A man borrowed money from a bank to finance the purchase of a commercial building. The man signed a promissory note, which was secured by a mortgage on the building. Because the man had few other unencumbered assets, the bank required additional security. The man's mother granted the bank a mortgage on a motel that she owned, but she did not sign a promissory note. Both mortgages were promptly recorded.

Five years later, after real estate values had dropped considerably, the man defaulted on the loan from the bank. After acceleration, the bank initiated foreclosure proceedings against both the commercial building and the motel owned by the mother.

The mother timely objected to the foreclosure proceedings against the motel. The bank responded that it had the right to include both the commercial building and the motel in the foreclosure proceedings.

Who is correct?

A. The bank, because the motel was voluntarily mortgaged to secure the man's debt. (57%)

B. The bank, because the mother is personally liable on any loan secured by the mortgage on the motel. (8%)

C. The mother, because she did not sign a promissory note. (23%)

D. The mother, because the bank does not hold an enforceable mortgage on the motel. (9%)

Correct

57%Answered correctly

19 secsTime Spent

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Explanation:

Mortgage documents

Mortgage deed	A writing that conveys an interest in collateral to secure a debt
Promissory note	A formal "IOU" in which the borrower promises to repay the debt according to the listed terms

A mortgage is an interest in real property that serves as security for repayment of a debt or other obligation (evidenced by a promissory note). The mortgagee is the person with the security interest in the property (eg, bank), while the **mortgagor** is the person whose **property secures the obligation**. The mortgagor is **typically the debtor**. But if the mortgagor is **someone else**, then the **mortgagor is *not* personally liable** for repaying the mortgage debt. Nevertheless, the **mortgagee can foreclose on** the **mortgaged property** if the debtor defaults.

Here, the man borrowed money from a bank to finance the purchase of a commercial building. He signed a promissory note promising to repay the debt, which was secured by a mortgage on that building. It was also secured by a motel that the mother voluntarily mortgaged to the bank. The mother is *not* personally liable on the loan because she did not sign the promissory note or otherwise agree to pay the debt **(Choices B & C)**. But since the man defaulted on the loan, the bank is correct that it can foreclose on the commercial building *and* the motel.

(Choice D) The bank's mortgage on the motel is enforceable because the mother voluntarily granted the mortgage to the bank.

Educational objective:

The mortgagor—ie, the person whose property secures repayment of a debt or other obligation—is typically the debtor. But if the mortgagor is someone else, then the mortgagor is not personally liable for repaying the mortgage debt. However, the mortgagee can foreclose on the mortgaged property if the debtor defaults.