

66455-7

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NO. 66455-7-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

GMAC MORTGAGE, LLC

Appellant,

v.

SUMMERHILL VILLAGE HOMEOWNERS ASSOCIATION
and PLUMBLINE PROFIT SHARING PLAN,

Respondents.

RESPONDENT SUMMERHILL VILLAGE
HOMEOWNERS ASSOCIATION'S BRIEF

2021 MAY 17 6:11:50

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STATEMENT OF THE CASE

This appeal is confined to the question as to whether Appellant GMAC Mortgage, LLC (“GMAC”) has statutory redemption rights under RCW 6.23.010(1)(b). Respondent Summerhill Village Homeowners’ Association (“Association”) does not take a position on this issue.

The Association obtained a Default Judgment, Order and Foreclosure Decree for unpaid condominium assessments on October 6, 2009. CP 51-55. The foreclosure decree provided that the Association’s lien was in first position, senior to GMAC’s Deed of Trust that encumbered the property. CP 54. The Superior Court clerk subsequently issued an Order of Sale to the sheriff, who sold the property to Plumline Management Corporation Profit Sharing Plan on December 18, 2009. CP 72. The Association’s money judgment against the owner of the property was satisfied from the proceeds of the sale. CP 107-08. Nearly a year after the sale, GMAC filed a motion to, among other things, vacate the Default Judgment, Order and Foreclosure Decree. CP 175-86. The motion was denied. CP 410-11.

Originally, GMAC filed this appeal to, in part, reverse the trial court’s order denying GMAC’s motion to (1) vacate the judgment and to (2) seek declaratory relief that its Deed of Trust was not eliminated by the sheriff’s sale. CP 406-11. However, GMAC has now waived these specific

grounds for appeal. *Opening Brief*, p. 1. GMAC's sole assignment of error is the trial court's ruling that GMAC does not have statutory redemption rights following the sale. *Id.*

In fact, GMAC's entire argument that it qualifies as a redemptioner under RCW 6.23.010(1)(b) is based on the premise that it is a junior lienholder whose Deed of Trust was eliminated by the Association's sheriff's sale. *See, e.g., Opening Brief* at 1, 2, 4, 16-31, 37. By making this argument, GMAC acknowledges that the Association has a super-priority lien for unpaid condominium assessments in the amount of six months of assessments for common expenses that is senior to its Deed of Trust pursuant to RCW 64.34.364(3). Likewise, GMAC concedes that, because it didn't exercise its equitable redemption rights before the sheriff's sale by satisfying the super-priority lien, its Deed of Trust was eliminated by the sheriff's sale.

The Association does not take a position on the sole remaining issue before this Court as to whether GMAC has statutory redemption rights. The Association's judgment, which is no longer at issue in this appeal, has been satisfied.

Respectfully submitted this 17th day of May, 2011.

PODY & MCDONALD, PLLC

A handwritten signature in black ink that reads "Patrick M. McDonald". The signature is written in a cursive style with a horizontal line underneath the name.

Patrick M. McDonald, WSBA #36615
Attorney for Respondent

Certificate of Service

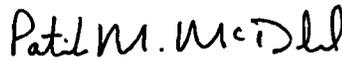
Patrick M. McDonald, under penalty of perjury of the laws of the state of Washington, declares as follows:

That a true and correct copy of Respondent's Brief was caused to be delivered via legal messenger on May 11, 2011 to counsel for Appellant and counsel for Plumline Management Corporation Profit Sharing Plan as follows:

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Signed at Seattle, Washington on May 17, 2011.



Patrick M. McDonald