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BK **355** PG **501-507**

STATE OF VERMONT

SUPERIOR COURT
Windham Unit

CIVIL DIVISION
Docket No. 161-5-18 Wmcv

_____ X

CATIC Acquired Properties, LLC,

Plaintiff,

v.

LIZANDRA LLC, *et al.*,

Defendants.

_____ X

**Vermont Superior Court
Filed 07/02/20
Windham Unit**

JUDGMENT AND DECREE OF FORECLOSURE BY JUDICIAL SALE

This foreclosure action was brought before the Windham Superior Court by the First Amended Complaint of Stormfield Capital Funding I, LLC, dated May 7, 2018 and served upon the Defendants on or before July 7, 2018. CATIC Acquired Properties, LLC substituted for Stormfield Capital Funding I, LLC as the party Plaintiff pursuant to an Entry Order of this Court dated July 30, 2019. For purposes of this Judgment and Decree of Foreclosure by Judicial Sale, Stormfield Capital Funding I, LLC and CATIC Acquired Properties, LLC are referred to as "Plaintiff" where appropriate.

Judgment by default was granted to Plaintiff on August 3, 2018 against Defendants Hunter Excavating, Inc. and Patch of Land Lending, LLC.

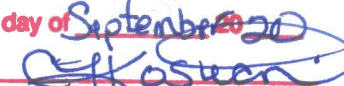
Judgment by default was granted to Plaintiff on October 16, 2018 against Defendant DeVito Renovations, LLC.

Judgment was granted to Plaintiff against Defendant Powderhorn Condominium

Owners Association, Inc. by stipulation on November 5, 2018.

**I certify this document to be a
true copy of the original on file
in the Vermont Superior Court**

Newfane, Vermont

This 9 day of September 2020

Clerk - Deputy Clerk

Summary judgment was granted to Plaintiff against Defendant Citizens Bank, N.A. on July 30, 2019.

On July 30, 2019, the following Defendants were dismissed from this action pursuant to Court Order: Jonathan Kaplan, Mary C. Kaplan, Justin F. Meng and Christine L. Yoon.

Also on July 30, 2019, the following Cross-Claim Defendants and Third-Party Defendants were dismissed from this action pursuant to Court Order: Michael Kimack, William Wylie, Lance C. Shader, P.C. and Lance C. Shader.

On October 14, 2019, this Court granted summary judgment against Defendants Lizandra LLC and Frank J. Cotrona, Jr.

Pursuant to V.R.C.P. 80.1(g) and V.R.C.P. 58, IT IS HEREBY ORDERED, ADJUDGED and DECREED, as follows:

1. **Judgment.** There is presently due and owing the principal amount of \$838,000.00, accrued interest as of June 24, 2020 in the amount of \$343,172.58; late charges to acceleration in the amount of \$929.40; court costs in the amount of \$295.00; and reasonable attorney's fees and disbursements in the amount of \$5,000.00; making the total amount due Plaintiff, as of June 24, 2020, the sum of **\$1,187,396.98**, plus interest accruing at the rate of \$413.26 per diem from June 25, 2020 until the date of redemption.

2. **Taxes and Other Advances.** Plaintiff is entitled to have any amounts paid for taxes added to the amount due at the time of redemption, pursuant to 12 V.S.A. § 4935, upon proof of payment made. Plaintiff may also be entitled to have any amounts paid for other advances made added to the amount due at the time of redemption with the approval of the Court.

3. **Mortgaged Property.** The property which is the subject of this foreclosure, the “Mortgaged Property,” is described as follows:

Being all and the same lands and premises conveyed to Lizandra LLC by Quit Claim Deed from Lizandra, LLC, dated November 11, 2015 and recorded on November 20, 2015 in Book 322, Page 328 of the Town of Wilmington Land Records.

Being all and the same lands and premises conveyed to Lizandra LLC by Quit Claim Deed from the Town of Wilmington, dated and recorded on October 26, 2015 in Book 322, Page 58 of the Town of Wilmington Land Records.

