the surplus as unclaimed.

Dated this 23 day of October, 2023



Clerk of the Circuit Court

~~Annie Mae Murphy~~

GARY KNOWLES

By: Kathryn Kapp
Deputy Clerk

Invoice to:
George Zamora
(813) 229-0900 x
Kass Shuler, P.A.
1505 N. Florida Ave.
Tampa, FL 33602-2613
ForeclosureService@kasslaw.com

Please fax a first insertion and costs of publishing to 813-229-3323, Attention: Foreclosure Department.

PLEASE PUBLISH THE ABOVE IN:
TACO TIMES

IN THE CIRCUIT COURT OF THE
THIRD JUDICIAL CIRCUIT
IN AND FOR TAYLOR COUNTY, FLORIDA
CIVIL DIVISION

Case No.: 22000600CAC

Division:

NEXBANK

Plaintiff,

vs.

PETER B. BENNETT A/K/A PETER BENNETT; MELISSA L. BENNETT A/K/A MELISSA
BENNETT, UNKNOWN TENANTS/OWNERS 1, UNKNOWN TENANTS/OWNERS 2 ,
AND UNKNOWN TENANTS/OWNERS 3,

Defendants.

CONSENT FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE came before the Court on Plaintiff's Motion for Summary Judgment on October 18, 2023. The parties advised the Court that they had reached an agreement as to the disposition of Plaintiff's Motion and after reviewing the relevant portions of the Court File, the evidence presented and hearing from those present and being otherwise fully informed in the premises, the Court hereby makes the following Finding of Fact and Order Granting Plaintiff's Motion for Summary Judgment of Foreclosure.

I. FINDINGS OF FACT - Plaintiff has offered competent substantial evidence that:

- A. The mortgage sought to be foreclosure in this action is a valid lien on the subject property;
- B. Plaintiff is the holder or owner of the Note and is entitled to enforce the mortgage;
- C. The subject loan is in default, as the payment due on February 1, 2021, and all subsequent payments, have not been made;
- D. Plaintiff has accelerated the amount due; and

E. The amounts due Plaintiff are set forth below.

II. CONCLUSIONS OF LAW

A. The Applicable Law Of Summary Judgment.

Effective May 31, 2021, summary judgment in Florida is to be construed and applied in accordance with the standard articulated by the Supreme Court of the United States in *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); and *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). *In re Amendments to Florida Rule of Civil Procedure 1.510*, 309 So.3d 192 (Fla. 2020) (the "federal standard") Under the Celotex standard, the movant on a motion for summary judgment is not required to affirmatively disprove the nonmoving party's theory of the case in order to eliminate any issue of fact. *Id.* at 193. Rather, the extent of the moving party's burden varies depending on who bears the burden of proof at trial. *Id.*

Further, Florida courts are no longer required to deny summary judgment under a 'slightest doubt' analysis as to whether a genuine issue of fact is raised. *Id.* Instead, the evidence must be such that a reasonable jury could return a verdict for the nonmoving party. *Id.* "When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." *Id.* Citing: *Scott v. Harris*, 550 U.S. 372, 380, 127 S.Ct. 1769, 167 L.Ed.2d 686 (2007).

Summary Judgment is appropriate when "there is no genuine issue as to any material facts and that the moving party is entitled to judgment as a matter of law." Fla.R.Civ.P. 1.510(a). The non-moving party must point to a specific fact that creates a genuine issue requiring a decision by the trier of fact. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

B. Plaintiff's Prima Facie Case

"The elements of a foreclosure complaint are: 1) an agreement, 2) a default, 3) an acceleration of the amount due, and 4) the amount due." See *Black Point Assets, Inc. v. Fed. Nat'l Mortg. Ass'n*, 220 So. 3d 566, 568 (Fla. 5th DCA 2017). Plaintiff offered competent substantial evidence to prove each of these elements, and in the absence of competent evidence from the Defendant, summary judgment is appropriate. *Id.*, at 569.

ORDERED AND ADJUDGED as follows:

1. Final judgment is entered for Plaintiff, NEXBANK, against Defendant(s):

MELISSA L. BENNETT A/K/A MELISSA BENNETT; PETER B. BENNETT A/K/A PETER BENNETT; UNKNOWN TENANTS/OWNERS 1.

2. **Amounts Due and Owning.** Plaintiff, NEXBANK, is due:

Principal	\$77,932.21
Accrued interest 01/01/2021 to 07/28/2023	\$12,286.50
Per diem interest at \$13.08 from 07/29/2023 to 10/18/2023	\$1,072.56
Pre Accelerated Late Charges	\$267.30
Title Search	\$115.00
Title Update	\$40.00
Attorneys' Fees:	
Finding as to reasonable number of hours for flat rate billing: 20.0 hrs	
Finding as to reasonable hourly rate for flat rate billing:	
\$237.50/hr x 20.0 hrs = \$4,750.00	
Finding as to reasonable number of hours for litigation billing: 3.4 hrs	
Finding as to reasonable hourly rate for litigation billing:	
\$300/hr x 3.4 hrs = \$1,020.00	
Attorneys' Fees Total	\$5,770.00
* (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.)	
<u>Court Costs:</u>	
Filing Fee	\$910.00
Additional Filing Fee	\$30.00
Service of Process	\$237.00
Recording Fee	\$28.50
SUBTOTAL	\$98,689.07
<u>Additional Costs:</u>	
Property Inspections	\$420.00
SUBTOTAL	\$99,109.07

Escrow Advance	\$14,988.43
GRAND TOTAL	\$114,097.50

3. **Interest.** The grand total amount referenced in paragraph 2 shall bear interest from this date forward at the prevailing statutory legal rate of interest, which is presently 8.54% per year.

