

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

FLAGSTAR BANK, FSB,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:16-cv-00095
	)	
DONALD J. MOOK and DANA W. MOOK	)	
	)	
Defendants.	)	
	)	

ORDER

BEFORE THE COURT is the motion of the plaintiff, Flagstar Bank, FSB, for an order confirming sale and deficiency judgment. (ECF Nos. 44 and 47.) For the reasons stated below, the Court will grant Flagstar Bank's motion.

On November 21, 2016, Flagstar Bank, FSB, ("Flagstar") initiated this action for debt and foreclosure against Donald Mook and Dana Mook ("the Mooks"). Flagstar sought a joint and several judgment of debt and foreclosure against the Mooks.

The Mooks did not answer or appear upon service. On November 7, 2017, the Clerk of Court entered default against the Mooks.

On November 15, 2017, Flagstar moved for default judgment against the Mooks. On December 28, 2017, the Court entered default judgment against the Mooks. (ECF No. 31.) The Court ordered the Mooks to pay to Flagstar the sum of \$483,346.64 plus interest at a rate of \$69.18 per day after September 1, 2017, until the date of judgment. *Id.* at 6. Finding Flagstar's mortgage to be a first priority lien, the Court also ordered foreclosure of property described as:

Parcel No. 1X-1-N Estate Wintberg, No. 3 Great Northside Quarter, St. Thomas, U.S. Virgin Islands, as described and shown on OLG No. A9-466-T95 consisting of .2713 acres, more or less[] (the "Property").

Id. at 1-2 (the "Property").

Thereafter, on February 6, 2018, the Court issued a writ of execution for the debt against the Mooks in the amount of \$491,509.88, plus interest at the statutory rate from the date of entry of the default judgment until the judgment is satisfied. (ECF No. 39.)

On September 20, 2018, the Court entered an order against the Mooks awarding Flagstar \$4,100 in attorneys' fees and \$685 in costs. (ECF No. 43.)

Pursuant to the default judgment, on March 12, 2020, the United States Marshal sold the property described therein at a public auction. At the public auction, Flagstar entered the highest bid for the Property as a credit against its debt judgment. The high bid was \$351,000.

Flagstar now moves for an order confirming the sale of the Property and a deficiency judgment in the amount of \$163,538.31.¹

The premises considered, it is hereby

ORDERED that Flagstar's motion for an order confirming sale and deficiency judgment, ECF Nos. 44 and 47, is **GRANTED**; it is further

ORDERED that the sale of the Property as described herein, to Flagstar, is **APPROVED** and **CONFIRMED**; it is further

ORDERED that Flagstar, or at the request of Flagstar made to the United States Marshal, Flagstar's assignee, shall be entitled to a Deed with respect to the Property, unless it is redeemed pursuant to Title 28, Section 535 of the Virgin Islands Code; it is further

ORDERED that Flagstar shall be allowed to assign any or all of its rights under the Certificate of Sale, in whole or in part, to one or more assignee(s) or nominee(s) without notice or approval of any kind

ORDERED that, pursuant to Title 28, Section 535 of the Virgin Islands Code, that Flagstar, from the day of sale until a resale or a redemption, shall be entitled to the possession of the property purchased, unless the same be in possession of a tenant holding under an unexpired lease, and in such case shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the same period; and it is further

ORDERED that pursuant to the terms of the judgment, Flagstar shall have a deficiency judgment against the Mooks in the amount of \$163,538.31 plus interest from the date of sale held on March 12, 2020, at the statutory post-judgment rate of 1.72% per annum.

Dated: February 3, 2021

/s/ Robert A. Molloy
ROBERT A. MOLLOY
District Judge

¹ This figure accounts for the December 28, 2017 judgment amount plus attorneys' fees and costs and post judgment interest through March 12, 2020, less the sale proceeds.