

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____
CIVIL ACTION NO. _____

_____ PLAINTIFF(S)

VS. **JUDGMENT AND ORDER OF SALE**

_____ DEFENDANT(S)

[MUST LIST ALL PARTIES]

* * * * *

This matter came on to be heard on the Motion of the Plaintiff for a Judgment and Order of Sale against the Defendant(s), this Court having reviewed the pleadings and affidavits filed herein, it appearing to the Court that all necessary parties have been properly served according to the law and are properly before the Court, and being otherwise sufficiently advised;

IT IS ORDERED AND ADJUDGED that:

1. The allegations contained in the Complaint are true and that as of _____, there is due and owing to the Plaintiff, from the Defendant, _____, upon the promissory note as set forth in the Complaint the following sums:

for which total amount personal/in rem judgment is hereby rendered in favor of the Plaintiff and against the Defendant(s), _____, together with interest at the rate of _____ from the above date until paid plus late charges, advances for taxes and insurance, and its costs herein expended, including

a reasonable attorney fee and for any other fees expended for services performed in connection with the Defendant's default and for the purposes of protecting Plaintiff's interest in the property and its rights under the mortgage instrument.

2. To secure payment of its judgment set forth in Paragraph 1, the Court finds that said promissory note is secured by a certain mortgage of which the Plaintiff is the owner and holder, which mortgage constitutes a valid first mortgage upon the real estate owned by the Defendant, _____, which real estate is located at _____ **[street address]**, Frankfort, Kentucky 40601, and is more particularly described in the attached **Exhibit "A" [include legal description, COMPLETE source of title and PVA tax parcel number]**.

3. Plaintiff's lien(s) shall be enforced and to that end, the property described herein shall be sold. The purchaser at the Commissioner's sale shall take said real estate free and clear of the claims of the parties to this action, but it shall be sold subject to:

- a. All state, county and city, if any, real estate taxes affecting said real estate for the current tax year and all subsequent tax years;
- b. Easements, restrictions and stipulations of record;
- c. Assessments for public improvements levied against the property;
- d. Any facts which an inspection and accurate survey of the property may disclose;

e. Liens or claims of those not a party hereto and which are not properly before the Court; and

f. Any right of redemption that may exist in favor of the Defendant(s).

4. The Court further finds that the real estate is indivisible and cannot be divided without materially impairing its value and the value of Plaintiff's lien thereon and shall be sold as a whole, subject to those items set out in Paragraph 2 (a), (b), (c), (d), (e) and (f) above, but free and clear of all other liens and encumbrances of all parties properly before the Court, and all liens and/or interests arising by virtue of instruments which are recorded in the Franklin County Clerk's Office, other otherwise arise, after the recording of the Plaintiff's lis pendens notice, but the Plaintiff shall not be deemed to have warranted title to any purchaser. The purchaser shall be responsible for the real estate taxes either due and payable at the time of the confirmation of the sale or to be due in said tax year and all subsequent years, but shall be not responsible for any delinquent real estate taxes.

5. In making the sale, the Master Commissioner of this Court shall follow the directions and the sale shall be made on the terms specified in the local rules of the Franklin Circuit Court.

6. The Master Commissioner shall have the real estate appraised under oath by two (2) disinterested, intelligent housekeepers of this county, and said appraisals shall be made in writing, signed by those individuals and reported to this Court pursuant to KRS 426.520.

7. The Master Commissioner of this Court shall sell at public sale the real estate described herein, in Courtroom C on the second floor of the Franklin County Courthouse in the City of Frankfort, Franklin County, Kentucky, also known as 222 St. Clair Street, after advertising the time, terms

and place of sale by written notice posted, one on the public bulletin board on the first floor of the Courthouse, and two on or near the property for fifteen days next preceding the date of sale and advertising, also by publication in *The State Journal*, a newspaper of general circulation, as set out in KRS 424.130. Said notice and publication shall set forth the time, place and terms of the sale, as referenced to the Judgment and Order of Sale and case number, and a description of the property to be sold including the street address or brief description of its location if the property has no street address and any number assigned to the property by the tax assessor for purposes of identification such as the parcel or property identification number. The sale shall be made to the highest and best bidder and the sale shall be for cash, or in the alternative, the Master Commissioner will take from the purchaser, ten percent of the purchase price in cash, due and payable at the time of sale, and the balance due and payable in thirty (30) days, with the purchaser to be required to execute bond with surety thereon to be approved by the Master Commissioner to secure the unpaid portion of the purchase price. Said bond shall bear interest at the rate of 12% per annum from the day of the sale until paid in full and shall have the same force and effect as a Judgment and shall remain a prior and superior lien on the property until fully paid. In the event that the Plaintiff is the successful purchaser, it shall be entitled to a credit of its judgment against the purchase price and shall only be obligated to pay court costs, the fees and costs of the Master Commissioner and any real estate taxes payable pursuant to this Order.

It is further provided that if the property sold includes insurable improvements, the successful bidder at the sale shall, at bidder's own expense, carry fire and extended insurance coverage on said improvements from the date of sale until the purchase price is fully paid in the amount of the

Court's appraised value of said improvements or the amount of the unpaid balance of the purchase price, whichever is less, at a minimum, with a loss payable clause to the Master Commissioner of the Franklin Circuit Court and the Plaintiff herein. Failure of the purchaser to obtain such insurance shall not affect the validity of the sale or the purchaser's liability thereunder, but shall entitle, but not require, any party adjudicated an interest in the real estate, after giving notice to the Master Commissioner, to effect said insurance and furnish evidence of the policy to the Master Commissioner. The premium on the insurance policy shall then be charged to the purchaser as a purchaser's cost.

The Master Commissioner shall serve written notice on the Attorney for the Plaintiff of the time and date of sale, not less than three (3) weeks prior to the date of the sale.

8. The Defendant(s), after the sale, or any person holding under them, are no longer entitled to possession of the property, and the Defendant(s) or any persons holding under them are ordered to vacate the premises upon confirmation of the sale.

9. The Master Commissioner, upon confirmation of the sale, shall pay from the proceeds of said sale, upon the claims herein found, the amounts thereof in the following order of priority as determined by the Court:

- A. To the costs of this action;
- B. To the full satisfaction of any liens for delinquent ad valorem taxes assessed against the real estate;
- C. To the full satisfaction of the judgment of Plaintiff granted herein in Paragraph 1; and
- D. The balance of the sale proceeds, if any, shall be held by the Master Commissioner until further Order of this Court.

10. This action is retained on the Court's docket for such further Orders and proceedings as may be necessary to effect said sale.

11. This is a final judgment and there is no just reason for delay. Pursuant to KRCP 77.04, the Circuit Clerk shall serve Notice of Entry hereof.

Judge, Franklin Circuit Court

Approved:

Charles E. Jones, Master Commissioner

Prepared by:

Attorney for Plaintiff

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