

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

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DK T BK 3,311 PG 709
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL ASSOCIATION
FKA THE BANK OF NEW YORK TRUST COMPANY,
N.A. AS SUCCESSOR TRUSTEE TO JP MORGAN
CHASE BANK N.A., AS TRUSTEE FOR RAMP 2006RZ3

PLAINTIFF

V.
ANTONIO ABRAM,
EMILY KAYE COURTEAU IN HER CAPACITY AS TRUSTEE,
AND ONLY IN THAT CAPACITY AND FORD MOTOR
CREDIT COMPANY, LLC

CAUSE NO.: 10-12-2756

DEFENDANTS

ORDER OF DEFAULT JUDGMENT
GRANTING REFORMATION OF DEED OF TRUST

THIS CAUSE having come forth for hearing on Motion of the Petitioners' and the Clerk's Entry of Default against Defendant Abram, this Court having reviewed the Petition and other documents filed in this matter now enters the following Final Order on Petition for Reformation as follows: and the Court being fully advised of the premises does find as follows:

1) That Defendant Antonio Abram was fully served with a copy of the Summons together with a copy of the Petitioners' Petition, in accordance with the Mississippi Rules of Civil Procedure, on January 28, 2011. Defendants' Answer was due on or before February 28, 2011.

2) That Defendant Ford Motor Credit Company, LLC, was fully served with a copy of the Summons together with a copy of the Petitioners' Petition, in accordance with the Mississippi Rules of Civil Procedure, on February 4, 2011. Defendants' Answer was due on or before March 7, 2011.

3) That more than thirty (30) days have elapsed since the date on which the said Defendants were served with summons and copy of the Complaint.

FILED

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W E DAVIS, CLERK

*Hunt, Ross & Allen
P.O. Box 1196
Clarksdale, MS 38614*

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4) That Defendant Abram and Defendant Ford Motor Credit Company, LLC, have failed to answer or otherwise defend as to Petitioner's Petition, or serve a copy of any answer or any defense which it might have upon the Attorney of record for the Petitioners.

5) That Defendant Emily Kaye Courteau is an adult resident citizen of Monroe Louisiana and may be served with process of this Court at 2309 Oliver Road, Monroe, Louisiana 71201 and executed a valid waiver of service of process. Defendant Courteau has also failed to answer or otherwise defend as to Petitioner's Petition, or serve a copy of any answer or any defense which she might have upon the Attorney of record for the Petitioners.

6) That this Court has venue and jurisdiction over the parties and subject matter in this cause by virtue of section 11-51-1 of the Mississippi Code of 1972, as amended and because the property in question is situated in DeSoto County, Mississippi.

7) That by virtue of that Warranty Deed found in the land deed records of DeSoto County Chancery Court Land Records, filed on April 19, 1999, and located in Book 351, Page 10, Defendant, Antonio Abram is the owner in fee simple of certain real property located in DeSoto County, Mississippi, described above and further known as the tract of real property generally known as 5086 Elmore Road, Southaven, MS 38671.

8) That on April 13, 2006, Defendant Antonio Abram executed a Deed of Trust to Kirk Smith as Trustee for Mortgage Electronic Registration Systems, Inc., solely as nominee for SouthStar Funding, LLC, ISAOA, ATIMA or its successor in title, said instrument being recorded in Book 2459, Page 743 on April 27, 2006 in the Land Records of DeSoto County, Mississippi, and re-recorded in Book 2694, Page 652 on April 6, 2007 in the Land Records of DeSoto County, Mississippi.

9) That Mortgage Electronic Registration Systems, Inc., solely as nominee for SouthStar Funding, LLC, ISAOA, ATIMA or its successor in title, the beneficiary of the Deed of Trust assigned its interest in the Deed of Trust and the promissory note secured thereby to Plaintiff The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A., as Successor Trustee to JP Morgan Chase Bank N.A., as Trustee for Ramp 2006RZ3, on November 10, 2009, which was recorded in Book 3104, Page 398 on November 18, 2008 in the Land Records of DeSoto County, Mississippi and re-recorded in Book 3201, Page 200 on August 18, 2010 in the Land Records of DeSoto County, Mississippi.

10) That Defendant Antonio Abram is now in default pursuant to the terms of the Deed of Trust and the promissory note secured thereby.

11) That the Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A., as Successor Trustee to JP Morgan Chase Bank N.A., as Trustee for Ramp 2006RZ3, wishes to exercise its rights to sell the real property pledged as collateral pursuant to the Deed of Trust and the promissory note to satisfy the obligations of the Defendant Abram thereunder.

12) That the description of the real property securing the indebtedness in the Deed of Trust contains one or more errors considered to be "scrivener's errors." That the errors in the Deed of Trust are the result of a mutual mistake of the parties in the preparation of the Deed of Trust document. Finding that the accurate legal description for the property in question is as follows:

South West Quarter of South East Quarter of Section 6, Township 2 South, Range 7 West, DeSoto County, Mississippi: Beginning at the intersection of the east right of way of Elmore Road (90 feet wide) and the north line of the Southwest Quarter of the Southeast Quarter of Section 6, Township 2 South, Range 7 West, said point also being the northwest corner of Tract 1 of the Abrams Tract; thence South 0

degrees 07' 46" west 810.6 feet along the west line of said Tract 1 in the east right of way of Elmore Road to the Southwest corner of Lot 7 of said Tract 1 and the point of beginning of the following lot; thence North 89 degrees 41' 38" East 430.83 feet along the south line of said Lot 7 to the southeast corner of said Lot 7; thence South 0 degrees 12' 14" East 115.8 feet along the east line of said Tract 1 to a point; thence South 89 degrees 41' 38" west 431.53 feet to a point in the west line of Tract 1; thence North 0 degrees 07' 46" East 115.8 feet to the point of beginning and containing 1.14 acres, more or less.

