IND. ✓
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1983 AUG 19 AM 10: 04

MARGARET WHEELER
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IN THE IOWA DISTRICT COURT IN AND FOR MADISON COUNTY

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF CRESTON, a corporation

No. 22388

vs.

JERRY E. MOORE and REBECCA A. MOORE; UNION STATE BANK; and SMALL BUSINESS ADMINISTRATION, an agency of the United States of America

DECREE OF FORECLOSURE

Compared

370

FILED NO. ____
BOOK 34 PAGE 658

1983 AUG 19 PM 2:14

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

None Filed by County Clerk

In regard to the above numbered cause, a DECREE was filed in Madison County on August 19th, 1983, taking judgment against Jerry E. Moore and Rebecca A. Moore for the mortgage covering the following described real estate:

A tract of land described as follows, to-wit: Commencing at the Southeast Corner of the North Half (N½) of the Southeast Quarter (SE¼) of Section Twenty-one (21) in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, running thence 660 feet, then North 64 feet to the center of the public road, thence Northest 900 feet down the center of the public road to the East line of said Section Twenty-one (21), thence South 820 feet up the center of the public road to the point of beginning.

Margaret Wheeler

Clerk of District Court
MADISON COUNTY, Iowa

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1983 AUG 18 PM 3:19
MARGARET WHITTEN
CLERK OF DISTRICT COURT
MADISON CO. IT, IOWA

IN THE DISTRICT COURT OF THE STATE OF IOWA

IN AND FOR MADISON COUNTY

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF CRESTON, a corporation,	*	No. 22388
Plaintiff,	*	
VS.	*	DECREE
JERRY E. MOORE and REBECCA A. MOORE; UNION STATE BANK; and SMALL BUSINESS ADMINISTRATION, an agency of the United States of America,	*	
Defendants.	*	

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1983 AUG 19 PM 2:14
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
no fee

* * * * * * * * * * * *

BE IT REMEMBERED, that on the 12th day of AUGUST, 1983, this cause came on for hearing before the Court, the Plaintiff appearing by Anderson, Werner, & Holm, its attorneys, and the Defendant, United States of America, having filed a written Answer through its attorney, Robert C. Dopf, Assistant U. S. Attorney; the Defendants, Jerry E. Moore and Rebecca A. Moore, having filed a written Answer, pro se; and the Defendant, Union State Bank, appeared not, nor anyone for it.

The Court finds from an examination of the record and an examination of the military affidavit filed herein that none of the Defendants are now in the military service of the United States.

The Court finds that all of the Defendants have been duly and legally served with proper Original Notices as shown by the proofs on file and that the time for all appearances has passed, and that all Defendants have filed pleadings herein, except the Union State Bank. Default is hereby accordingly entered against Union State Bank.

The Court further finds that this Court has jurisdiction of the parties and of the subject matter herein.

The Court further finds that the Defendants, Jerry E. Moore and Rebecca A. Moore, have admitted all of the allegations contained in Paragraphs 1 through 16 of Plaintiff's Petition.

The matter thereupon proceeds to trial upon the Petition and the issues raised by the written Answers of the Defendants now on file as aforesaid.

The Court, after hearing Plaintiff's proof, finds that the facts are as alleged in the Petition and that the Plaintiff is entitled to the relief as herein awarded.

The Court further finds that on or about March 28, 1979, the Defendants, Jerry E. Moore and Rebecca A. Moore, husband and wife, made, executed and delivered to the Plaintiff their written Promissory Note in the principal amount of $37,500.00 payable in monthly installments to be applied to interest and principal with the first payment of interest and principal due on the last day of January, 1980, and at the same time and as part of the same transaction and as security for payment of said Note, the Defendants, Jerry E. Moore and Rebecca A. Moore, as husband and wife, made, executed and delivered to the Plaintiff a Real Estate Mortgage covering the following described real estate in Madison County, Iowa, to-wit:

> A tract of land described as follows, to-wit: Commencing at the Southeast Corner of the North Half (N 1/2) of the Southeast Quarter (SE 1/4) of Section Twenty-one (21) in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., Madison County, Iowa, running thence West 660 feet, thence North 64 feet to the center of the public road, thence Northeast 900 feet down the center of the public road to the East line of said Section Twenty-one (21), thence South 820 feet up the center of the public road to the point of beginning,

and that said mortgage was recorded on the 28th day of December, 1979, in Book 132 on Page 520 in the office of the Recorder of Madison County, Iowa.

The Court further finds that the Defendants, Union State Bank, assignor, and the United States of America, acting through the Small Business Administration, assignee, claim some interest in the above described real estate based on a certain Real Estate Mortgage dated January 14, 1980, and recorded on January 15, 1980, in Book 132 on Page 565 of the records of Madison County, Iowa, in the amount of $100,000.00 plus accrued interest, but that such Mortgage is a second lien against the above described real estate and as such is junior and inferior to the lien of the Plaintiff's mortgage.

