**IN THE DISTRICT COURT OF SUMNER COUNTY, KANSAS**

**CIVIL COURT DEPARTMENT**

|  |  |  |
| --- | --- | --- |
| WEST GATE BANK  Plaintiff,  vs.  RHIANNON K. TOWNSEND, ET AL  Defendants. | )  )  )  )  )  )  )  ) | Case No. 2016-CV-000143  Division No.  Pursuant to K.S.A. Chapter 60  Title to Real Estate Involved |

**JOURNAL ENTRY OF JUDGMENT OF FORECLOSURE**

AT THIS TIME, the above matter comes on for consideration. Plaintiff, West Gate Bank appears by and through its attorney, David Noyce of the Marinosci Law Group, P.C. There are no other appearances.

The Court examines the pleadings and files in the above-entitled cause and finds that each of the Defendants have been served, or have otherwise voluntarily entered their appearances, and the method of service is approved by the Court. Rhiannon K. Townsend, John Doe and Jane Doe have failed to answer or otherwise properly plead to Plaintiff’s Petition are in default. None of the Defendants are subject to the provisions or under the purview of the Servicemembers Civil Relief Act of 2004, as amended.

The Court makes the following findings of fact:

1. The proper service has been had upon all of the parties named in the Petition and this Court is the proper venue to hear this matter.
2. The Court has jurisdiction over the parties and subject matter of the litigation.
3. The time to answer or otherwise properly plead to the Petition has expired as to each and all of the Defendants who have not filed an Answer or other proper pleadings.
4. Proper Notice of Suit was published in the Belle Plaine News and the publication is approved by the Court.
5. Notice of the damages sought by Plaintiff was sent pursuant to Rule 118 by certified mail and the notice is approved by the Court.
6. Under the terms of the Note and Mortgage which are subject matter of this action, Plaintiff is entitled to recover its fees, costs and expenses, including, but not limited to, reasonable attorney’s fees as allowed under K.S.A. §58-2312.
7. By virtue of a default in the terms of the Note and Mortgage which are subject matter of this action, there is due and owing to Plaintiff the following:
   1. Unpaid balance of $55,929.35.
   2. Interest from May 1, 2016 to March 10, 2017, at the contract rate of 5.50% in the amount of $2,639.25 and continuing thereafter at the contract rate pursuant to K.S.A. §16-205(b)(1) until paid in full subject to K.S.A. §60-2414.
   3. Title evidence in the amount of $435.00.
   4. Late Charges in the amount of $282.31.
   5. Attorney fees in the amount of $950.00.
8. Pursuant to K.S.A. §60-2001, Plaintiff is also due the costs of this action including the costs of any Sheriff’s Sale of the property, in the following amounts:
   1. Filing fee in the amount of $202.80.
   2. Process and Service fees in the amount of $30.00.
9. The Note, Exhibit A, is secured by a Mortgage (the “Mortgage”), marked as an Exhibit B and attached to the Plaintiff’s Petition. The mortgage is a first lien on the following described real property:

**The North 10 Feet 8 Inches of Lot 3 and the South 57 Feet 4 Inches of Lot 2, Block 19, Fairmount Addition Resurvey and Change of Lot Frontage in Blocks 7, 16, 19, 28 and 31, City of Wellington, Sumner, Kansas.**

**APN: W00588 (“Property”)**

1. Less than one-third of the original indebtedness secured by the Mortgage has been paid as the original indebtedness was $62,000.00 (See promissory note (“Note”) marked Exhibit “A” and mortgage (“Mortgage”) marked Exhibit “B” as attached to Plaintiff’s Petition) and the current unpaid principal balance due and owing is $55,929.35.
2. Therefore, under K.S.A. §60-2414(m), the redemption period from any Sheriff’s Sale of the property shall be fixed at 3 months from the date of the Sheriff’s Sale unless a motion is made to reduce the 3-month period.
3. Following the Sheriff’s sale, and any applicable redemption period, Rhiannon K. Townsend, John Doe (name unknown) and Jane Doe (name unknown) are forever barred from claiming any right, title or interest in and to the Property.
4. Plaintiff’s Mortgage should be declared a first and prior lien against the Property, subject to the any due and owing real estate taxes. Plaintiff’s Mortgage should be foreclosed, and the Court should order and direct the sale of the Property according to law for the satisfaction of the judgment due Plaintiff, and against the Property due Plaintiff after the application of the proceeds of the sale.

