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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED
2014 AUG 11 AM 10:36

J. KUBO
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION, SUCCESSOR BY MERGER
WITH CHASE HOME FINANCE, L.L.C.

Plaintiff,

vs.

TSUNG-JUNG CHEN; SU-CHING BACON;
ASSOCIATION OF APARTMENT
OWNERS OF PEARLRIDGE SQUARE;
JOHN DOES 1-50; JANE DOES 1-50; DOE
PARTNERSHIPS 1-50; DOE
CORPORATIONS 1-50 AND DOE
GOVERNMENTAL UNITS 1-50;

Defendants.

CIVIL NO. 11-1-2539-10
(FORECLOSURE)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR CANCELLATION OF
SALE, PARTIAL FORFEITURE OF
DEPOSIT, TO REOPEN AUCTION SALE
AND ALLOW REBIDDING AND FOR
ORDER CONFIRMING FORECLOSURE
SALE, ALLOWANCE OF COSTS,
COMMISSIONS, FEES, DIRECTING
CONVEYANCE AND FOR WRIT OF
POSSESSION FILED JUNE 4, 2014;
EXHIBIT "A"**

Hearing Scheduled For:

Date: July 3, 2014

Time: 9:00 a.m.

Judge: Honorable Bert I. Ayabe

No Trial Date Set

**ORDER GRANTING PLAINTIFF'S MOTION FOR CANCELLATION OF SALE,
PARTIAL FORFEITURE OF DEPOSIT, TO REOPEN AUCTION SALE AND ALLOW
REBIDDING AND FOR ORDER CONFIRMING FORECLOSURE SALE,
ALLOWANCE OF COSTS, COMMISSIONS, FEES, DIRECTING CONVEYANCE
AND FOR WRIT OF POSSESSION FILED JUNE 4, 2014**

Plaintiff's *Motion for Cancellation of Sale, Partial Forfeiture of Deposit, To Reopen Auction Sale and Allow Rebidding and For Order Confirming Foreclosure Sale, Allowance of Costs, Commissions, Fees, Directing Conveyance and For Writ of Possession* filed June 4, 2014, was heard on July 3, 2014, before the Honorable Bert I. Ayabe.

Plaintiff, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER WITH CHASE HOME FINANCE, LLC ("Plaintiff") was represented by Robin Miller Esq., RCO Hawaii, LLLC. Also appearing was Commissioner Patricia Kim Park ("Commissioner"), duly appointed by this Court pursuant to the Interlocutory Decree of Foreclosure previously filed herein and high bidder RONALD W.S. TOM. No other parties appeared.

The Court having considered the motion, Commissioner's Report and First Request for Instructions, declarations, memoranda and exhibits presented in support of the motion, makes the following findings which are further and in addition to those set forth in the Findings of Fact heretofore filed in this Court on September 17, 2013 to wit:

FINDINGS OF FACT

1. That the Commissioner appointed by the *Interlocutory Decree of Foreclosure*, filed herein on September 17, 2013 (hereinafter "Decree"), did advertise for sale and at public auction at 12:00 noon on December 4, 2013, at the entrance to 777 Punchbowl Street, Honolulu, HI 96813, did sell, subject to this Court's confirmation, the property located at 98-288 KAONOHI STREET APT. 3602, AIEA, HI 96701, as described in the Decree and in Exhibit "A" attached hereto ("Property"), all pursuant to and in accordance with this Court's decree and order.

2. Plaintiff filed its *Motion for Order Confirming Foreclosure Sale, Allowance of Costs, Commissions, Fees, Directing Conveyance and for Writ of Possession* (“Plaintiff’s Confirmation Motion”) herein on January 31, 2014. At the hearing of Plaintiff’s Confirmation Motion on February 27, 2014, the sale of the Property to Ronald W.S. Tom for \$348,000.00 was confirmed and Plaintiff’s Confirmation Motion was granted.