The Court further finds that the lien of the Plaintiff's mortgage is paramount and superior to any interest, lien, claim, or right of any and all of the Defendants.

The Court further finds that there is due and owing the Plaintiff on the Promissory Note the sum of $40,588.31, plus interest at the rate of 11.375 percent per annum from May 31, 1983, and that there is also due the Plaintiff the sum of $80.00 advanced for necessary abstracting.

The Court further finds that the financing transaction evidenced by said Promissory Note is in excess of $35,000.00 and that therefore the provisions of the Uniform Consumer Credit Code, Chapter 537 of the Code of Iowa, is not applicable to this matter as it pertains to the recovery of attorney fees and that reasonable and proper fees shall be allowed.

The Court further finds that the Defendant - Mortgagors have admitted the allegations in Paragraph 14 of Plaintiff's Petition, and that said Defendant - Mortgagors and owners of the above described real estate no longer occupy said real estate and have abandoned it since the filing of the Petition herein and that pursuant to the terms of the Real Estate Mortgage the Plaintiff is entitled to have the period of redemption from foreclosure reduced from one year to sixty (60) days, and accord-

ingly the Plaintiff has waived any right to a deficiency judgment as provided by said terms of the mortgage and Section 628.27, Code of Iowa - 1983.

The Court further finds that the Plaintiff is entitled to enforce its lien against said described premises to the extent of $40,588.31, plus interest at 11.375 percent per annum from and after the last day of May, 1983, plus funds advanced for necessary abstracting, reasonable and proper attorney fees, and the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment in rem in the amount of $40,588.31, together with interest from the last day of May, 1983, at the rate of 11.375 percent per annum, to the date of this Decree in the total sum of $41,511.76 with interest thereon at the rate of 11.375 percent per annum until fully paid; and for money advanced for abstracting in the amount of $80.00; attorney fees in the amount of $1295.00; and the costs of this action in the amount of $42.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the lien of the Plaintiff's Mortgage recorded in Book 132 on Page 530 of the records in the office of the County Recorder of Madison County, Iowa is hereby established as a first and paramount lien to the extent of the judgment, abstracting costs, attorney fees and the costs of this action against the premises described below and is senior and superior to all rights, titles, interests, liens, or claims of all of the Defendants hereto, and is foreclosed against all of them. That special execution shall issue forthwith against the mortgaged real estate described as follows:

> A tract of land described as follows, to-wit: Commencing at the Southeast Corner of the North Half (N 1/2) of the Southeast Quarter (SE 1/4) of Section Twenty-one (21) in Township Seventy-five (75) North, Range Twenty-eight (28) West of

the 5th P. M., Madison County, Iowa, running thence West 660 feet, thence North 64 feet to the center of the public road, thence Northeast 900 feet down the center of the public road to the East line of said Section Twenty-one (21), thence South 820 feet up the center of the public road to the point of beginning,

to collect the judgment, interest and costs and accruing costs to the extent of Plaintiff's judgment, abstracting costs, attorney fees, and the costs of this action and that after sale hereunder, each Defendant is forever barred and foreclosed of all right, title and interest in the real estate except the statutory right to redeem, as provided by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED 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 on said real estate sold during the period of redemption from said sale, or if said parties shall redeem the mortgaged premises from sale for any such taxes or assessments, or advance any other defaults in connection with said mortgage, that upon filing with the Clerk of this 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 to the Clerk of said Court, in addition to the amount due upon such Certificate, the amount so paid or advanced, together with interest thereon from the date of such payment at the rate of 11.375 percent per annum, payable annually, before such redemption can be made.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the time of redemption from Sheriff's Sale is hereby reduced from one year to 60 days, it having been specifically found that the property has been abandoned and the Plaintiff herein having waived any deficiency judgment and being entitled to have the period of redemption reduced to 60 days as provided in said mortgage.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the real estate aforesaid or any part of it be sold under execution herein and be not redeemed, as by law provided, a Writ of Possession issue to the Sheriff of Madison County, Iowa, commanding him to put the Grantee under Sheriff's Deed in possession of the premises deeded to him.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court retain jursidiction of this matter until the expiration of the right of redemption and the issuance of a Sheriff's Deed.

George W Bergeson
JUDGE OF THE FIFTH JUDICIAL DISTRICT OF IOWA

APPROVED AS TO FORM:

ROBERT C. DOPF
Assistant U. S. Attorney

By Robert C. Dopf
Robert C. Dopf
Attorney for Defendant,
Small Business Administration,
an Agency of the United States
of America.