

FILED

8/29/13

DATE: _____ TIME: _____ am/pm

By:
CLERK, FSM SUPREME COURT
KOSRAE
TRIAL DIVISION

SUPREME COURT
FEDERATED STATES OF MICRONESIA
TRIAL DIVISION - STATE OF KOSRAE

FSM Development Bank,)	CIVIL ACTION NO. 2012-2002
)	
Plaintiff,)	
v.)	
)	
KOSRAE SERVICE STAR, INC.,)	ORDER OF SALE
RAIMOND TULENSRU, AND BRIAN)	
ROGERS,)	
)	
Defendants.)	
_____)	

Judgment was entered in favor of Plaintiff, Federated States of Micronesia Development Bank ("FSMDB"), and against Defendant Kosrae Service Star Inc and Raimond Tulensru, on January 14, 2013 nunc pro tunc to June 4, 2012, in the amount of \$ 370,938.52. Post-judgment interest accrues at the statutory rate of 9% per annum. The judgment decreed that FSMDB has a valid and enforceable lien by virtue of the real property mortgage as to parcel no. 021-U-10, locally called Maal, situated in Utwe Municipality, Kosrae State.

Defendants have failed to make any payments on the judgment. As of March 13, 2013, the outstanding judgment against Defendants to FSMDB was the amount of \$ 376,892.89, including the principal and accrued post-judgment interest. The property owned by Defendant Raimond Tulensru secured to FSMDB is subject to sale pursuant to the judgment and Kosrae State Mortgage Law.

Plaintiff's Application for an Order of Sale and the proposed Order of Sale were filed on March 14, 2013 and served upon Defendants Kosrae Service Star Inc and Raimond Tulensru on March 14, 2013.

Based upon the facts of this matter, the judgment, FSMDB's application for an order of sale and the file in this matter, the Court finds that the Defendants have failed to pay the judgment amount for more than three months from the date of entry of the judgment, have failed to make any payments on the judgment and that the sale of the secured property is fastest way for the outstanding judgment amount to be paid.

Accordingly, an order of sale of the parcel is granted. The property shall be sold in accordance with the Kosrae State Code, Section 11.830.

Therefore, the Court HEREBY ISSUES an order of sale requiring the sale of the secured parcel subject to the following requirements:

A. Order of Sale.

1. Parcel No. 021-A-10 shall be sold by auction to the highest bidder, land known as Maal, situated in Utwe Municipality, Kosrae State, with an approximate area of 6,928 square meters, as described in the Certificate of Title issued to Raimond Tulensru and registered on June 22, 2004 at the

Kosrae Land Court and further described on cadastral plat no. 021-U-01, together with all buildings, fixtures, equipment and other improvements situated thereon.

2. Teroa George shall serve as FSMDB's Representative for Land Sales.

3. The auction shall be conducted by providing at least forty-five (45) days advance public notice of the bid submission cut off date in the Kaselehlie Press, posting of the notice of sale on the Bank's website, radio broadcasts for twenty-one (21) consecutive days to begin no later than twenty-one (21) days from the cutoff date in both English and Kosraean languages, television broadcasts for seven (7) consecutive days to begin no later than seven (7) days from the cutoff date, and print advertisements posted on the subject parcel and in at least three (3) conspicuous public places (such as the post office), in Utwe Municipality and in other locations in Kosrae State no later than twenty-one (21) days from the cutoff date, all such notices providing a description of the parcel to provide a reasonable return from the sale.

The Bank and Teroa George shall be responsible for arranging for these public disclosures and its costs shall be deducted from the auction proceeds and paid over to the Bank accordingly upon submission of proof of the amounts expended and Court approval.

4. The auction shall take place through the submission of sealed bids to be delivered to Teroa George on the date and time set for the auction, at the front entrance area of the FSM Supreme Court courthouse in Tofol, Kosrae State. Teroa George shall be the person responsible for receipt, care and custody of the bid submissions.

5. The auction shall have no reserve price for the parcel. A deposit for 5% of the total bid amount must be submitted with each bid submission. All deposits shall be submitted through a cashier's check payable to FSM Development Bank. Any bid submission which does not include the 5% deposit through a cashier's check shall be immediately disqualified from consideration for the auction. FSMDB shall maintain custody of all bid deposits in a locked vault and be responsible for the care and custody of the deposits.

6. Teroa George shall promptly notify the winning bidder, FSMDB and the Court of the winning bidder and the bid amount.

7. A Court order transferring title to the parcel including all buildings, fixtures, equipment, and other improvements on the parcel, shall be issued upon delivery of a cashier's check in the full amount of the remaining bid amount payable to the FSM Development Bank no later than ten (10) days after notice is given along with proof of the bidder's FSM citizenship. Failure of a winning bidder to make timely

payment of the full amount of the remaining bid amount after notice of award is given shall result in the loss of that bidder's deposit, which shall be credited by FSMDB to outstanding judgment herein.

8. Upon delivery to the Bank the payment for the parcel, the Bank shall credit the payment on the judgment herein, subject to deduction of costs of expenses as provided in paragraph 3. If there is any surplus from the sale, it shall be brought to the Court for disbursement to the Defendants upon Court order.

9. Upon qualification of the highest bidder and full payment of the winning bid amount, FSMDB shall endorse and return all other deposits submitted by other bidders to the subject bidders within two (2) business days.

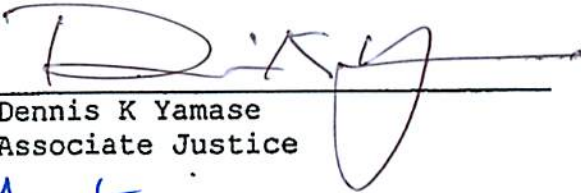
B. Grace Period/Modification of Order in Aid of Judgment.

Defendants shall be given a grace period of forty-five (45) days following entry of this order before any auction may occur during which time Defendants shall have the option of fully satisfying the judgment. If the judgment is satisfied at any time prior to the court order transferring title to the parcel is entered, the transfer of title will not proceed.

In the event that the proceeds generated from the sale of the parcel is insufficient to satisfy the judgment, Plaintiff

may seek an order in aid of judgment to provide additional payments on the judgment.

So ordered this 29th day of August 2013.


Dennis K Yamase
Associate Justice

Entered this 29th day of August 2013.


Clerk of Courts