Being Condominium Building 8, Units C and D in Powderhorn II, as shown on survey entitled “Plat of Condominium and Planned Community Prepared for Lizandra, LLC, Powderhorn II” prepared by Joyce Land Surveying, dated January 3, 2017 and recorded at Slide 180 together with an undivided percentage interest in the Common Area as set forth in Declaration of Condominium and Bylaws of Powderhorn Village dated 1 June 1988 and recorded in Volume 119, Page 1 of the Wilmington land Records and all amendments thereto.

4. **Redemption.**

A. It is FURTHER ORDERED that unless Lizandra LLC pays to the Clerk of the Court on or before **AUGUST 3** , 2020, the date of redemption, payable to the Court, before 4:30 p.m., in good funds the sum of **\$1,187,396.98**, together with any amounts established under paragraph 2 above and interest of \$413.26 per diem from June 25, 2020 to the date of redemption, then the Plaintiff may petition the Court, pursuant to 12 V.S.A. § 4946, for a writ of possession.

B. It is FURTHER ORDERED that unless Powderhorn Condominium Owners Association, Inc. pays to the Clerk of the Court on or before **AUGUST 4** , 2020, the date of redemption, payable to the Court, before 4:30 p.m., in good funds the sum of **\$1,187,396.98**, together with any amounts established under paragraph 2 above and

interest of \$413.26 per diem from June 25, 2020 to the date of redemption, then the Plaintiff may petition the Court, pursuant to 12 V.S.A. § 4946, for a writ of possession.

C. It is FURTHER ORDERED that unless DiVito Renovations LLC pays to the Clerk of the Court on or before AUGUST 5, 2020, the date of redemption, payable to the Court, before 4:30 p.m., in good funds the sum of **\$1,187,396.98**, together with any amounts established under paragraph 2 above and interest of \$413.26 per diem from June 25, 2020 to the date of redemption, then the Plaintiff may petition the Court, pursuant to 12 V.S.A. § 4946, for a writ of possession.

D. It is FURTHER ORDERED that unless Citizens Bank, N.A. pays to the Clerk of the Court on or before AUGUST 6, 2020, the date of redemption, payable to the Court, before 4:30 p.m., in good funds the sum of **\$1,187,396.98**, together with any amounts established under paragraph 2 above and interest of \$413.26 per diem from June 25, 2020 to the date of redemption, then the Plaintiff may petition the Court, pursuant to 12 V.S.A. § 4946, for a writ of possession.

E. It is FURTHER ORDERED that unless Hunter Excavating, Inc. pays to the Clerk of the Court on or before AUGUST 7, 2020, the date of redemption, payable to the Court, before 4:30 p.m., in good funds the sum of **\$1,187,396.98**, together with any amounts established under paragraph 2 above and interest of \$413.26 per diem from June 25, 2020 to the date of redemption, then the Plaintiff may petition the Court, pursuant to 12 V.S.A. § 4946, for a writ of possession.

5. **Defendant/Mortgagor's Additional Right to Redeem.** Defendant/mortgagor Lizandra LLC may also redeem up to the date of the judicial sale, described in paragraph 7 below, by payment of the redemption amount pursuant to 12 V.S.A. § 4949.

6. **Non-Redemption; Notice of Sale.** If the Defendants shall fail to redeem the Mortgaged Property as set forth in paragraph 4 above, then the Court shall issue a Certificate of Non-Redemption, and the Mortgaged Property shall be sold as a whole to the highest bidder at public sale by a sheriff, deputy sheriff, constable, licensed auctioneer or other disinterested person specifically appointed by the Court. The sale shall take place within six (6) months of the last redemption date under paragraph 4 above, unless extended by the Court or the case is stayed by a bankruptcy filing. Plaintiff shall send a Notice of Sale as required by 12 V.S.A. § 4952(b) and (c) at least thirty (30) days before the sale. The sale shall not take place until the Governor lifts the stay-at-home order.