3. That as expressed in his letter dated May 20, 2014, high bidder Ronald W.S. Tom expressed his desire to cancel the sale for the following reasons: (1) it has taken too long to close; (2) due to the delay, contractor prices are stale and their availability is questionable; (3) the deposit could have been used for other investments; and (4) no one informed Mr. Tom he had personal liability for taxes. A true and correct copy of said letter is attached to Plaintiff’s subject motion as Exhibit “A.”

4. That as a result of Mr. Tom’s desire to cancel the sale, Plaintiff filed its *Motion for Cancellation of Sale, Partial Forfeiture of Deposit, To Reopen Auction Sale And Allow Rebidding and For Order Confirming Foreclosure Sale, Allowance of Costs, Commissions, Fees, Directing Conveyance And For Writ of Possession* on June 4, 2014 (“Motion to Cancel and Confirm”).

5. At the hearing of Plaintiff’s Motion to Cancel and Confirm on July 3, 2014, bidding was re-opened allowing interested and qualified bidders to bid on the Property, subject to court confirmation. The re-opened auction was not subject to the five percent (5%) higher bid requirement set forth in Paragraph 11 of Plaintiff’s *Order Granting Plaintiff’s Motion for Default and/or Summary Judgment Against all Parties and for Interlocutory Decree of Foreclosure File May 23, 2013* entered herein on September 17, 2013.

6. That Plaintiff bid \$347,084.00 for the Property, and as the sole bidder at the re-opened auction, is the new high bidder for the Property.

7. That the sale by said Commissioner was legally made and fairly conducted, that the Decree has in all respects been complied with by said Commissioner, and that the sale to Plaintiff, or its nominee, of the Property for \$347,084.00 is proper and said price is fair and equitable and as high as that which can be obtained under the circumstances.

8. That the amounts due to Plaintiff on its Note and Mortgage in accordance with the Decree heretofore entered by this Court are as follows:

Principal	\$274,865.69
Interest (1/1/09 to 12/31/12 at Variable rate)	\$ 82,459.68
Pre-Acceleration Late Charges	\$ 1,183.08
Escrow	
Escrow Deficiency-Real Estate	
Taxes for the year 2012	\$ 814.98
Escrow Deficiency-Real Estate	
Taxes for the year 2011	\$1,200.03
Escrow Deficiency-Real Estate	
Taxes for the year 2010	\$2,012.03
Previous years taxes	\$ 179.33
Hazard Insurance	\$0.00
Mortgage Insurance Premium/ Private Mortgage Insurance	\$0.00
Credits	<u>\$0.00</u>
Total Escrow	\$4,206.37
Broker's Price Opinion/Appraisals	\$ 0.00
Property Preservation	\$ 0.00
Previous Bankruptcy Fees/Costs	\$ 0.00
Property Inspections	\$ 252.00
Suspense	(\$1,919.70)
Miscellaneous Charges/ Credits as follows:	\$ 0.00
 TOTAL DUE	 <u>\$361,047.12</u>

That the total sum of \$361,047.12 together with per diem interest accruing on the principal sum due of \$274,865.69 per current term for each day after December 31, 2012, and the real property

tax and insurance after said date until the conveyance of the Property hereinafter authorized and the Commissioner's fees and costs herein awarded are secured by the lien of the Mortgage on the said property, which lien is subject only to the lien of unpaid State of Hawaii real property taxes.

9. That a fee of \$5,701.46, inclusive of Hawaii State GET is a reasonable fee for the Commissioner for services rendered herein; that said Commissioner has in addition reasonably incurred costs for publication of legal notice of sale and other matters in the sum of \$1,804.60.

10. That the fees of \$2,500.00 are reasonable attorneys' fees and \$3,882.68 are reasonable costs.

11. That Title Guaranty Escrow Services, Inc., is owed \$1,149.92 for escrow fees and costs incurred as a result of the sale cancelled by RONALD W.S. TOM.

