

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA

FEDERAL LAND BANK OF OMAHA, )

Plaintiff, )

vs. )

DONALD M. YOUNG, BARBARA F. YOUNG, )  
FARMERS AND MERCHANTS STATE BANK, )  
ELDON'S FORD MERCURTY, INC., )  
HUNTER OIL COMPANY, ROBERT L. RICE, )  
c/o WILLIAM WHEATCRAFT and FARMERS )  
COOPERATIVE ELEVATOR, )

Defendants. )

CASE NO.: 87-443-A

JUDGMENT AND  
DECREE OF FORECLOSURE

420

FILED NO. 151 PAGE 101

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Fee \$35.00

MARY E. WELTY  
RECORDER

MADISON COUNTY IOWA

NOW on this 2 day of December, 1987, this matter comes before the Court upon the Motion of the Plaintiff, Federal Land Bank of Omaha (FLB), for judgment by default against the Defendants, Donald M. Young, Barbara F. Young, Farmers and Merchants State Bank, Eldon's Ford Mercury, Inc., Hunter Oil Company, Robert L. Rice c/o William Wheatcraft and Farmers Cooperative Elevator. Plaintiff appears by G. Mark Rice of Adams, Howe & Zoss, P.C., and the Defendants, did not appear, nor anyone for them.

The records of this Court show that service has been made on all Defendants; and the time has elapsed for the Defendants to appear or plead. The Defendants, Donald M. Young and Barbara F. Young and the Farmers and Merchants State Bank appeared at the hearing held on the Plaintiff's Motion for Appointment of Receiver. However, the Defendants Donald and Barbara Young and the Farmers and Merchants State Bank did not file Answers to the Plaintiff's Complaint, nor has any other Defendant filed an Answer to the Plaintiff's Complaint.

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A Motion for Default Judgment was filed with the Clerk of Court on October 9, 1987, and pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure the Motion was served upon Donald and Barbara Young and Farmers and Merchants State Bank who entered an appearance at the hearing on Plaintiff's Motion for Appointment of Receiver. More than ten days have passed since service of the Motion for Default Judgment was made on the Defendants who appeared at the hearing, and no resistance was filed to the Motion for Default Judgment.

It further appears from the records of this Court that none of the Defendants is in the military service.

The Court, having examined the pleadings, affidavits and court file, finds that the facts are as alleged in the Complaint. There is no genuine issue as to any material fact and plaintiff is entitled to judgment and decree of foreclosure as a matter of law.

The Plaintiff has incurred attorney's fees in the amount of \$1,256.36 as shown in the Affidavit filed by the attorneys for the Plaintiff. The Plaintiff is entitled to recover a reasonable fee of \$756.36 from the sale of the real estate. The Plaintiff has also incurred abstracting costs in the amount of \$268.

IT IS THEREFORE ORDERED that the Defendants are in default; and that Plaintiff have and recover a personal judgment against the Defendants Donald M. Young and Barbara F. Young in the following amounts:

Principal	\$122,557.48
Interest through June 23, 1987	21,446.30
Court Costs	304.74
Attorney's Fees and Expenses	756.36
Abstracting Fees	<u>268.00</u>
Total	\$145,332.88

together with interest on the principal sum at the rate of \$34.5879 per day from and after June 23, 1987, plus all accruing costs.

IT IS FURTHER ORDERED that Plaintiff's mortgage lien recorded in the office of the Recorder, Madison County, Iowa, on September 3, 1976, in Book 124 at Page 530, is first, prior and senior to the lien, title or other interest of the Defendants Farmers and Merchants State Bank, Eldon's Ford Mercury, Inc., Hunter Oil Company, Robert L. Rice, c/o William Wheatcraft and Farmers Cooperative Elevator in the real estate situated in Madison County, Iowa, described as follows:

The Northwest Quarter and the North Half of the Northeast Quarter and the Northeast Quarter of the Northeast Quarter of Section 5, Township 74 North, Range 28 West of the 5th P.M.

IT IS FURTHER ORDERED that the Plaintiff's mortgage is established as a first and superior lien upon the mortgaged property over any lien, title or interest of the Defendants, and is foreclosed for the full amount of the judgment; and the judgment is decreed to be a lien on the mortgaged property from the date of the mortgage.