13) That Land Deed of Trust in question was executed by Defendant Antonio Abram and the loan funds advanced by the Plaintiff's predecessor in title, Mortgage Electronic Registration Systems, Inc., solely as nominee for SouthStar Funding, LLC, ISAOA, ATIMA or its successor in title with the intention of all parties for Defendant Abram to provide that real property as security for the indebtedness referenced in the Deed of Trust. As a result of that execution and delivery of the Deed of Trust, Mortgage Electronic Registration Systems, Inc., solely as nominee for SouthStar Funding, LLC, ISAOA, ATIMA or its successor in title advanced credit in the amount of Two Hundred Thousand Dollars and 00/00 (\$200,000.00) to the Defendant Abram. This Deed of Trust, as stated above, was then assigned to The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A., as Successor Trustee to JP Morgan Chase Bank N.A., as Trustee for Ramp 2006RZ3, making Plaintiff the real party in interest.

14) That it was the intention of the parties that the real property described above be utilized as security for the debt referenced in the Deed of Trust, and that the holder of the Deed of Trust is authorized to pursue all remedies available to it pursuant to the terms of the Deed of Trust has been frustrated due to the scrivener's errors contained in the Deed of Trust and the Deed of Trust does not adequately reflect the intention of the parties.

15) That due to the scrivener's errors aforesated, it is appropriate for the Court to reform the Deed of Trust to reflect the intent of the parties by amending the instrument to reflect the correct legal description referenced above and in the Warranty Deed attached to the Petition.

16) That on November 10, 2009, a Substitution of Trustee was executed and recorded in Book 3104, Page 399 on November 18, 2009 in the Land Records of DeSoto County, Mississippi, and re-recorded in Book 3201, Page 201 in the Land Records of DeSoto County, Mississippi Substituting Kirk Smith with Defendant Emily Kaye Courteau as the new Trustee. Defendant Emily Kaye Courteau is named in her capacity as Trustee only.

17) That on April 23, 2010 a default judgment was entered against Defendant Abram by Defendant Ford Motor Credit Company, LLC, in the amount of Twenty Two Thousand Seven Hundred Fifty Nine Dollars and 79/00 (\$22,759.70), which was filed on April 23, 2010 and entered into the DeSoto County Mississippi Minute Book 117 at Page 97-98. The order was ultimately enrolled in Judgment Role File #69193 on April 28, 2010. And further that this Court finds, upon judicial reformation of the Plaintiff's Deed of Trust attached that the Ford Motor Credit Company, LLC's lien is now and shall remain inferior to the lien of the Plaintiff's Deed of Trust.

IT IS THEREFORE ORDERED:

1) That due to the scrivener's errors aforesated, the Court does hereby reform the Deed of Trust to reflect the intent of the parties by amending the Deed of Trust located in ~~Book 3104, Page 398~~ ^{Book 2459, Page 743} in the Land Records of DeSoto County, Mississippi and re-recorded on August 18, 2010 in Book ~~3201, Page 200~~ ^{2094 652} on in the Land Records of DeSoto County, Mississippi to reflect the correct legal description of:

South West Quarter of South East Quarter of Section 6, Township 2 South, Range 7 West, DeSoto County, Mississippi: Beginning at the

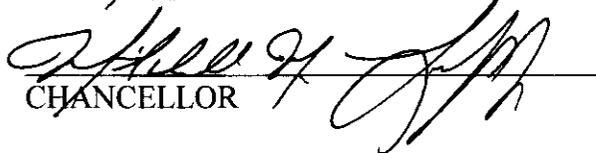
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intersection of the east right of way of Elmore Road (90 feet wide) and the north line of the Southwest Quarter of the Southeast Quarter of Section 6, Township 2 South, Range 7 West, said point also being the northwest corner of Tract 1 of the Abrams Tract; thence South 0 degrees 07' 46" west 810.6 feet along the west line of said Tract 1 in the east right of way of Elmore Road to the Southwest corner of Lot 7 of said Tract 1 and the point of beginning of the following lot; thence North 89 degrees 41' 38" East 430.83 feet along the south line of said Lot 7 to the southeast corner of said Lot 7; thence South 0 degrees 12' 14" East 115.8 feet along the east line of said Tract 1 to a point; thence South 89 degrees 41' 38" west 431.53 feet to a point in the west line of Tract 1; thence North 0 degrees 07' 46" East 115.8 feet to the point of beginning and containing 1.14 acres, more or less.

2) That this matter, all of the relief sought in the Petition to Reform the Deed of Trust is granted and is now fully and finally closed and ordering the Chancery Clerk to enter a true and correct copy of the decree in the land records of DeSoto County, Mississippi and file in the appropriate indexes.

SO ORDERED AND ADJUDGED, this the 14th day of June, 2011.


CHANCELLOR

Order Submitted By:


JOSHUA P. MOORE (MBN #101665)

Of Counsel:

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Indexing Instructions:

SE 1/4, Section 6, Township 2 South, Range 7 West, Desoto County, Mississippi