Plaintiff shall also publish a Notice of Sale in a newspaper distributed in Wilmington, Vermont for three (3) consecutive weeks prior to the date of sale and shall specify that the property shall be sold to the highest bidder at a public sale to be held at the Mortgaged Property on a specified date and time. The first publication shall be not less than 21 days prior to the date of sale. Prior to any request for confirmation, Plaintiff shall file a copy of all Notices of Sale with the Court with a certificate of service. Plaintiff shall also file a copy of the published Notice of Sale with the Court, with a copy of the publications or a certificate of publication dates.

7. **Public Sale.** At the sale, the person holding the public sale shall sell to the highest bidder all of the Mortgaged Property, subject to property taxes and municipal assessments, if any. If the Plaintiff makes the highest bid, Plaintiff shall be required to pay cash or certified funds only to the extent that its bid is in excess of the sum due it by the Defendants/mortgagors up to the date of sale under this Judgment and Decree. The purchaser at the sale shall pay cash or certified funds to the person holding the sale. In any

case, a deposit shall be paid at the time of sale of at least Ten Thousand Dollars (\$10,000) in the form of cash, a bank treasurer's check, or certified funds. This provision shall not be required of Plaintiff or its designee.

8. Plaintiff is authorized to require the purchaser to sign a purchase and sales agreement. The public sale may be adjourned one or more times for a total time not exceeding thirty (30) days, without further court order, and without publication or service of a new notice of sale, by announcement of the new sale date to those present at each adjournment or by posting notice of the adjournment in a conspicuous place at the location of the sale. Notice of the new sale date shall also be sent by first class mail, postage prepaid, to the mortgagor at the mortgagor's last known address at least five (5) days before the new sale date. The public sale may be adjourned for a period of time in excess of thirty (30) days by agreement of the mortgagor and mortgagee or by order of the Court.

9. **Report of Sale.** The person holding the public sale shall file a Report of Sale, under oath, with the Court pursuant to 12 V.S.A. § 4954(a). The person holding the public sale, or the attorney for the Plaintiff, shall retain all sale proceeds as custodian, to be disbursed in accordance with the final Confirmation Order of this Court promptly following confirmation pursuant to 12 V.S.A. § 4954(a).

10. **Confirmation.** Plaintiff shall file a request for confirmation, which shall set forth the satisfaction of all statutory requirements for confirmation, supported by affidavit if necessary, and a proposed distribution of sale proceeds in specified amounts together with a factual basis for such distribution supported by the record and affidavit(s) if necessary. Plaintiff shall serve, by first-class mail, postage prepaid, all parties who appeared in the case or their attorneys of record and the mortgagors, at the mortgagors' last known address, and

any person who participated in the public sale, with any motion for confirmation and report of sale.

Upon confirmation, Plaintiff may be allowed reasonable attorneys' fees and the reasonable expenses of make the sale, as well as taxes paid since the accounting, if any, pursuant to 12 V.S.A. § 4935. If the Court confirms the sale, the Court shall issue a Final Confirmation Order which shall set forth the information required by V.R.C.P. 80.1(k) and shall order distribution of sale proceeds to named persons in specified amounts in accordance with V.R.C.P. 80.1(g)(1). If the Court confirms the sale, the Confirmation Order shall constitute conclusive evidence as against all persons that the power was duly executed. When the purchase price has been paid in full and the Confirmation Order recorded in the land records, transfer of title is effectuated pursuant to 12 V.S.A. § 4954(b).

11. **Deficiency Claim.** Any motion for a deficiency judgment based on a claim in the Complaint shall be filed within the time allotted by 12 V.S.A. § 4954(d), otherwise any claim for a deficiency judgment will be dismissed at the time of entry of the Confirmation Order.

If you wish to appeal this Judgment, you must request permission to appeal by motion filed with the Court within 14 days of the date of entry of the judgment.

DATED at Newfane, Vermont this _____ day of 7/11/2020, 2020.



Superior Court Judge Windham Unit,
Civil Division

Received for Record at Wilmington, VT
On 10/23/2020 At 3:00:00 pm

