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PLACITA - APPEALS JUDGMENT

CCO-76B-6M-12-16-82(216)

UNITED STATES OF AMERICA

STATE OF ILLINOIS,
COUNTY OF COOK } ss.

J. F. HECHINGER

PLEAS, before the Honorable
one of the Judges of the Circuit Court of Cook County, in the State of Illinois, holding a branch Court of said
Court, at the Court House in said County, and State, on -September 4,
in the year of our Lord, one thousand nine hundred and -84
of the United States of America, the two hundredth and -ninth

J. F. HECHINGER
PRESENT: - The Honorable
Judge of the Circuit Court of Cook County,

RICHARD M. DALEY, State's Attorney

RICHARD J. ELROD, Sheriff

Attest: MORGAN M. FINLEY, Clerk.

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12-27-85
Description affects property on Cfs 1114213, 1114217, 1114219, & other Prop. Bricks

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STATE OF ILLINOIS)
)
COUNTY OF C O O K) SS.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FIRST ARLINGTON NATIONAL BANK, a)
National Banking Association)

Plaintiff;)

vs.)

No. 81 CH 3855

FIRST ARLINGTON NATIONAL BANK, as)
Trustee under Trust Agreement)
dated March 4, 1971 and known)
as Trust No. A-135, et al.;)

Defendants.)

JUDGMENT OF FORECLOSURE AND SALE

This action having come before the Court for hearing upon Plaintiff's Motion for Summary Judgment on Counts I and X of the Complaint to Foreclose Mortgage and For Certain Other Relief and supported by affidavits including the Affidavit of Dolores Osuch, the Commercial Loan Departmental Assistant of First Arlington National Bank; the Affidavits of Richard H. Chapman and Alan Rauh Orschel in support of plaintiff's request for attorneys' fees, the Court having considered the pleadings, exhibits, and the affidavits and all other matters of record herein, rules in favor of plaintiff on its Motion for Summary Judgment on Counts I and X of the Complaint; and accordingly summary judgment be and hereby is entered in favor of plaintiff for the relief requested in Counts I and X of the Complaint.

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I.

As to Count I and Count X of the Complaint, the Court finds that:

1. It has jurisdiction of the parties hereto, and the subject matter hereof.

2. All of the material allegations of Count I of the Complaint to Foreclose Mortgage and For Certain Other Relief are true and proven.

3. The required Affidavit making Unknown Owners parties to this action was duly filed and Unknown Owners have been duly made parties defendant herein, and served by publication.

4. The persons designated as "Unknown Owners" include other persons who have or claim some right, title, interest or lien in, to or upon the real estate subject to this action, or who are otherwise interested in the subject matter hereof whose names and present or last-known addresses are unknown to the plaintiff and upon diligent inquiry cannot be ascertained, and all such persons are, therefore, impleaded and made parties defendant to this action under the designation of "Unknown Owners".

5. The Court having examined the files and records in this cause, 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, under the law; that due and proper notice has been given to each of the defendants; and that during the progress of this case, as required by law, this Court has jurisdiction over all of the parties to this cause and the subject matter hereof.

6. That the following defendants were served with a copy of the summons and Complaint on the following dates: First Arlington National Bank, as Trustee under Trust Agreement dated March 4, 1971 and known as Trust No. A-135 was served on May 22, 1981; First Arlington National Bank, as Trustee under Trust Agreement dated May 15, 1978 and known as Trust No. A-816 was served on May 22, 1981; Arlington Swedish Manor, Inc. was served on May 26, 1981; Anthony V. Crissie was served on June 4, 1981; Pick Fisheries was served on May 27, 1981; Leo Manolis was served on May 31, 1981; Spiro Stenos was served on May 23, 1981; Standard Store Fixture Co., Inc. was served on May 29, 1981; Richard A. Edgar was served on May 22, 1981; Padco, Inc. was served on May 26, 1981; Phil Anaston, a/k/a Phil Manolis was served on December 7, 1981; Universal Match Co. was served on December 21, 1981; Harold A. Reskin was served on December 15, 1981; Modern Dairy Co. was served on December 14, 1981; Sidney R. Olsen was served on May 26, 1981; and the United States of America was served on November 27, 1981.

