

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BANCO POPULAR DE PUERTO RICO,

PLAINTIFF,

SX-14-CV-416

V.

**NESTOR A. PARALITICCI, INDIVIDUALLY
AND AS CO-TRUSTEE OF THE TRUST
AGREEMENT OF NESTOR A. PARALITICCI
DATED APRIL 17, 2002 AND CARMEN
PARALITICCI, INDIVIDUALLY AND AS CO-
TRUSTEE OF THE TRUST AGREEMENT OF
NESTOR A. PARALITICCI DATED APRIL 17,
2002,**

DEFENDANTS.

**ACTION FOR DEBT AND
FORECLOSURE OF MORTGAGE
AND LIENS**

MEMORANDUM OPINION AND ORDER

THIS MATTER came before the Court on Plaintiff Banco Popular de Puerto Rico's (hereinafter "Plaintiff") motion for entry of default against Defendant Nestor A. Paralicci, Individually and as Co-Trustee of The Trust Agreement of Nestor A. Paralicci Dated April 17, 2002 and Defendant Carmen Paralicci, Individually and as Co-Trustee of The Trust Agreement of Nestor A. Paralicci Dated April 17, 2002 (together, "Defendants"), filed on July 28, 2017.

A request for an entry of default is governed by Virgin Islands Rule of Civil Procedure 55, which provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the court or the clerk must enter the party's default." V.I. R. CIV. P. 55(a). Under Virgin Islands Rule of Civil Procedure 12, "[a] defendant served with the summons and complaint within the Virgin Islands must serve a responsive pleading within 21 days after being served." V.I. R. CIV. P. 12(1)(a).

Here, on October 31, 2014, Plaintiff commenced an action for debt and foreclosure against Defendants in connection with a loan agreement secured by certain properties owned by The Trust Agreement of Nestor A. Paralicci Dated April 17, 2002 (hereinafter "Trust"). Defendants were

personally served with summons and complaint in the U.S. Virgin Islands on November 13, 2014. When Defendants failed to file a response to Plaintiff's complaint, Plaintiff filed this instant motion for entry of default on July 28, 2017. On August 7, 2017, Defendants appeared pro se and filed a document titled "Answer to Entry of Default," whereby Defendants indicated that they have been "acting in good faith and effort and have been in contact with [Plaintiff]" and that "[t]he Trust has been making monthly payments in the amount of \$5,000.00." Defendants further indicated that they "are currently in the process of selling the Mt. Welcome Business Center and have asked [Plaintiff] for consideration and time to continue with [their] business" and currently have a potential buyer lined up. As such, Defendants requested the Court to grant them more time to "complete negotiations with [their] buyer" and "resolve this in the best interest of [all parties involved]."

At this juncture, the Court will deny Plaintiff's motion for entry of default. It does not appear that Plaintiff will be substantially prejudiced by such a denial—to wit, there has been no movement in this matter for approximately two-and-half years after service was completed on November 13, 2014, and when Plaintiff finally filed its motion for entry of default on July 28, 2017, Defendants promptly responded. Moreover, this Court has a policy of favoring dispositions of cases on their merits. *See Carty v. Mason*, 2010 V.I. LEXIS 34, *13 (V.I. Super. Ct. May 6, 2010) ("the law favors dispositions of cases on their merits, rather than on procedural technicalities"); *see also Gore v. Tilden*, 50 V.I. 233, 238 (noting that the policy of the law favors disposition of litigation on its merits (citing *Marshall v. Sielaff*, 492 F.2d 917, 918 (3d Cir. 1974))). Accordingly, it is hereby:

ORDERED that Plaintiff's motion for entry of default against Defendants, filed on July 28, 2017, is **DENIED**. It is further:

ORDERED that, **within thirty (30) days from the date of entry of this Memorandum Opinion and Order**, Defendants shall file a response to Plaintiff's complaint. It is further:

ORDERED that a Status Conference shall take place on **September 28, 2017, at 9:00 a.m. in Courtroom 206. All parties shall appear personally.** Defendants shall be prepared to discuss the amount of time anticipated to complete the sale of the Mt. Welcome Business Center and reach a resolution with Plaintiff. **And** it is further:

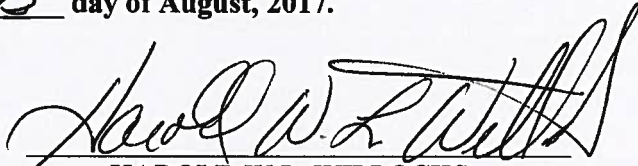
ORDERED that a copy of this Memorandum Opinion and Order shall be served on:

1. **Plaintiff Banco Popular de Puerto Rico** via its counsel, Dudley, Topper and Feuerzeig, LLP; and
2. **Defendant Nestor A. Paralticci and Defendant Carmen Paralticci** at P.O. Box 24655, Christiansted, U.S. Virgin Islands, 00824.¹

DONE and so **ORDERED** this 15 day of August, 2017.

ATTEST:

Estrella H. George
Clerk of the Court


HAROLD W.L. WILLOCKS
Administrative Judge of the Superior Court

By: 

Court Clerk Supervisor

Dated: 8/16/17

¹ This is the mailing address provided by Defendants in their August 7, 2017 response to Plaintiff's motion for entry of default.