

IN THE DISTRICT COURT WITHIN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

WILMINGTON SAVINGS FUND SOCIETY,
FSB, NOT IN ITS INDIVIDUAL CAPACITY
BUT SOLELY AS TRUSTEE FOR THE
PRIMESTAR-H FUND I TRUST,

Plaintiff

vs.

BRIAN EDMOUNDS;
UNKNOWN SPOUSE, IF ANY, OF BRIAN
EDMOUNDS;
CITY OF BROKEN ARROW;
COUNTRY LANE ESTATES HOMEOWNERS'
ASSOCIATION; and
UNKNOWN TENANTS, IF ANY, OF 713 E.
KANSAS STREET, BROKEN ARROW,
OKLAHOMA,

Defendants.

No. CJ-2015-01386

Judge Daman H. Cantrell

AGREED JOURNAL ENTRY OF JUDGMENT OF FORECLOSURE

NOW on this ____ day of _____, _____, the above cause came on for hearing pursuant to regular assignment. The Plaintiff appeared by its attorney, Klatt, Augustine, Sayer, Treinen & Rastede, P.C., through Joanne Lafontant-Dooley; Defendant City of Broken Arrow appeared by its attorney, Trevor A. Dennis; Defendant County Lane Estates Homeowners' Association appeared by its attorney, Scott R. Eudey; and none of the Defendants appeared, either in person or by attorney.

The Court thereupon examined the pleadings, process, and files in this cause, and being fully advised in the premises, finds that due and regular service of Summons, with copy of Plaintiff's Petition attached, has been made upon the Defendants, Brian Edmonds and Unknown Spouse, if any of Brian Edmonds, and each of them, as provided by law, and that said Summons and said service thereof is legal and regular in all respects. That Defendants, Brian Edmonds and Unknown Spouse, if any, of Brian Edmonds, were served with publication of summons and petition in this matter on or about June 23, 2015; June 30, 2015; and July 7, 2015. That said Defendants were required to have filed an Answer or otherwise plead to the Petition on or about August 15th, 2015. That the answer day in said Summons has expired, and that said Defendants, Brian Edmonds and Unknown Spouse, if any, of Brian Edmonds, and

each of them, have failed to answer or otherwise plead or appear herein and are in default and are hereby adjudged in default.

The Court finds that Defendant Country Lane Estates Homeowners' Association, filed its answer to Plaintiff's Petition on June 5, 2015. In its answer, Country Lane Estates Homeowners' Association asserted an interest in the property and requested the Court to determine the relative order of priority pursuant to the interested parties in this matter. That Defendant County Lane Estates Homeowners' Association's lien is a valid lien upon the subject real property, which is junior and inferior to the lien and mortgage of the Plaintiff.

The Court further finds that Defendant, City of Broken Arrow filed its answer and counterclaim to Plaintiff's Petition asserting its lien upon the subject real property. That Defendant City of Broken Arrow's lien was a valid lien that has been satisfied by the Plaintiff herein on December 15, 2015.

The Court further finds from the Affidavit as to Military Service on file herein, that the Plaintiff is unable to determine whether the Defendant, Brian Edmunds, is presently engaged in the military service of the United States of America, as provided by the Servicemembers Civil Relief Act of 2003 (SCRA) but that if said Defendant, is in the military service, their rights are not prejudiced in their defense of this action within the meaning of the Act; that the interest of each of said Defendants, hereinabove found to be in default, and each of them, will not be prejudiced by trial at this time, and that no bond should be required under said Act, and that it is hereby ordered that Plaintiff proceed to trial against said Defendant.

Thereupon, the parties so appearing, either in person or by pleading as set forth above, the Plaintiff then moved by pleading for a dismissal of this cause as against the Defendant, Unknown Tenants, if any, of 713 E. Kansas Street, Broken Arrow, Oklahoma, and each of them, on the grounds that the subject property is vacant, as evidenced by the Returns of Service filed herein and the Court considering said motion and being fully advised in the premises, finds that this cause should be, and hereby is, dismissed as against said Defendant, Unknown Tenants, if any, of 713 E. Kansas Street, Broken Arrow, Oklahoma, and each of them, on said grounds, and the court further finds that said Defendants in fact have no right, title, or interest in or to the real estate and premises hereinafter described.

Thereupon, the parties so appearing, either in person or by pleading as set forth above, the Plaintiff then moved by pleading for a dismissal of this cause as against the Defendant, City of Broken Arrow, on the grounds that said defendant no longer hold any claim and/or interest in and to the subject property and the Court considering said motion and being fully advised in the premises, finds that this cause should be, and hereby is, dismissed as against said Defendant, City of Broken Arrow, on said grounds, and the court further finds that said Defendant in fact has no right, title, or interest in or to the real estate and premises hereinafter described.

The Court, being fully advised in the premises, finds generally in favor of the Plaintiff and against Defendants Brian Edmunds and Unknown Spouse, if any, of Brian Edmunds, and each of them, that the allegations of Plaintiff's Petition are true, that the Plaintiff is entitled to the judgment for which it moved, and that Plaintiff's Motion for Judgment should be and is hereby sustained as meritorious.