12. That there is no just reason for delay in entering a final judgment in favor of Plaintiff against all parties.

And good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Plaintiff's *Motion for Cancellation of Sale, Partial Forfeiture of Deposit, To Reopen Auction Sale and Allow Rebidding and For Order Confirming Foreclosure Sale, Allowance of Costs, Commissions, Fees, Directing Conveyance and For Writ of Possession filed June 4, 2014*, is hereby granted.

2. That the sale to RONALD W.S. TOM for \$348,000.00 is hereby cancelled.

3. That the deposit of RONALD W.S. TOM shall be returned to him less \$1,149.92 for escrow fees and costs. Said \$1,149.92 shall be paid to Title Guaranty Escrow Service, Inc.

4. That in accordance with the *Interlocutory Decree of Foreclosure*, entered herein on September 17, 2013, the sale of the Property described in Exhibit "A" attached hereto to Plaintiff, or its nominee, at the bid price of \$347,084.00 as set forth above is hereby confirmed and approved and the Commissioner is hereby authorized and directed to make, execute and deliver a good and sufficient conveyance, free and clear of the interests and claims of all parties to this proceeding, in and to said Property, to Plaintiff or its nominee, said sale to close within 35 days from the entry of this order.

5. That the *Commissioner's Report*, filed herein on December 10, 2013, *Supplement to Commissioner's Report Filed In This Action on December 10, 2013*, filed herein on January 30, 2014, and *Erratum: Correction to Declaration of Patricia Kim Park*, filed herein on January 31, 2014, are hereby approved and ratified.

6. That the Commissioner is hereby awarded the sum of \$5,701.46, inclusive of Hawaii State GET for services as Commissioner and costs in the sum of \$1,804.60.

7. That the Commissioner is hereby authorized and directed to pay all delinquent and accrued real property taxes and/or lease rents, if any, with respect to the Property out of the proceeds of the foreclosure sale, prorated as of the date of closing.

8. That Attorneys' fees and costs are hereby awarded in the total sum of \$6,382.68.

9. That upon the conveyance of the Property herein authorized, the total purchase price of \$347,084.00 shall be disbursed as follows:

(a) First to the Commissioner the sum of \$7,506.06.

(b) The balance of said purchase price shall be paid to Plaintiff.

10. That Defendant TSUNG-JUNG CHEN and all other persons claiming by, through or under them shall be and are forever barred of any and all right, title and interest in and to the Property and every part thereof.

11. That upon delivery to Plaintiff, or its nominee, of the conveyance herein authorized and directed, said purchaser shall be entitled to the immediate exclusive possession of all of the Property.

12. That upon the Commissioner conveying the Property to Plaintiff, or its nominee, distributing the funds to those persons and parties in the amounts and in the order of priority directed by this Court, and the Commissioner filing his Commissioner's Final Report and Distribution Statement herein, attaching receipts of these amounts from those persons or parties who are entitled to receive such amounts, the Commissioner will be discharged from any further responsibilities and liabilities thereof.

13. That this Court hereby authorizes the issuance of a Writ of Possession in favor of Plaintiff, or its nominee, commanding the Sheriff to remove any and all persons in or on the Property, and all of their personal belongings, except any tenant occupying the Property pursuant to a bona fide lease or tenancy as defined by the Protecting Tenants at Foreclosure Act, from the Property.

14. That this Court shall retain jurisdiction of this case to enter appropriate orders, if necessary, including but not limited to, giving Plaintiff, or its nominee, possession of the Property, and entering judgment on the claims of the other parties herein.

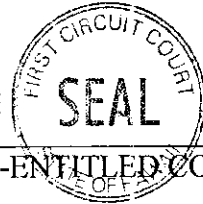
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15. Pursuant to HRCP Rule 54(b), this Court expressly directs that this Order and the Judgment thereon shall be entered as a final judgment in favor of the Plaintiff against all parties as there is no just reason for delay.

