

2005-416-CD

Chase Home Fm et al v. Stephen Switala

05-416-CD

Chase Home vs Stephen Switala et al

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

CHASE HOME FINANCE LLC,
S/B/M TO CHASE MANHATTAN
MORTGAGE CORPORATION
3415 VISION DRIVE
COLUMBUS, OH 43219

COURT OF COMMON PLEAS

Plaintiff

CIVIL DIVISION

v.

TERM

NO. 05-416-CD

CLEARFIELD COUNTY

STEPHEN J. SWITALA
A/K/A STEPHEN J SWITALA SR
DIANE M. SWITALA
775 MYERS ROAD
MORRISDALE, PA 16858

RE
FILED 4cc Sheriff
M 12/12/05
MAR 24 2005 Amy pd. 85.00

Defendants

William A. Shaw

Prothonotary/Clerk of Courts

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:

David S. Meholic, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

1. Plaintiff is

CHASE HOME FINANCE LLC,
S/B/M TO CHASE MANHATTAN
MORTGAGE CORPORATION
3415 VISION DRIVE
COLUMBUS, OH 43219

2. The name(s) and last known address(es) of the Defendant(s) are:

STEPHEN J. SWITALA
A/K/A STEPHEN J SWITALA SR
DIANE M. SWITALA
775 MYERS ROAD
MORRISDALE, PA 16858

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 07/25/2001 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to FLAGSTAR BANK, FSB which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200113424. By Assignment of Mortgage recorded 6/25/02 the mortgage was Assigned To FEDERAL NATIONAL MORTGAGE ASSOCIATION which Assignment is recorded in Assignment Of Mortgage Instrument ID # 200210035. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 12/01/2004 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$174,429.52
Interest	5,125.12
11/01/2004 through 03/23/2005	
(Per Diem \$35.84)	
Attorney's Fees	1,250.00
Cumulative Late Charges	568.53
07/25/2001 to 03/23/2005	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 181,923.17
Escrow	
Credit	0.00
Deficit	0.00
Subtotal	<u>\$ 0.00</u>
TOTAL	\$ 181,923.17

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an *in rem* Judgment against the Defendant(s) in the sum of \$ 181,923.17, together with interest from 03/23/2005 at the rate of \$35.84 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: /s/ Francis S. Hallinan
LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

ALL that certain lot or parcel of ground situate in the Township of Graham, County of Clearfield and State of Pennsylvania:

BEGINNING at a point, said place of beginning being the northeastern corner of Lot #2 of the Alder Heights Subdivision, said point being on the centerline of Township Road T-682, and said point being the northern most corner of Lot #6 to be conveyed and running:

1. THENCE along the centerline of T-682 South 59 Degrees 03 Minutes 55 Seconds East for a distance of 40.00 feet to a point, said point being the northwestern corner of Lot #3 of the Alder Heights Subdivision;
2. THENCE along the western line of Lot #3 of the Alder Heights Subdivision South 30 Degrees 56 Minutes 05 Seconds West passing through a 3/4" rebar (set) a distance of 16.50 feet and continuing on for a total distance of 569.51 feet to a 3/4" rebar (set), said rebar being the southwestern corner of Lot #3;
3. THENCE along the southern line of Lot #3 of the Alder Heights Subdivision South 70 Degrees 37 Minutes 59 Seconds East a distance of 260.09 feet to a 3/4" rebar (set), said rebar being the common corner of Lot #3, #4 and #7 of the Alder Heights Subdivision;
4. THENCE along the western line of Lot #7 South 01 Degrees 09 Minutes 53 Seconds West a distance of 574.01 feet to a 3/4" rebar (set), said rebar being the southern corner of Lot #7 and on the northern line of Thompson Bros. Coal Company;
5. THENCE along the northern line of Thompson Bros. Coal Company North 88 Degrees 50 Minutes 07 Seconds West for a distance of 447.17 feet to a 3/4" rebar (found), said rebar being the southeastern corner of Jonathan Erneigh Heirs;
6. THENCE along the eastern line of Jonathan Erneigh Heirs North 00 Degrees 02 Minutes 50 Seconds East a distance of 725.84 feet to a 3/4" rebar (set), said rebar being the southwestern corner of Lot #2 of the Alder Heights Subdivision;
7. THENCE along the southern line of Lot #2 of the Alder Heights Subdivision South 70 Degrees 37 Minutes 59 Seconds East a distance of 184.71 feet to a 3/4" rebar (set), said rebar being the southeastern corner of Lot #2;
8. THENCE along the eastern line of Lot #2 of the Alder Heights Subdivision North 30 Degrees 56 Minutes 05 Seconds East passing through a 3/4" rebar (set) a distance of 561.2 feet and continuing on for a total distance of 577.70 feet to a point; said point being the centerline of Township Road T-682 and place of beginning.

