

21
aee

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Wells Fargo Bank, N.A., as Trustee for the Pooling
and Servicing Agreement dated as of May 1, 2005
Asset-Backed Pass-Through Certificates Series
2005-WHQ3

CASE NUMBER: 1:11-cv-4504

PLAINTIFF

VS.

DISTRICT JUDGE: Elaine E. Bucklo

Fares Zanayed, Jerry Zanayed, MERS, Inc. as a
nominee for Aegis Mortgage Corporation doing
business as New America Financial, FBS Chevy
Chase Credit Card,

MAGISTRATE JUDGE: Young B. Kim

DEFENDANT(S).

JUDGMENT OF FORECLOSURE BY CONSENT

THIS CAUSE COMING on to be heard upon the Complaint heretofore filed by the Plaintiff, Wells Fargo Bank, N.A., as Trustee for the Pooling and Servicing Agreement dated as of May 1, 2005 Asset-Backed Pass-Through Certificates, Series 2005-WHQ3, (hereinafter referred to as "Wells Fargo") and through its attorneys Burke, Cosianza & Carberry, LLP, and it appearing to the Court that the Plaintiff heretofore commenced this action by filing its Complaint against the Defendants, Fares Zanayed, Jerry Zanayed, MERS, Inc. as a nominee for Aegis Mortgage Corporation doing business as New America Financial, FBS Chevy Chase Credit Card.

The COURT BEING ADVISED that pursuant to 735 ILCS 5/15-1402, the parties being in agreement that the Plaintiff specifically waives all rights to reinstatement, redemption and a deficiency judgment and that the Defendant in title to the subject premises is desirous of issuing



Doc#: 1136344058 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/29/2011 01:00 PM Pg: 1 of 6

UNOFFICIAL COPY

Case: 1:11-cv-04504 Document #: 19 Filed: 10/19/11 Page 2 of 6 PageID #:86
 Case: 09-23-11-01-2480-04504 Document #: 16-1 Filed: 09/14/11 Page 2 of 6 PageID #:77

3/ 7

a deed of conveyance to the Plaintiff in consideration for the aforementioned waiver. Further, that pursuant to the statutory language in Section 15-1402, that all junior lien claimants in interest shall be forever foreclosed and barred from any rights in the subject premises.

THE COURT HAVING examined the files and records in this cause, the Court having received an Affidavit of Debt and being fully advised in the premises, finds that each of the Defendants in this cause has been duly and properly brought before the Court, either through service of Summons or by publication, all in the manner provided by law; that due and proper notice has been given to each of the Defendants during the progress of this cause as required by law.

IT FURTHER APPEARING to the Court that all Defendants have failed to appropriately plead to the Plaintiff's Complaint within the time required by law, and the parties to the Stipulation filed simultaneously herewith, being in agreement;

FINDS AS FOLLOWS:

1. That the Court has jurisdiction of the parties to and the subject matter of this cause.
2. That all of the material allegations of the Complaint are true and proven against said Defendants and that the evidence of the indebtedness has been exhibited in open Court and has been marked as Plaintiff's Exhibit "A", and that the security interest foreclosed has been exhibited in open Court and has been marked as Plaintiff's Exhibit "B", was recorded in the office of the Cook County Recorder of Deeds on April 25, 2005 as Instrument 0511508004; and that copies of the aforesaid evidence

UNOFFICIAL COPY

Case: 1:11-cv-04504 Document #: 19 Filed: 10/19/11 Page 3 of 6 PageID #:87
 Case: 1:11-cv-04504 Document #: 16-1 Filed: 10/14/11 Page 3 of 6 PageID #:78

4/ 7

of indebtedness and security interest foreclosed have been and are attached to the Complaint.

3. That the material allegations of the Complaint filed herein are true and proven; that the equities of this cause are with the Plaintiff who is entitled to a Decree of Foreclosure by Consent, pursuant to 735 ILCS 5/15-1402, in accordance with the prayer of the Complaint; and that there is, at this time, due to said Plaintiff upon the Note and Mortgage security, each of which has been in said Complaint described, the following amounts:

Principal:	\$416,407.89
Escrow:	\$6,422.21
Late Charges:	\$502.80
Interest:	\$24,773.15
Costs:	\$602.42
Fees:	\$1,000.00
Total Due:	\$449,708.47

Plaintiff has waived all of its rights to a personal deficiency Judgment and is hereby barred from obtaining such a deficiency judgment against the Mortgagors or any other persons liable for the indebtedness or other obligations secured by the Mortgage pursuant to 735 ILCS 5/15-1402(c).