DATED: Honolulu, Hawaii, AUG 11 2014.

BERT I. AYABE



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:


Patricia Kim Park, Commissioner

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER WITH CHASE HOME FINANCE, LLC v. TSUNG-JUNG CHEN, et al., Civil No.11-1-2539-10, First Circuit Court, State of Hawaii
"ORDER GRANTING PLAINTIFF'S MOTION FOR CANCELLATION OF SALE, PARTIAL FORFEITURE OF DEPOSIT, TO REOPEN AUCTION SALE AND ALLOW REBIDDING AND FOR ORDER CONFIRMING FORECLOSURE SALE, ALLOWANCE OF COSTS, COMMISSIONS, FEES, DIRECTING CONVEYANCE AND FOR WRIT OF POSSESSION FILED JUNE 4, 2014"

EXHIBIT A

Real property in the County of Honolulu, State of Hawaii, described as follows:

FIRST: APARTMENT NO. 3602 IN THE BUILDING OF THE PROJECT KNOWN AS "PEARLRIDGE SQUARE", AS DESCRIBED IN AND ESTABLISHED BY THE DECLARATION OF HORIZONTAL PROPERTY REGIME RECORDED OCTOBER 22, 1979 AS BOOK 14086 PAGE 347, AS AMENDED, OF OFFICIAL RECORDS (HEREINAFTER COLLECTIVELY CALLED THE "DECLARATION"), AS SHOWN ON REGULAR SYSTEM CONDOMINIUM MAP NO. 658 (HEREINAFTER CALLED THE "CONDOMINIUM MAP").

TOGETHER WITH APPURTENANT EASEMENTS AS FOLLOWS:

(A) EXCLUSIVE EASEMENT TO USE PARKING STALL(S), IF ANY, APPURTENANT TO THE APARTMENT AS SET FORTH IN SAID DECLARATION AS SHOWN ON SAID CONDOMINIUM MAP.

(B) NONEXCLUSIVE EASEMENTS IN THE COMMON ELEMENTS DESIGNED FOR SUCH PURPOSES FOR INGRESS TO AND EGRESS FROM, UTILITY SERVICES FOR AND SUPPORT OF SAID APARTMENT, IN THE OTHER COMMON ELEMENTS FOR USE ACCORDING TO THEIR RESPECTIVE

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First American Title Company, Inc.

PURPOSES, AND IN ALL OTHER APARTMENTS OF SAID BUILDING FOR SUPPORT.

SECOND: AN UNDIVIDED 0.63% INTEREST IN ALL COMMON ELEMENTS OF SAID PROJECT, INCLUDING THE LAND ON WHICH SAID PROJECT IS LOCATED, AS ESTABLISHED FOR SAID CONDOMINIUM UNIT BY THE DECLARATION, AS AMENDED, OR SUCH OTHER PERCENTAGE OR FRACTIONAL INTEREST AS HEREAFTER ESTABLISHED FOR SAID CONDOMINIUM UNIT BY ANY

AMENDMENT OF THE DECLARATION, AS TENANT IN COMMON WITH THE OTHER CURRENT AND FUTURE OWNERS AND TENANTS FROM TIME TO TIME THEREOF.

BEING THE PREMISES CONVEYED BY TRUSTEE'S LIMITED WARRANTY DEED PEARLRIDGE SQUARE APARTMENT NO. 3602 RECORDED JULY 31, 2003 AS REGULAR SYSTEM DOCUMENT NO. 2003-158435 OF OFFICIAL RECORDS.

