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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-7201-19

GOSHEN MORTGAGE LLC AS
SEPARATE TRUSTEE FOR
GDBT I TRUST 2011-1,

Plaintiff(s),

OPINION

v.

NANCY HERMAN, PAUL HERMAN,
CARSTENE MOSCARELLI,
MR. MOSCARELLI, UNKNOWN
SPOUSE OF CARSTENE MOSCARELLI,
UNITED STATES OF AMERICA

Defendant(s).

Decided: January 23, 2020

Salvatore Carollo, attorney for plaintiff (Stern & Eisenberg, PC).

BEDRIN MURRAY, J.T.C. (temporarily assigned)

This matter comes before the court by way of plaintiff's motion for an order allowing for an unlimited number of Sheriff's sale adjournments for one year pursuant to N.J.S.A. 2A:17-36. No opposition was filed. For the reasons set forth below, plaintiff's motion is denied in part and granted in part.

I. Findings of Fact

Plaintiff initiated the above-referenced foreclosure action on April 15, 2019. Final judgment was entered in favor of plaintiff on August 26, 2019. The initial Sheriff's sale was scheduled for October 18, 2019. Defendant, however, submitted a complete loss mitigation package at least thirty-seven days prior to the sale date, requiring plaintiff to undertake a review of the submission. In so doing, plaintiff used its two statutory stays of the sale. Due to the change in the law governing stays as more fully set forth below, plaintiff now requests leave from the court for an additional unlimited number of adjournments for up to one year.

Plaintiff avers that while the review of the loss mitigation package is complete, resulting in defendant being approved to conduct a short sale, additional adjournments are necessary. Plaintiff also cites 24 CFR 203.381A as requiring a minimum of sixty days notice to occupants of the premises before the mortgagee acquires title. The record, however, indicates only that defendant will be conducting a short sale of the property, leaving that particular reference to federal regulation unclear.

Further, there is no indication of the date on which defendant's packet was submitted for review, or when short sale approval was given. Moreover, the record is silent as to the status of defendant's efforts to conduct a short sale, making it impossible to determine an appropriate period of time to stay the foreclosure sale.

II. Conclusions of Law

Prior to July 29, 2019, there was no limit on the number of times a lender was able to adjourn a foreclosure sale. The lender would need only to make a written request to the Sheriff accompanied by the statutory fee. Effective July 29, 2019, however, N.J.S.A. 2A:17-36 was amended to limit a lender to two stays of no more than thirty days each as follows:

Notwithstanding any other law or court rule to the contrary, a sheriff or other officer selling real estate by virtue of an execution

may make five adjournments of the sale, two at the request of the lender, two at the request of the debtor, and one if both the lender and debtor agree to an adjournment, and no more, at any time, not exceeding 30 calendar days for each adjournment. However, a court of competent jurisdiction may, for cause, order further adjournments. (Emphasis supplied).

[N.J.S.A. 2A:17-36]

In short, the legislative intent was to revise certain procedures under the “Fair Foreclosure Act” in order to expedite residential mortgage foreclosure proceedings. See 2018 Legis. Bill Hist. NJ A.B. 5019. This is exemplified, in part, by the elimination of unlimited foreclosure sale stays previously available to the lender by application to the sheriff. The lender now turns to the court for the unlimited stays no longer provided by the Sheriff. The court concludes that such relief is unwarranted and would serve to frustrate the intent of the revised law, given the absence of a showing of cause. In sum, the record fails to demonstrate good or sufficient cause.

Based on the foregoing, plaintiff’s motion for unlimited foreclosure sale stays for up to one year is denied. The court will, instead, grant plaintiff one five-week stay due to the proximity of the scheduled sale on January 24, 2020. An Order accompanies this decision.