4. That under the provisions of said Mortgage herein sought to be foreclosed, the costs of foreclosure are an additional indebtedness for which the Plaintiff should be reimbursed and such expenses are hereby allowed to the Plaintiff.
5. That the Plaintiff's Mortgage is a first lien upon the real estate hereinafter described and is superior to all other liens, rights or claims upon the real estate, and that all

UNOFFICIAL COPY

Case: 1:11-cv-04504 Document #: 19 Filed: 10/19/11 Page 4 of 6 PageID #: 88
 09- Case: 1:11-cv-04504 Document #: 16-1 Filed: 10/14/11 Page 4 of 6 PageID #: 79

5 / 7

junior liens are hereby extinguished pursuant to 735 ILCS 5/15-1402. The outstanding mortgage indebtedness is hereby deemed satisfied and absolute title is vested in by this Order, free and clear of all claims, liens (except liens of the United States of America, which cannot be foreclosed without judicial sale) and interest of the Mortgagors and all other persons made parties in this foreclosure whose interests are subordinate to that of the Plaintiff.

6. That in said Mortgage it is provided that the Attorneys for the Plaintiff are entitled to reasonable attorney's fees; that the sum of \$1,000.00 has been included in the above indebtedness as aforesaid attorney's fees as provided in the Mortgage, that said sum is the usual, customary and reasonable charge made by attorneys in like cases; that said sum shall be retained by the Attorney for the Plaintiff and that said sum is hereby allowed.
7. This is a final and appealable Order and that there is no just reason for delaying enforcement of or appeal from this Decree and pursuant to Illinois Supreme Court Rule 304, execution shall issue forthwith.

IT IS THEREFORE ORDERED, ADJUGED AND DECREED that upon execution of this Order, absolute title will immediately vest in the Plaintiff or the Plaintiff's assignee by this Order and without further evidence of conveyance. This Order is deemed to be in recordable form and shall so be recorded with the County Recorder of Deeds and shall hereafter serve as absolute proof of conveyance of title to the subject property to the Plaintiff. The Court hereby finds that this transfer is exempt from all State, County and Municipal Transfer Tax Ordinances

UNOFFICIAL COPY

Case: 1:11-cv-04504 Document #: 19 Filed: 10/19/11 Page 5 of 6 PageID #: 89
 Case: 1:11-cv-04504 Document #: 16-1 Filed: 10/14/11 Page 5 of 6 PageID #: 80

6/ 7

and that no local exemption stamp shall be required by the County Recorder of Deeds prior to recordation.

IT IS FURTHER ORDERED that an Order of Possession is hereby entered. Upon request by the Plaintiff or its assignee, the County Sheriff is hereby ordered to evict the Defendants, Fares Zanayed and Jerry Zanayed from the premises located at 2500 North Richmond, Chicago, IL 60647, and place in possession the Plaintiff, its assignee or designee. Possession is stayed thirty (30) days from entry of this Order. However, should the premises be vacant, possession is immediately granted.

IT IS FURTHER ORDERED that any and all leases affecting the subject property held by any Defendant or tenant are hereby terminated.

IT IS FURTHER ORDERED that should the real estate be improved with a manufactured or mobile home, it is found that the improvement has been permanently affixed to the real estate and deemed to be real estate, transferable hereunder at any forthcoming Sheriff or Judicial Sale, without transfer of any title.

THE PREMISES by this Decree to be conveyed are situated in the County of Cook, State of Illinois, and are described as follows:

LOT 26 IN BLOCK 4 IN GEORGE A SEAVERN'S SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

And are improved by a single family residence commonly known as 2500 North Richmond, Chicago, IL 60647, and the Permanent Tax Number is 13-25-316-034-0000.

UNOFFICIAL COPY

Case: 1:11-cv-04504 Document #: 19 Filed: 10/19/11 Page 6 of 6 PageID #:90
Case: 1:11-cv-04504 Document #: 16-1 Filed: 10/14/11 Page 6 of 6 PageID #:81

7 / 7

THE COURT expressly retains jurisdiction of the property which is the subject of this foreclosure for so long thereafter as may be necessary for the purpose of placing in possession of the premises the grantee or grantees in said Deed, or his or their legal representative or assigns.

Dated: 10/19/2011

Entered: *Chaine L Basko*

JUDGE

CONSENTED TO:

/s/ James N. Pappas
James N. Pappas #6291873
Burke Costanza & Carberry LLP
9191 Broadway
Merrillville, IN 46410
(219) 769-1313

[Signature]
Jerry Zanayed

[Signature]
Fares Zanayed

Signed and sworn before me on 9-28-11

JHL