GRANTOR: KAREN M. NII, IN HER CAPACITY AS TRUSTEE OF THE MARITAL TRUST CREATED IN SECTION 5.04 A OF THE JACK H. UJIMORI TRUST DATED DECEMBER 22, 1992, AS AMENDED BY INSTRUMENT DATED APRIL 6, 1994

GRANTEE: SU-CHING BACON, WIFE OF PETER ROBERT BACON AND TSUNG-JUNG CHEN, UNMARRIED, AS JOINT TENANTS

THE LAND UPON WHICH SAID CONDOMINIUM PROJECT IS SITUATE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL FIRST:

ALL OF THAT CERTAIN PARCEL OF LAND (BEING A PORTION OF ROYAL PATENT NO. 1963, LAND COMMISSION AWARD NO. 5524, APANA 6 TO L. KONIA), SITUATED ON THE NORTHWESTERLY SIDE OF KAONOHI STREET EXTENSION AT KAONOHI, KALAUAO, EWA, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, BEING LOT D, BEING PORTIONS OF LOTS 79, 80 AND 81 OF FILE PLAN 1060, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THIS PARCEL OF LAND, ON THE NORTHWESTERLY SIDE OF LOT 89 (KAONOHI STREET EXTENSION) OF KAONOHI RIDGE SUBDIVISION, UNIT I, SECTION B (FILE PLAN 1060), THE COORDINATES OF WHICH REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "SALT LAKE" BEING 8953.01 FEET NORTH AND 11,318.07 FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM

TRUE SOUTH:

1. 21° 35' 107.92 FEET ALONG THE NORTHWESTERLY SIDE OF LOT 89 (KAONOHI STREET EXTENSION) OF KAONOHI RIDGE SUBDIVISION, UNIT I, SECTION B (FILE PLAN 1060);
2. 111° 35' 231.65 FEET ALONG THE REMAINDER OF L. C. AW. 5524, APANA 6 TO L. KONIA;
3. 201° 35' 107.92 FEET ALONG THE REMAINDER OF L. C. AW. 5524, APANA 6 TO L. KONIA;
4. 291° 35' 231.65 FEET ALONG THE REMAINDER OF L. C. AW. 5524, APANA 6 TO L. KONIA TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 25,000 SQUARE FEET, MORE OR LESS.

PARCEL SECOND:

ALL OF THAT CERTAIN PARCEL OF LAND (BEING PORTION OF ROYAL PATENT NO. 1963, LAND COMMISSION AWARD NO. 5524, APANA 6 TO L. KONIA) BEING LOT E, THE SAME BEING PORTIONS OF LOTS 80 AND 81 OF FILE PLAN 1060, SITUATED ON THE SOUTHWESTERLY SIDE OF PROPOSED INTERSTATE HIGHWAY FEDERAL AID PROJECT NO. I-H1-1(16) AND ON THE NORTHWESTERLY SIDE OF KAONOHI STREET EXTENSION AT KAONOHI, KALAUAO, EWA, CITY

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First American Title Company, Inc.

AND COUNTY OF HONOLULU, STATE OF HAWAII, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THIS PARCEL OF LAND, ON THE

NORTHWESTERLY SIDE OF LOT 89 (KAONOHI STREET EXTENSION) OF KAONOHI RIDGE SUBDIVISION, UNIT I, SECTION B (FILE PLAN 1060), THE COORDINATES OF WHICH REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "SALT LAKE" BEING 8953.01 FEET NORTH AND 11,318.07 FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 111° 35' 231.65 FEET ALONG REMAINDER OF L. C. AW. 5524, APANA 6 TO L. KONIA;
2. 201° 35' 107.51 FEET ALONG REMAINDER OF L. C. AW. 5524, APANA 6 TO L. KONIA;
3. 291° 22' 37" 231.65 FEET ALONG THE SOUTHWESTERLY SIDE OF PROPOSED INTERSTATE HIGHWAY (F.A.P. NO. I-H1-1 16);
4. 21° 35' 108.34 FEET ALONG THE NORTHWESTERLY SIDE OF LOT 89 (KAONOHI STREET EXTENSION) OF KAONOHI RIDGE SUBDIVISION, UNIT I, SECTION B (FILE PLAN 1060) TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 25,000 SQUARE FEET, MORE OR LESS.

TMK(S): {1} 9-8-039-005-0247