IT IS CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT that the findings are made the orders of this Court.

IT IS FURTHER BY THE COURT ORDERED that Plaintiff have and recover an in personam judgment against Rhiannon K. Townsend and an in rem judgment against the Property for the following items:

1. Unpaid balance of $55,929.35.
2. Interest from May 1, 2016 to March 10, 2017, at the contract rate of 5.50% in the amount of $2,639.25 and continuing thereafter at the contract rate pursuant to K.S.A. §16-205(b)(1) until paid in full subject to K.S.A. §60-2414.
3. Title evidence in the amount of $435.00.
4. Late Charges in the amount of $282.31.
5. Attorney fees in the amount of $950.00.
6. Pursuant to K.S.A. §60-2001, Plaintiff is also due the costs of this action including the costs of any Sheriff’s Sale of the property, in the following amounts:
7. Filing fee in the amount of $202.80.
8. Process and Service fees in the amount of $30.00.

IT IS FURTHER BY THE COURT ORDERED Plaintiff is granted judgment for any sums advanced or to be advanced by Plaintiff prior to the date of sale for real estate taxes and hazard insurance premiums, property preservation costs, and the costs of the sale, including publication charges. These judgments are to bear interest at the highest rate provided by law until paid.

IT IS FURTHER BY THE COURT ORDERED that unless these judgments are satisfied within ten (10) days from the date of this order, an Order of Sale shall issue on the judgments of foreclosure ordering the Sheriff of Sumner County, Kansas to sell the Property. After the sale the Sheriff shall issue a Certificate of Purchase to the purchaser of the Property which shall entitle the purchaser to a Sheriff’s Deed covering the Property at the expiration of 3 months from the date of sale, subject to redemption as provided by law. The proceeds derived from the foreclosure sale shall be applied as follows:

1st: To the payment of the costs of this action including the costs of sale;

2nd: To the payment of any real property taxes that may be due and payable at the date of the sale;

3rd: To the payment of the Plaintiff’s judgment with interest, and the costs and expenses of this suit;

4th: The residue, if any, to be paid to the Clerk of the District Court of Sumner County, Kansas, to await the further order of this Court.

IT IS FURTHER BY THE COURT ORDERED that from and after the sale, and once the sale is confirmed, and upon the failure of the Defendant to redeem in accordance with law, then each and all of the Defendants shall be barred and foreclosed from all right, title, interest or equity of redemption with respect to the Property.

IT IS FURTHER BY THE COURT ORDERED that once the sale is concluded and confirmed, the Sheriff of Sumner County, Kansas, is ordered and directed to execute and deliver to the purchaser at the sale a Certificate of Purchase containing the recitals required by law, and after the period of redemption set forth above, if the Property is not redeemed, then the Sheriff of Sumner County, Kansas, shall execute and deliver to the holder of the Certificate of Purchase, or assigns, a good and sufficient Sheriff’s Deed conveying the Property to the purchaser or assigns.

IT IS FURTHER BY THE COURT ORDERED that upon the request of the holder of the Sheriff’s Deed, the Clerk of the Court shall issue to the Sheriff of Sumner County, Kansas, a writ of assistance directing the Sheriff to place the holder of the Sheriff’s deed in possession of the Property and improvements.

IT IS FURTHER BY THE COURT ORDERED that Plaintiff, its agents and employees, shall be authorized to release information and otherwise communicate with third parties regarding the debt and the Property, all in conformity with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692c(b).

**SO ORDERED: \_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**JUDGE OF THE DISTRICT COURT**

Prepared and submitted by:

MARINOSCI LAW GROUP, P.C.

/s/ David V. Noyce\_\_\_\_\_\_\_\_\_\_\_\_

David V. Noyce KS# 20870

11111 Nall Avenue, Suite 104

Leawood, KS 66211

Phone: (913) 800-2021

Facsimile: (913) 257-5223

dnoyce@mlg-defaultlaw.com

ATTORNEY FOR PLAINTIFF