CONTAINING 7.276 acres (excluding T-682 right-of-way) as shown on map prepared by Curry and Associates dated August 16, 1997 and revised on October 23, 1997.

PREMISES BEING: 709 MYERS ROAD.

VERIFICATION

BETH MORRIS hereby states that he/she is ASSISTANT SECRETARY of CHASE HOME FINANCE LLC SUCCESSOR BY MERGER WITH CHASE MANHATTAN MORTGAGE CORPORATION mortgage servicing agent for Plaintiff in this matter, that he/she is authorized to take this Verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

Beth Morris

BETH MORRIS
ASSISTANT SECRETARY

DATE: 3-21-05

FILED

MAR 24 2005

William A. Shaw
Prothonotary/Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100343
NO: 05-416-CD
SERVICE # 1 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CHASE HOME FINANCE LLC

VS.

DEFENDANT: STEPHEN J. SWITALA a/k/a STEPHEN J. SWITALA SR. and DIANE M. SWITALA

SHERIFF RETURN

NOW, March 31, 2005 AT 2:00 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON STEPHEN J. SWITALA aka STEPHEN J. SWITALA SR. DEFENDANT AT 775 MYERS ROAD, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DIANE SWITALA, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / HUNTER

CR FILED
07/11/2005
APR 20 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100343
NO: 05-416-CD
SERVICE # 2 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CHASE HOME FINANCE LLC

vs.

DEFENDANT: STEPHEN J. SWITALA a/k/a STEPHEN J. SWITALA SR. and DIANE M. SWITALA

SHERIFF RETURN

NOW, March 31, 2005 AT 2:00 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DIANE M. SWITALA DEFENDANT AT 775 MYERS ROAD, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DIANE M. SWITALA, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / HUNTER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100343
NO: 05-416-CD
SERVICE # 3 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CHASE HOME FINANCE LLC

vs.

DEFENDANT: STEPHEN J. SWITALA a/k/a STEPHEN J. SWITALA SR. and DIANE M. SWITALA

SHERIFF RETURN

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SERVED BY: NEVLING / HUNTER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100343
NO: 05-416-CD
SERVICE # 4 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CHASE HOME FINANCE LLC

vs.

DEFENDANT: STEPHEN J. SWITALA a/k/a STEPHEN J. SWITALA SR. and DIANE M. SWITALA

SHERIFF RETURN

NOW, March 31, 2005 AT 2:00 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DIANE M. SWITALA DEFENDANT AT 775 MYERS ROAD, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DIANE M. SWITALA, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / HUNTER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100343
NO: 05-416-CD
SERVICES 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CHASE HOME FINANCE LLC

vs.

DEFENDANT: STEPHEN J. SWITALA a/k/a STEPHEN J. SWITALA SR. and DIANE M. SWITALA

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	415960	40.00
SHERIFF HAWKINS	PHELAN	416094	57.06

Sworn to Before Me This

So Answers,

____ Day of _____ 2005



Chester A. Hawkins
Sheriff