4. **Lien on Property.** Plaintiff, whose address is 1 Corporate Drive Suite 360 Lake Zurich, IL 60047, holds a lien for the grand total sum superior to all claims or estates of the Defendant(s) on the following described property in Taylor County, Florida:

ALL THAT CERTAIN PARCEL OF LAND IN THE COUNTY OF TAYLOR, STATE OF FLORIDA, TO WIT:
COMMENCE AT THE NE CORNER OF THE NW ¼ OF NE ¼ SECTION 10, T4S, R7E;
AND RUN N 88 DEGREES 36 MINUTES 36 SECONDS, W. ALONG THE CENTERLINE OF GAS PLANT ROAD (BEARING BASE), 765.3 FEET; THENCE RUN S 00 DEGREES 31 MINUTES 06 SECONDS W, 40.00 FEET TO THE SOUTH R/W LINE OF SAID ROAD AT THE NW CORNER OF THE FLETCHER PROPERTY AND THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING CONTINUE S 00 DEGREES 31 MINUTES 06 SECONDS W, 844.87 FEET TO THE SW CORNER OF SAID FLETCHER PROPERTY; THENCE RUN N 88 DEGREES 42 MINUTES 00 SECONDS W, ALONG THE NORTH BOUNDARY OF THE HALE PROPERTY 156.18 FEET TO THE EAST BOUNDARY OF THE ISRAEL PROPERTY; THENCE RUN N 00 DEGREES 14 MINUTES 32 SECONDS E ALONG SAID EAST BOUNDARY, 105.00 FEET; THENCE RUN N 88 DEGREES 40 MINUTES 28 SECONDS W, ALONG THE NORTH BOUNDARY OF SAID ISRAEL PROPERTY, 391.56 FEET TO THE EAST R/W LINE OF THE MCDANIEL ROAD; THENCE RUN N 02 DEGREES 03 MINUTES 25 SECONDS E, ALONG SAID R/W LINE 276.35 FEET TO THE POINT OF CURVATURE OF A 5769.58 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 01 DEGREES 45 MINUTES 30 SECONDS, AN ARC DISTANCE OF 177.06 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN N 00 DEGREES 17 MINUTES 55 SECONDS E, ALONG SAID R/W LINE, 238.10 FEET TO THE POINT OF CURVATURE OF A 50 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 88 DEGREES 54 MINUTES 51 SECONDS, AN ARC DISTANCE OF 77.59 FEET TO THE POINT OF TANGENCY OF SAID CURVE ON THE SOUTH R/W LINE OF GAS PLANT ROAD; THENCE RUN S 88 DEGREES 36 MINUTES 36 SECONDS E, ALONG SAID R/W LINE, 490.84 FEET TO THE POINT OF BEGINNING. LOCATED IN THE NW ¼ OF NE ¼ OF SECTION 10, T4S, R7E, TAYLOR COUNTY, FLORIDA.

Property address: 2433W GAS PLANT RD, PERRY, FL 32347.

5. **Sale of Property.** If the grand 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 this Court shall sell the property at public sale on February 20, 2024, (which is a date no sooner than 120 days from the date of this Order) at 11:00 A.M. to the highest bidder for cash, except as prescribed in paragraph 6, in accordance with section 45.031, Florida Statutes. Sales are held on the east steps of the Taylor County Courthouse.

6. **Costs.** Plaintiff shall advance all costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the property, provided, however, that the purchaser of the property for sale shall be responsible for documentary stamps affixed to the certificate of title. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the grand total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full.

7. **Distribution of Proceeds.** On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the 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.

8. **Right of Possession.** On the filing of Certificate of Sale, Defendant(s) and all persons claiming under or against Defendant(s) since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under Chapter 718 or Chapter 720, Fla. Stat., if any. Upon filing of the Certificate of Title, the person named on the Certificate of Title shall be let into possession of the property.

9. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including without limitation, orders authorizing writs of possession; an award of

additional costs or attorney's fees; to enter a deficiency judgment against those parties who may be personally liable and not discharged in bankruptcy, except as may otherwise be provided in this judgment; to enter a reforeclosure or supplemental judgment/order to correct errors or omissions in this foreclosure action; or to determine the amounts due any association under §718.116 or §720.3085.

The Court also reserves jurisdiction so that in the event additional sums are expended by Plaintiff to protect its interest in the property after the execution of its affidavit of indebtedness filed in support of summary judgment or entry of this judgment including, but not limited to, real estate taxes, hazard insurance, property preservation, or other necessary costs, Plaintiff may file an affidavit setting forth such expenditures and the Court may enter an order awarding Plaintiff the amount expended and add it to the grand total amount due under this final judgment, or if the property has been redeemed by payment of the judgment the Court can enter a new foreclosure judgment for the amount expended.

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 THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIEN HOLDER 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, 108 N. JEFFERSON STREET, PERRY, FLORIDA (TELEPHONE: 850-838-3506, EXT. 17), 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 Three Rivers Legal Services-LakeCity-866-256-8091, 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 Three Rivers Legal Services-Lake City-866-256-8091, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

10. Plaintiff and Defendant agree that the sale date of the property shall be no sooner than 120 days from entry of the Final Judgment of Foreclosure.

DONE AND ORDERED in Taylor County, Florida, on October 19, 2023



CIRCUIT JUDGE GREG PARKER

~~Conformed Copy~~ furnished to:

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