The Court further finds that the original mortgagor, Brian Edmunds, made, executed, and delivered the Note and Mortgage; sued upon by the Plaintiff and that said Plaintiff is the owner and holder thereof; and that there is a balance due, owing, and unpaid thereon in the sum of \$160,798.63, with 6.25000% interest per annum thereon, through 03/27/2015, or as adjusted by the Note and Mortgage, from the 1st day of October, 2012, until paid; said abstract and title expense; interest fees in the sum of \$21,050.87, other fees in the sum of \$8,894.77; the further sum of \$1,450.00 reasonable attorney's fee, and for all advances by the Plaintiff, if any, for taxes, insurance premiums, or expenses necessary for the preservation of the subject property; and for all costs of this action; and any reasonable attorney's fees and costs incurred during the enforcement of the judgment; and that said amounts are secured by said mortgage and constitute a first, prior, and superior lien upon the real estate and premises hereinafter described, and that any and all right, title, or interest which the Defendants in and to this cause, or any of them, have or claim to have in or to said real estate and premises is subsequent, junior, and inferior to the mortgage and lien of the Plaintiff.

The Court further finds that defaults have occurred under the terms and conditions of said Note and Mortgage as alleged in the Plaintiff's Petition and that the Plaintiff is entitled to a foreclosure of its mortgage sued upon in this cause, as against all of the Defendants in and to this cause, and each of them.

The Court further finds that said mortgage owned, held, and sued upon by the Plaintiff herein expressly waives appraisalment or not at the option of the owner and holder thereof, such option to be exercised at the time judgment is rendered herein, and that the Plaintiff elects to have said property sold with appraisalment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Plaintiff, Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Trustee for The Primestar-H Fund I Trust, have judgment *in rem* against the real estate and premises herein sued upon, in the sum of \$160,798.63, with 6.25000% interest per annum thereon, through 03/27/2015, or as adjusted by the Note and Mortgage, from the 1st day of October, 2012, until paid; said abstract and title expense; interest fees in the sum of \$21,050.87, other fees in the sum of \$8,894.77; the further sum of \$1,450.00 reasonable attorney's fee; and for all advances by the Plaintiff, if any, for taxes, insurance premiums, or expenses necessary for the preservation of the subject property; and for all costs of this action; and for any reasonable attorney's fees and costs incurring during the enforcement of the judgment; and that said amounts are secured by said mortgage and constitute a first, prior, and superior lien upon the real estate and premises located in Tulsa County, Oklahoma, described as follows:

Lot Six (6), Block Six (6), COUNTRY LANE ESTATES II, an Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded Plat No. 4675

Property Address: 713 E. Kansas Street
Broken Arrow, Oklahoma

and that any and all right, title, or interest which all of the Defendants, or any or either of them, have, or claim to have, in or to said real estate and premises is subsequent, junior, and inferior to the mortgage and lien of the Plaintiff, except for unpaid real property ad valorem taxes and/or special assessments which are superior by law.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that Defendant Country Lane Estates Homeowners Association's interest in the Property by virtue of a home owner's association lien filed on January 27, 2011, in Document No. 2011009479; and lien filed on September 23, 2009, in Document No. 2009098556, in the records of the County Clerk of Tulsa County, State of Oklahoma, is a valid lien upon the subject real property, which is inferior to the lien and mortgage of Plaintiff. That there is a balance due and owing in the amount of \$1,052.00 with interest thereon until paid, reasonable attorney's fees and costs incurred during the enforcement of the judgment.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the mortgage and lien of the Plaintiff in the amounts hereinabove found and adjudged be foreclosed, and a special execution and order of sale issue out of the office of the District Court Clerk in this cause, directed to the Sheriff to levy upon, advertise, and sell, after due and legal appraisal, the real estate and premises hereinabove described, subject to unpaid taxes, advancements by the Plaintiff for taxes, insurance premiums, or expenses necessary for the preservation of the subject property, if any, and pay the proceeds of said sale to the Clerk of this Court, as provided by law, for application as follows:

First: To the payment of the costs herein accrued and accruing.

Second: To the payment of the judgment and lien of the Plaintiff in the amounts herein set out and any advancements by the Plaintiff for taxes, insurance premiums, or expenses necessary for the preservation of the subject property.

Third: To the payment of the lien of County Lane Estates Homeowners' Association in the amounts herein set out;

Fourth: The balance, if any, to be paid to the Clerk of this Court, to await the further order of this Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that upon confirmation of said sale, the Defendants herein, and each of them, and all persons claiming by, through, or under them since the commencement of this action, be forever barred, foreclosed, and enjoined from asserting or claiming any right, title, interest, estate, or equity of redemption in or to said real estate and premises, or any part thereof, except as to unpaid real estate ad valorem taxes and/or special assessments, if any, and except claims of the State of Oklahoma for which it has not been placed on notice, if any.

JUDGE OF THE DISTRICT COURT

Approved:

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