

Nationstar Mtge. LLC v Cole
2019 NY Slip Op 33899(U)
April 2, 2019
Supreme Court, Ontario County
Docket Number: 115884-2017
Judge: Craig J. Doran
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At a Motion Term of the Supreme Court of the State of New York held in and for the County of Ontario, located at 27 North Main Street, Canandaigua, New York 14424, on this 22nd day of February, 2019.

SUPREME COURT
STATE OF NEW YORK COUNTY OF ONTARIO

NATIONSTAR MORTGAGE LLC,

Plaintiff,

-against-

SHYLO H. COLE and JOHN DOE NO. 1 through JOHN DOE NO. 10 inclusive, the names of the last 10 defendants being fictitious, the true names of said defendants being unknown to plaintiff, the parties intended being those having or claiming an interest in, possession of or lien upon the premises described in the complaint,

Defendants.

ORDER

Index No. 115884-2017

Plaintiff, Nationstar Mortgage LLC (“Nationstar”), by its attorneys Harris Beach PLLC, having moved this Court for an order pursuant to CPLR § 3215 granting default judgment against Defendant Shylo H. Cole (“Defendant”), upon the grounds that Defendant was duly served with the Summons and Complaint and defaulted in appearance, and granting relief as follows: (i) on Nationstar’s First Cause of Action, reforming the legal description of real property contained in the Mortgage recorded in the Ontario County Clerk’s Office on March 22, 2006 in Liber 1816 of Deeds at page 194 (the “Mortgage”); (ii) on Nationstar’s Second Cause of Action pursuant to Article 15 of the Real Property Action and Proceedings Law: (a) declaring and adjudging Defendant as the owner in fee simple absolute of the premises described in the reformed legal description; (b) declaring and adjudging that the Mortgage is valid, enforceable,

and constitutes an encumbrance and lien on the premises described in the reformed legal description; (c) declaring every claim of Defendant adverse to that of Nationstar invalid and of no force or effect; and (d) forever barring Defendant, as well as any persons claiming by, through or under Defendant, from asserting any estate or interest adverse to that of Nationstar; and (iii) granting such other and further relief as this Court deems just and proper; and

NOW, upon reading the Notice of Motion For Partial Default Judgment dated January 17, 2019, the Affirmation of John A. Mancuso, Esq., dated January 17, 2019, together with attached exhibits, and the Affidavit of Barkley Sutton, sworn to on December 4, 2018, together with attached exhibits, all in support of Nationstar's Motion For Partial Default Judgment; and

NOW, upon the matter having been heard before the Honorable Craig J. Doran, J.S.C. on February 22, 2019, Harris Beach PLLC (John A. Mancuso, Esq.) appearing on behalf of Nationstar, and the Court having rendered a decision from the bench on February 22, 2019, and due deliberation having been had; it is hereby

ORDERED AND ADJUDGED, that Nationstar's Motion for Partial Default Judgment is hereby granted in all respects; and it is further

ORDERED AND ADJUDGED, that the legal description of the Mortgage recorded in the Ontario County Clerk's Office on March 22, 2006 in Liber 1816 of Deeds at page 194 is reformed as described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Canandaigua, County of Ontario and State of New York, being known and distinguished as Lot Numbers 17, 18 and 19 of the "Grand View Park" tract, so called, according to a map of said tract filed in the Ontario County Clerk's Office on October 8, 1903 as Map No. 143. Said lots being located on Ross Avenue, Canandaigua, New York.

Tax Map Reference 71.18-3-30.1

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Canandaigua, County of Ontario and State of New York, being known and distinguished as Lot Numbers 20 and 21 of the "Grand View Park" tract, so called, according to a map of said tract filed in the Ontario County Clerk's Office on October 8, 1903 as Map No. 143. Said lots being 40 feet in width and 140 feet in depth, and located on Ross Avenue, Canandaigua, New York.

Tax Map Reference 71.18-3-30.2 (collectively, the "Premises")

; and it is further

ORDERED, ADJUDGED AND DECLARED, that Defendant is the owner in fee simple absolute of the Premises described in the Mortgage, commonly known as 4704 Grandview Park, Canandaigua, New York; and it is further

ORDERED, ADJUDGED AND DECLARED, that the Mortgage is valid, enforceable, and constitutes an encumbrance and lien on the Premises; and it is further

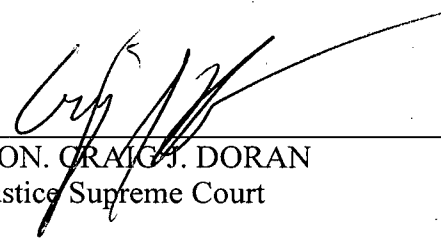
ORDERED AND ADJUDGED, that the Ontario County Clerk is directed to record, file and index to the name of Shylo H. Cole a certified copy of this Order and Judgment; and it is further

ORDERED AND ADJUDGED, that the caption of this action be amended to delete the name of "JOHN DOE NO. 1 through JOHN DOE NO. 10," said names being fictitious and there being no defendants unknown to Nationstar, or parties having or claiming an interest in, possession of, or lien upon the Premises; and it is further

ORDERED AND ADJUDGED, that upon the granting of Nationstar's Motion for Partial Default Judgment, the Third Cause of Action and Fourth Cause of Action are deemed moot.

Dated: April 2, 2019

ENTER:



HON. CRAIG J. DORAN
Justice Supreme Court

TO THE ONTARIO COUNTY CLERK:
Please index a copy of this Order to the name Shylo H. Cole.

4843-7803-7129, v. 3