

07-148-CD
Citibank vs Cathy J. Smith

Citibank vs Cathy Smith
2007-148-CD

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
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PHILADELPHIA, PA 19103
(215) 563-7000

143521

ATTORNEY FOR PLAINTIFF

CITIBANK, N.A.
1000 TECHNOLOGY DR
O'FALLON, MO 63011

Plaintiff

v.

CATHY J. SMITH
207 ALBION AVENUE
BRISBIN, PA 16620

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 07-148-CD
CLEARFIELD COUNTY

Defendant

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

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.

1. Plaintiff is

CITIBANK, N.A
1000 TECHNOLOGY DR
O'FALLON, MO 63011

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

CATHY J. SMITH
207 ALBION AVENUE
BRISBIN, PA 16620

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

3. On 07/22/2004 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200412292. 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 06/20/2006 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 | \$74,846.25 |
| Interest | 4,100.00 |
| 05/20/2006 through 01/24/2007 | |
| (Per Diem \$16.40) | |
| Attorney's Fees | 1,250.00 |
| Cumulative Late Charges | 194.45 |
| 07/22/2004 to 01/24/2007 | |
| Cost of Suit and Title Search | <u>\$ 550.00</u> |
| Subtotal | \$ 80,940.70 |
| Escrow | |
| Credit | 0.00 |
| Deficit | 0.00 |
| Subtotal | <u>\$ 0.00</u> |
| TOTAL | \$ 80,940.70 |

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.

10. By virtue of the death of THOMAS H. SMITH on 12/18/95, CATHY J. SMITH became sole owner of the mortgaged premises as surviving tenant by the entireties.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 80,940.70, together with interest from 01/24/2007 at the rate of \$16.40 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

LEGAL DESCRIPTION

ALL those certain lots or pieces of ground situate in the Borough of Brisbin, County of Clearfield and State of Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at the Southwest corner of Albion Avenue and Irwin Street and fronting on the South side of Irwin Street, Fifty (50) feet, and running South one hundred and fifty (150) feet to Opossum Alley, known and designated as Lot No. 139 in the general plan of the said Borough.

THE SECOND THEREOF: BEGINNING at a post on the South side of Irwin Street, at Lot No. 139 of Grantor, and running along said Irwin Street, Fifty (50) feet to Lot No. 141; thence by said lot, parallel with Albion Avenue One hundred fifty (150) feet to Opossum Alley; thence by Opossum Alley fifty (50) feet to Lot No. 139 formerly of Maria Lobb; thence by said Lot One hundred fifty (150) feet to place of beginning and known as Lot No. 140 in the general plan of said Borough.

AND BEING the same premises that were conveyed to Florence Lloyd by Deed dated September 2, 1932 and recorded among the records in and for Clearfield County in Deed Book 303, at page 509.

AND WHEREAS, all sewer lines from the dwelling house and other buildings on the hereinbefore described pieces or parcels of land extend to and discharge into a septic tank and all located on, over and across other lands of Florence Lloyd, the grantor's decedent, Lots #136, 137 & 138.

NOW, THEREFORE, the grantor does hereby grant to the grantees, their heirs and assigns, owners and occupiers of the hereinbefore described pieces or parcels of land, the full right, liberty and privilege to maintain, repair and replace the said sewer lines and septic tank and for that purpose to have the free ingress, egress and regress into and along the same at all times hereafter forever in common with the owners and occupiers of Lots Nos. 136, 137 and 138, which lots were conveyed to Florence Lobb Lloyd by Deed dated May 7, 1937 and recorded among the records in and for Clearfield County in Deed Book 318, page 154.

AND THE said Florence Lloyd, who was then a widow, died testate January 23, 1983 did by her Last Will and Testament duly proved and approved and recorded among the records in the Office of the Register of Wills of Clearfield County, Pennsylvania, give, devise and bequeath the hereby conveyed real estate to her daughter, Doris Kay Smith, the grantor herein.

ADDRESS: 207 ALBION AVE.; BRISBIN, PA 16620 TAX MAP OR PARCEL ID NO.: 1-M14-331-40

VERIFICATION

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for PLAINTIFF in this matter, that Plaintiff is outside the jurisdiction of the court and or the Verification could not be obtained within the time allowed for the filing on the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 (c) and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of his 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.

Francis S. Hallinan

FRANCIS S. HALLINAN, ESQUIRE
Attorney for Plaintiff

DATE: 1/24/17

PHELAN HALLINAN & SCHMIEG, LLP
BY: FRANCIS S. HALLINAN, ESQUIRE
Identification No. 62695
One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

Citibank, N.A.

ATTORNEY FOR PLAINTIFF

Plaintiff : Court of Common Pleas
vs. : Civil Division
Cathy J. Smith : Clearfield County
Defendant(s) : No. 07-148-CD

PRAECIPE

TO THE PROTHONOTARY:

Please mark the above referenced case Discontinued and Ended without prejudice.

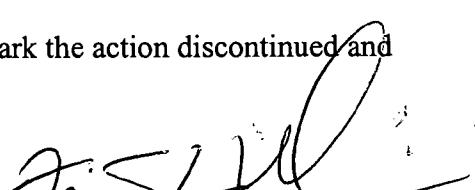
Please mark the above referenced case Settled, Discontinued and Ended.

Please mark Judgments satisfied and the Action settled, discontinued and ended.

Please Vacate the judgment entered and mark the action discontinued and ended without prejudice.

Please withdraw the complaint and mark the action discontinued and ended without prejudice.

Date: 2/21/07


Francis S. Hallinan, Esquire
Attorney for Plaintiff

PHS # 143521

FILED

FEB 26 2007
m/12:10 PM
William A. Shaw
Prothonotary/Clerk of Courts
60
1 cent to MRC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102390
NO: 07-148-CD
SERVICE # 1 OF 1
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: CITIBANK, N.A.
vs.
DEFENDANT: CATHY J. SMITH

SHERIFF RETURN

NOW, February 02, 2007 AT 3:29 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON CATHY J. SMITH DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO CATHY J. SMITH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS /

| PURPOSE | VENDOR | CHECK # | AMOUNT |
|-----------------|--------|---------|--------|
| SURCHARGE | PHELAN | 568561 | 10.00 |
| SHERIFF HAWKINS | PHELAN | 568561 | 21.00 |

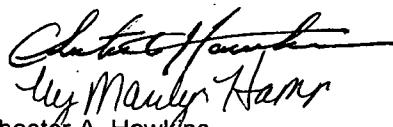
FILED
01/15/07
MAY 07 2007
W.A.S.


William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

____ Day of _____ 2007

So Answers,


Chester A. Hawkins
Sheriff