IND.
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PAGE

IN THE IOWA DISTRICT COURT IN AND FOR MADISON COUNTY

UNION STATE BANK, #22306

Plaintiff

vs. DECREE OF FORECLOSURE

MERLE L. POTTORFF and
CLAUDIA R. POTTORFF

FILED NO. 1766
BOOK 34 PAGE 522
1983 MAY -3 PM 3:40
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
None - filed by
Clerk

A Decree of Foreclosure was filed May 2, 1983 in the District Court of Madison County against the following property:

The Southwest Quarter (1/4) of the Northeast Quarter (1/4) of Section Three (3), in Township Seventy-five (75) North Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa.

SEAL OF THE DISTRICT COURT MADISON COUNTY IOWA

Margaret Wheeler
Clerk of District Court
MADISON COUNTY, IOWA

5/2/83 gjr:ko

FILED
1983 MAY -2 PM 4:25
MARSHA
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

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UNION STATE BANK,	:	Number 22306 Equity
Plaintiff,	:	
vs.	:	
MERLE L. POTTORFF and CLAUDIA R. POTTORFF,	:	JUDGMENT AND DECREE OF FORECLOSURE AND JUDGMENT ON CROSS-PETITION
Defendants.	:	

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NOW on this 2nd day of May, 1983, this matter is before the Court on the Plaintiff's Motion for Summary Judgment pursuant to R.C.P. 237 as to Defendant Claudia R. Pottorff, on Plaintiff's Motion for Default Judgment as to Defendant Merle L. Pottorff, and on Defendant Claudia R. Pottorff's Motion for Default Judgment as Cross-Petitioner against Defendant Merle L. Pottorff.

The Defendant, Merle L. Pottorff, having been properly served with Original Notice as provided by law, and said Defendant having not appeared nor having anyone appear for him, and the Court, having examined the files herein, and being well and fully advised in the premises, finds:

The Defendant, Merle L. Pottorff, is in Default and should be so adjudged. The Plaintiff's Motion for Default Judgment against the Defendant, Merle Pottorff, is therefore sustained. The Defendant, Claudia R. Pottorff, having previously appeared by her atorney of record, Lewis H. Jordan, and not resisting the Plaintiff's Motion for Summary Judgment, and the Court having ruled accordingly on April 11, 1983, said motion is sustained. Further, the Defendant, Merle L. Pottorff, having been adjudged to be in default, the motion of the Defendant and Cross-Petitioner, Claudia R. Pottorff, for Default Judgment against the Defendant, Merle L. Pottorff, is also sustained.

The Court, in accordance with the foregoing, therefore makes the following findings:

The issues and equities in this cause are with the Plaintiff and the facts, statements and allegations contained in the Plaintiff's Petition are material and true, and the Plaintiff is entitled to the relief demanded in said Petition.

The note, as set out in Plaintiff's Petition, which note was dated May 9, 1981, in an amount in the sum of $60,687.04 payable to Plaintiff is a valid, legal and binding obligation of the Defendants, and each of them, and the mortgage described in Plaintiff's Petition is to secure said note on the following described real estate situated in Madison County, Iowa:

> The Southwest Quarter (¼) of the Northeast Quarter (¼) of Section Three (3), in Township Seventy-five (75) North Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa.

Said mortgage to secure the note in the sum of $60,687.04 described in Plaintiff's Petition, which mortgage was dated May 9, 1981, and was recorded on May 12, 1981, in Mortgage Record 134, Page 433, of the Records of the Office of the Recorder of Madison County, Iowa is a valid, legal and binding obligation of the Defendants, and each of them, and the same constitutes for the Plaintiff a valid first lien on the real estate herein described from the date of execution of the Plaintiff's said mortgage, to-wit: May 9, 1981, until the total indebtedness secured thereby is paid in full. Further, the lien of Plaintiff's said mortgage is prior, superior and paramount to the liens, claims, right, title and interest of the Defendants, and each of them, and all of them, or any one claiming by, through or under them, in and to the said morgaged premises.

The Defendants, and each of them, defaulted in the payment of principal and interest according to the terms of said note and mortgage, and the Plaintiff as holder of said note and mortgage elected and by this cause of action does declare the whole of said note due and payable in the entire amount of the principal and interest as all due and

collectible and the mortgage foreclosable at once as provided in said note and mortgage.

The Court expressly finds that the Defendants are of legal age and not under any legal disability, and none of the Defendants are entitled to the privileges, benefits or protection under the Soldiers' and Sailors' Civil Relief Act of 1940, or any amendments thereto.

The Plaintiff is the owner and holder of said note and mortgage and is entitled to judgment for the whole of said mortgage indebtedness with interest, plus judgment for any payments heretofore made, and the costs of this action, including abstract charges, attorney fees, other advancements and accrued costs herein, and is entitled to the establishment of its first lien on said mortgaged premises therefore and to the foreclosure of said mortgage to enforce the security thereof.