IT IS FURTHER ORDERED that the lien, title or other interest of any other Defendants are junior and inferior to the lien of Plaintiff's mortgage and that the Defendants are foreclosed from

all right, title and interest in and to the property subject to any statutory right of redemption.

IT IS FURTHER ORDERED that the period of statutory right of redemption is set at one year from the date of sale.

IT IS FURTHER ORDERED that the mortgaged property shall be sold at public sale in accordance with Section 2001-2003, Title 28, United States Code, by the United States Marshal and the Plaintiff be paid the amount of its judgment together with all accruing costs.

IT IS FURTHER ORDERED that the mortgaged property shall be sold at public auction in the County of Madison, State of Iowa, and that the United States Marshal shall give public notice of the time and place of the sale in the manner provided by law, and the publication of the sale shall be in a regularly issued newspaper of general circulation within Madison County, Iowa. The Notice shall be published each week for at least four weeks prior to sale. If Plaintiff shall be the successful bidder at the sale, the United States Marshal may take the receipt of the Plaintiff in lieu of the cash payment mentioned above.

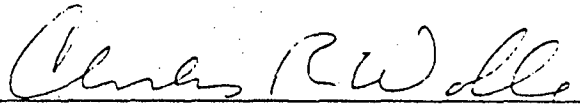
IT IS FURTHER ORDERED that the United States Marshall shall make and execute to the purchaser at the sale a Certificate of Purchase stating the purchase price and deliver it to the purchaser and that he also make a report of the sale to this Court.

IT IS FURTHER ORDERED that if the property is purchased by a bidder other than the Plaintiff, after deducting the costs of

the sale from the proceeds of the sale, the sum' of \$145,332.88 plus any additional interest and accruing costs then due to the Plaintiff in accordance with the terms of this Decree, shall be paid to the Plaintiff, or so much thereof as the money derived from the sale of the premises shall pay, and the surplus, if any, shall be deposited with the Clerk of this Court, subject to further order of the Court.

IT IS FURTHER ORDERED that if the holder of the Certificate of Purchase pays any taxes or assessments which are or may become a lien on the real estate, the same shall be a lien upon the premises, and whenever redemption is made from the sale, the party or parties redeeming shall pay to the Clerk of Court, in addition to the amount due on the Certificate, the amount paid or advanced together with interest of 10% per annum payable annually, before redemption can be made.

IT IS FURTHER ORDERED that if the sale is confirmed by this Court, a Marshal's Deed shall issue to the purchaser of the sale, or his heirs, representatives, or assigns and that possession of the property shall be given to the holder of the deed.

  
CHARLES R. WOLLE, JUDGE  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA

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FEDERAL LAND BANK OF OMAHA	)	NO. 87-443-A
	)	
Plaintiff,	)	
	)	
vs.	)	NUNC PRO TUNC ORDER
	)	
DONALD M. YOUNG, BARBARA F. YOUNG	)	
FARMERS AND MERCHANTS STATE BANK,	)	
ELDON'S FORD MERCURY, INC.,	)	
HUNTER OIL COMPANY, ROBERT L.	)	
RICE, c/o WILLIAM WHEATCRAFT and	)	
FARMERS COOPERATIVE ELEVATOR,	)	
	)	
Defendants.	)	

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Now on this 22 day of March, 1988, this matter comes before the Court.

The Court finds that on February 11, 1988, the Plaintiff, Federal Land Bank filed a Motion for a Nunc Pro Tunc Order pursuant to Federal Rule of Civil Procedure Rule 60.


The Court finds that Plaintiff moves the Court to correct the judgment and decree of foreclosure to correct the legal description of the Plaintiff's Mortgage contained in the pleadings.

The Court further finds that the Defendants were served with a copy of the Plaintiff's Motion for a Nunc Pro Tunc Order and no resistance was filed to the Motion.

IT IS THEREFORE ORDERED that the Judgment and Decree of Foreclosure filed on December 2, 1987, be and is corrected on page 3 to describe the real estate as follows:

The Northwest Quarter and the West Half of  
the Northeast Quarter; and the Northeast  
Quarter of the Northeast Quarter of Section  
Five, Township Seventy-four North, Range  
Twenty-eight West of the Fifth P.M.

In all other further respects and particulars the Judgment and  
Decree of Foreclosure remains unchanged.

  
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Charles R. Wolle, Judge of the  
United States District Court