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7. That First Arlington National Bank, as Trustee under Trust Agreement dated March 4, 1971 and known as Trust No. A-135; Swedish Manor, Inc., Arlington PA Corporation; Leonard Pincus; and Anthony V. Crissie; appeared on March 18, 1982 and filed an Answer and Affirmative Defenses to the Complaint admitting the execution of the Mortgage and the default thereunder alleged in Count I of the Complaint; but demanding strict proof concerning the contested amount of the default; Pick Fisheries; Phil Anaston; a/k/a Phil Manolis; Harold A. Reskin and Modern Dairy Company did not file any Appearance or Answer; Leo Manolis; Spiro Thanos and Mickey's Linen and Towel Supply; appeared but failed to file an Answer; Padco Inc. and Eugene J. Sadin appeared and filed a disclaimer of interest in the realty but no Answer; defendant Spiro Thanos filed a proceeding in bankruptcy under the provisions of Chapter 7 of the Bankruptcy Code and the plaintiff herein is taking no action against said Spiro Thanos on the Guaranty alleged in the Complaint, Maywood-Proviso State Bank intervened in this action but filed no Answer or other response; and Unknown Owners were served by publication but failed to file an Answer or Appearance.

8. The United States of America appeared and filed its Answer admitting that its claims were subsequent and inferior to that of the plaintiff; Sidney R. Olsen appeared and filed

his Answer admitting the registration of the mortgage but neither admitted nor denied the remaining allegations of Count I.

9. That due notice of the hearing on the Motion for Summary Judgment having been given to all parties entitled to notice; the Court further finds that Pick Fisheries; Phil Anaston, a/k/a Phil Manolis; Harold A. Reskin; Leo Manolis; Mickey's Linen and Towel Supply; Padco, Inc.; Eugene J. Sadin and Maywood-Proviso State Bank be and hereby are held in default for failure to answer or otherwise plead to the Complaint within the time provided by law.

II.

As to Count I of the Complaint, the Court finds that:

10. That by virtue of the Mortgage and the evidence of indebtedness secured thereby alleged in Count I of the Complaint to Foreclose Mortgage, there is due to plaintiff, First Arlington National Bank, and the plaintiff has a valid subsisting lien upon the hereinafter described property as follows:

Unpaid Principal	\$477,300.10
Accrued Interest on Unpaid Principal through August 13, 1989	251,172.84
Attorneys' Fees, Costs of Suit, Real Estate Taxes for the Years 1976 through 1983	\$147,265.87
TOTAL JUDGMENT INDEBTEDNESS	\$872,738.87

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11. The Mortgage described in the Complaint and hereby foreclosed appears of record in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. 2461562 and in the office of the Registrar of Titles of Cook County, Illinois as Document No. 3044128 and the property herein referred to and directed to be sold is that situated in Cook County, Illinois described as follows:

Parcel 1: Lot 5 and the South 50 feet of Lot 6 in Block 13 in the Town of Dunton, being a Subdivision of the West 1/2 of the South West 1/4 of Section 29, Township 42 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2: The North 16 feet of Lot 6 and the South 25 feet of Lot 7 in Block 13 in the Town of Dunton, being a Subdivision of the West 1/2 of the South West 1/4 of Section 29, Township 42 North, Range 11 East of The Third Principal Meridian, in Cook County, Illinois.

Parcel 3: Lot 7 (except the South 58 feet thereof) and all of Lot 8 in Block 13 in the Town of Dunton, being a Subdivision of the West 1/2 of the South West 1/4 of Section 29, Township 42 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 4: The North 33 feet of the South 58 feet of Lot 7 in Block 13 in the Town of Dunton, being a Subdivision of the West 1/2 of the South West 1/4 of Section 29, Township 42 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois.

That at the time of execution of the Note and Mortgage described in Count I of the Complaint legal title to said premises was vested in First Arlington National Bank, as Trustee under Trust Agreement dated March 4, 1971 and known as Trust No. A-135.

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12. That the rights, titles and interests of all defendants herein are junior and subordinate to plaintiff's mortgage lien for the amounts hereinabove found due to plaintiff and that plaintiff has the first, prior and superior lien upon the property involved; together with rents, issues and profits therefrom; for all such amounts and all additional costs of suit; and the right to have its lien foreclosed and property sold in satisfaction thereof.

13. IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

(1) Unless within three days from the date of the entry of this Judgment of Foreclosure there should be paid to the plaintiff the respective sums, with interest thereon, for the uses and benefits mentioned in Paragraph 10 of this Judgment; the real estate hereinabove described, together with all the improvements thereon and the appurtenances belonging thereto, or so much thereof as may be necessary to pay the amounts found to be due and which may be sold separately without material injury to the parties in interest, be sold at public auction to the highest and best bidder for cash, by the Sheriff of Cook County in the City of Chicago, in the County of Cook, in the State of Illinois. That the Sheriff give public notice of the time, place and terms of such sale by publishing the same at least once each week for three successive weeks in a secular newspaper of general circulation published in the

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City of Chicago, County of Cook, State of Illinois; the first publication to be not less than twenty days before the date of said sale; that the said Sheriff may adjourn the sale so advertised by giving public proclamation at or before the time of said notice sale; that the plaintiff or any of the parties to this cause, may become the purchaser or purchasers of such sale; that upon such sale being made, said Sheriff execute and deliver to the purchaser or purchasers a Certificate of Sale and recorded duplicate thereof as required by law.

14. That if plaintiff is purchaser at such sale it shall be entitled in making payment for the property purchased to apply thereto the Note secured by the Mortgage foreclosed in this cause by having credited upon said Note the sum apportionable and applicable to the payment thereof of the net proceeds of such sale.

15. That the Sheriff of Cook County, upon making such sale, shall with due convenience and speed report the same to the Court for its approval and confirmation, and he shall likewise report the distribution of the proceeds of sale and his acts and doings in connection therewith; that out of the proceeds of sale he shall pay out the proceeds in the following manner in the following order of priority:

A. Fees, disbursements and commissions of sale;

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B. To the plaintiff or its attorneys the amounts mentioned in Paragraph 10 hereof with interest thereon at the rate of nine percent (9%) per annum from the date of the Judgment together with all costs taxed therein.

16. That the Sheriff of Cook County take receipts from the respective parties to whom he may have made payments as aforesaid and file the same with his Report of Sale and Distribution in this Court; that, if after the payment of all of the foregoing items there should be a remainder, he will hold the surplus subject to the further Order of this Court; that if there be not sufficient funds to pay in full the amounts found due herein he shall specify the amount of deficiency in his report of sale.

17. That the period of redemption will expire six (6) months from the date of the sale of the involved property.

18. That sale is to be conducted by the Sheriff as herein described under this Order of Foreclosure and upon confirmation of such sale the Sheriff who made such sale, or his successor in office, shall immediately execute and deliver to the purchaser a deed describing and conveying the premises purchased by him showing the amount paid therefor, or if purchased by the person in whose favor the Order is entered, the amount of his bid therefor.

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19. That thereupon the Grantee or Grantees in such deed or his or their legal representatives or assigns; be let into possession of said premises and that any of the parties to this cause who shall be in possession of said premises or any portion thereof or any person who may have come into such possession under them; or any of them; since the commencement of this suit; shall; upon the production of said Sheriff of Cook County of the Deeds of Conveyance; surrender possession to said Grantee or Grantees his or her representatives or assigns and in default of so doing a writ of assistance shall issue.

III.

As to Count X of the Complaint; the Court finds that:

20. That by virtue of the Assignment of Beneficial Interest in Land Trust for Collateral Security in the nature of a mortgage and the evidence of indebtedness secured thereby alleged in Count X of the Complaint to Foreclose Mortgage; there is due to plaintiff; First Arlington National Bank; and the plaintiff has a valid and subsisting lien upon the hereinafter described property as follows:

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Unpaid Principal	\$447,300.16
Accrued Interest on Unpaid Principal through August 13, 1989	251,172.84
Attorneys' Fees; Costs of Suit; Real Estate Taxes for the Years 1976 through 1983	147,265.87
TOTAL JUDGMENT INDEBTEDNESS	\$875,738.87

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21. The property herein referred to and directed to be sold is that situated in Cook County, Illinois, described as follows:

Parcel 6; The West 70 feet of Lot 1 in Block 14 in Town of Dunton in West half of South West quarter of Section 29, Township 42 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois.

That at the time of execution of the Note and Assignment of Beneficial Interest For Collateral Security in the nature of a mortgage described in Count X of the Complaint, legal title to said premises was vested in First Arlington National Bank as Trustee under Trust Agreement dated May 15, 1978 and known as Trust No. A-816.

22. That rights, titles and interests of all defendants herein are junior and subordinate to plaintiff's lien upon the beneficial interest for the amounts hereinabove found due to plaintiff and that plaintiff has the first, prior and superior lien upon the beneficial interest involved together with rents, issues and profits therefrom, for all such amounts and all additional costs of suit, and the right to have its lien foreclosed and property sold in satisfaction thereof.

23. IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

(1) Unless within three days from the date of the entry of this Judgment of Foreclosure there should be paid to the plaintiff the respective sums, with interest thereon, for

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the uses and benefits mentioned in Paragraph 20 of this Judgment, the beneficial interest hereinabove described; together with all the improvements thereon and the appurtenances belonging thereto; or so much thereof as may be necessary to pay the amounts found to be due and which may be sold separately without material injury to the parties in interest, be sold at public auction to the highest and best bidder for cash, by the Sheriff of Cook County in the City of Chicago, in the County of Cook, in the State of Illinois. That the Sheriff give public notice of the time, place and terms of such sale by publishing the same at least once each week for three successive weeks in a secular newspaper of general circulation published in the City of Chicago, County of Cook, State of Illinois, the first publication to be not less than twenty days before the date of said sale; that the said Sheriff may adjourn the sale so advertised by giving public proclamation at or before the time of said notice sale; that the plaintiff or any of the parties to this cause, may become the purchaser or purchasers of such sale; that upon such sale being made, said Sheriff execute and deliver to the purchaser or purchasers a Certificate of Sale and recorded duplicate thereof as required by law.

24. That if plaintiff is purchaser at such sale it shall be entitled in making payment for the Property purchased to

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apply thereto the Note secured by the assignment of beneficial interest in the nature of a mortgage foreclosed in this cause by having credited upon said Note the sum apportionable and applicable to the payment thereof of the net proceeds of such sale.

25. That the Sheriff of Cook County, upon making such sale, shall with due convenience and speed report the same to the Court for its approval and confirmation, and he shall likewise report the distribution of the proceeds of sale and his acts and doings in connection therewith; that out of the proceeds of sale he shall pay out the proceeds in the following manner in the following order of priority:

- A. Fees, disbursements and commissions of sale;
- B. To the plaintiff or its attorneys the amounts mentioned in Paragraph 20 hereof with interest thereon at the rate of nine percent (9%) per annum from the date of the Judgment together with all costs taxed therein.

26. That the Sheriff of Cook County take receipts from the respective parties to whom he may have made payments as aforesaid and file the same with his Report of Sale and Distribution in this Court; that, if after the payment of all of the foregoing items there should be a remainder, he will hold the surplus subject to the further Order of this Court; that if there be not sufficient funds to pay in full the

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amounts found due herein he shall specify the amount of deficiency in his report of sale.

27. That the period of redemption will expire six (6) months from the date of the sale of the involved property.

28. That sale is to be conducted by the Sheriff as herein described under this Order of Foreclosure and upon confirmation of such sale the Sheriff who made such sale, or his successor in office, shall immediately execute and deliver to the purchaser a deed describing and conveying the premises purchased by him showing the amount paid therefor, or if purchased by the person in whose favor the Order is entered, the amount of his bid therefor.

Dated: _____

ENTER:

ENTERED
CLERK OF THE CIRCUIT COURT
MORGAN M. FINLEY
SEP 4 1984
George John G. Hecht
DEPUTY CLERK

Glen T. Keysor
Richard H. Chapman
BERMAN, FAGEL, HABER, MARAGOS & ABRAMS
140 South Dearborn Street, 14th Floor
Chicago, Illinois 60603
(312) 346-7500
Firm I.D. No. 90041

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STATE OF ILLINOIS, }
COUNTY OF COOK } ss.

I, MORGAN M. FINLEY, Clerk of the Circuit Court of Cook County, in and for the State of Illinois, and the keeper of the records, files and seal thereof, do hereby certify the above and foregoing to be true, perfect

and complete COPY OF A CERTAIN JUDGMENT MADE AND ENTERED
OF RECORD IN SAID COURT:

In a certain cause lately pending in said Court, between
FIRST ARLINGTON NATIONAL BK, ETC. plaintiff/petitioner
and FIRST ARLINGTON NATIONAL BK, ETC., ET AL defendant/respondent.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed
the seal of said Court, in said County, this 6th
September, 84
day of Morgan M. Finley 19. Clerk

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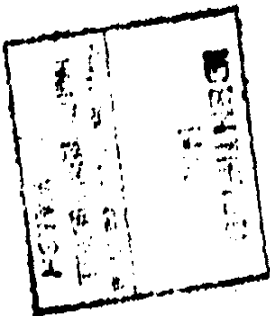
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