The Court further expressly finds that by reason of the Court having sustained the motion of the Defendant and Cross-Petitioner, Claudia R. Pottorff, for entry of Default Judgment against the Defendant, Merle L. Pottorff, the Defendant and Cross-Petitioner, Claudia R. Pottorff, is entitled to judgment against the Defendant, Merle L. Pottorff, for any and all sums she shall be caused to pay by virtue of the judgment granted the Plaintiff herein against the said Defendants, Merle L. Pottorff and Claudia R. Pottorff.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, Union State Bank, have and recover a personal judgment against the Defendants, Merle L. Pottorff, and Claudia R. Pottorff, for the following sums and amounts to-wit: $70,041.94, together with interest thereon at the rate of 12% per annum from and after August 19, 1982; $88.00 in accrued abstract expenses advanced by the Plaintiff, together with interest thereon at the rate of 12% per annum from and after August 20, 1982, the date upon which said abstract

expenses were advanced by the Plaintiff; $1,801.30 in delinquent real estate taxes advanced by the Plaintiff, together with interest thereon at the rate of 12% per annum from and after June 18, 1982, the date upon which said delinquent real estate taxes were advanced by the Plaintiff; $675.00 attorney fees plus all Court costs with interest upon said attorney fees and Court costs from the date of judgment herein at the rate of 10% per annum. Judgment in rem is likewise rendered on behalf of the Plaintiff for said sums against the real estate described herein and said judgment amounts are adjudicated and declared to be a valid and a first lien upon the real estate described from the date of the mortgage, May 9, 1981, until fully paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the said mortgage be foreclosed against the Defendants herein and that the said real estate situated in Madison County, Iowa, to-wit:

> The Southwest Quarter (¼) of the Northeast Quarter (¼) of Section Three (3), in Township Seventy-five (75) North Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa,

or so much thereof as may be necessary to make said judgment, interest, costs and accrued costs, including attorney fees, be sold to satisfy the same and that a special execution issue therefore, accordingly, and that upon such sale and failure of redemption thereof, as provided by law, then all of the rights, title, lien, interest and claim of each of the above-named Defendants, in and to the said real estate and each and every part thereof be forever barred and foreclosed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that if upon such sale under special execution the said real estate fails to be sold for an amount sufficient to satisfy said judgment, interest, costs and accruing costs, including attorney fees, a general execution may be issued against the Defendants, and each of them, and sale may be made thereunder to satisfy any deficiency remaining after such special execution sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the lien, claim, title or interest of the Defendants upon said mortgaged premises is junior and inferior and subsequent to the lien of the Plaintiff's said mortgage thereon, and the rights and equities of the Plaintiff in and to said real estate and the lien of the Plaintiff's said mortgage thereon, are prior, superior, and paramount to any of the rights, title or equities therein of the Defendants in this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that if the Plaintiff or the holder of the Sheriff's Certificate of Sale, shall pay any taxes or assessments which are or may become a lien upon the real estate so sold during the period of redemption, as provided by law, from said sale, or if the parties shall redeem said mortgaged property from said sale, or if the parties shall redeem said mortgaged property for any of such taxes or assessments, or advance any other defaults in connection with said mortgage, or advance any money for insurance to protect the improvements against loss by fire, windstorm, hail, that upon filing with the Clerk of the District Court a verified statement thereof as provided by law, the same shall be a lien upon said premises thereafter, and whenever redemption is made from such sale the party or parties so redeeming shall pay the Clerk of said Court, in addition to the amounts due on said certificate, the amount so paid or advanced together with interest thereon from the date of such payment at the rate of 10% per annum, payable annually before such redemption may be made.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retain jurisdiction of this cause for the purpose of entering any necessary orders in the future which the Court may deem necessary.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that in case no redemption is made from said sale, then upon demand therefore, the Clerk of this Court shall

issue to the Sheriff of said County a Writ of Removal and Possession commanding him to put the grantee named in the Sheriff's Deed for the premises so sold, or its grantee, in possession thereof, and to remove any Defendants or persons claiming by, through or under any of them, or any other person in possession thereof, out of such possession of said premises.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant and Cross-Petitioner, Claudia R. Pottorff, shall have judgment against the Defendant, Merle L. Pottorff, for any and all sums she shall be caused to pay by virtue of the judgment herein granted the Plaintiff, Union State Bank, against the Defendants, Merle L. Pottorff and Claudia R. Pottorff.

JUDGE OF THE FIFTH JUDICIAL DISTRICT
OF IOWA

APPROVAL AS TO FORM AND CONTENT:

Lewis H. Jordan
Farmers and Merchants State Bank Building
Winterset, Iowa 50273

ATTORNEY FOR DEFENDANT AND CROSS-PETITIONER, CLAUDIA R. POTTORFF