

FILED FOR RECORD

2019 DEC 12 PM 1:51

AMY L. VARNELL

NOTICE OF SUBSTITUTE TRUSTEE'S SALE

THIS INSTRUMENT APPOINTS THE SUBSTITUTE TRUSTEE(S) IDENTIFIED TO SELL THE PROPERTY DESCRIBED IN THE SECURITY INSTRUMENT IDENTIFIED IN THIS NOTICE. THE PERSON SIGNING THIS NOTICE IS THE ATTORNEY OR AUTHORIZED AGENT OF THE MORTGAGEE OR MORTGAGE SERVICER.

Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard on another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active military service to the sender of this notice immediately.

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, by Deed of Trust dated September 11, 2009, Vivian C. Ruark and Sarah S. Ruark conveyed to Tim Williams, as Trustee, the property situated in Cass County, Texas, to wit:

Property commonly known as 2704 County Road 1240, Linden, Cass County, Texas 75563 and legally described as follows:

See the legal description attached hereto as Exhibit "A", together with an Oakwood/HBOS manufactured home with Serial Number HOTX09913028, together with all furnishings, equipment, appliances, and accessories included at the time of purchase.

To secure that certain Note executed by Vivian C. Ruark and Sarah S. Ruark and made payable to 21st Mortgage Corporation (hereinafter the "Note"), which such Deed of Trust filed and recorded on September 16, 2009 under Document/Instrument No. 2009004075 in the Official Public Records of Cass County, Texas (hereinafter "Deed of Trust"); and

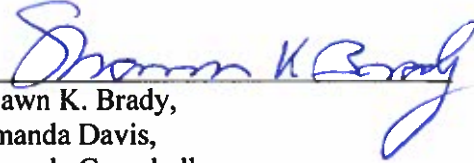
WHEREAS, the undersigned is the Substitute Trustee as appointed in the aforesaid Deed of Trust by a substitution, said appointment being in the manner authorized by the Deed of Trust;

WHEREAS, default has occurred under the terms of the Note secured by the Deed of Trust, and the indebtedness evidenced therein is now wholly due, the owner and holder of said indebtedness has requested the undersigned Substitute Trustee to sell the Property to satisfy same; and

WHEREAS, 21st Mortgage Corporation brought suit styled *21st Mortgage Corporation v. Sarah S. Ruark, Sylvia Clarida, Floyd Ruark, Jr. and The Unknown Heirs at Law of Vivian C. Ruark, Deceased*, under Cause No. 19C149 in the 5th Judicial District Court of Cass County, Texas and obtained a Final Judgment granting this non-judicial foreclosure sale to occur. A true and correct conformed copy of the Final Judgment is attached hereto as Exhibit "B".

NOW, THEREFORE, notice is hereby given that on Tuesday, the 7th day of January 2020, the Property will be sold at auction at the earliest of 10:00 a.m. or no later than three (3) hours after that time at the north entrance of the Cass County Courthouse located on Houston Street, Linden, Cass County, Texas, or as designated by the County Commissioners, to the highest bidder for cash. The Trustee's sale will occur between the earliest time to begin the sale as specified above, and 1:00 p.m.

Witness my hand this the 11th day of December, 2019.



Shawn K. Brady,
Amanda Davis,
Amanda Campbell,
Diana Moreland,
Rick Petersen,
Karen Petersen, and/or
William G. Bullock, any to act,
Substitute Trustee

c/o BRADY LAW FIRM, PLLC
6351 Preston Road, Suite 160
Frisco, Texas 75034
(972) 424-7200 Telephone
(972) 424-7244 Facsimile

GRANTEE'S MAILING ADDRESS:

21st Mortgage Corporation
620 Market Street
One Center Square
Knoxville, Tennessee 37902

EXHIBIT "A"

All that certain lot, tract or parcel of land situated in the S. D. Wesson Survey, Abstract No. 1125, Cass County, Texas, being more particularly described as follows:

BEGINNING at an old 3/8" iron rod in County Road No. 1240 and in the West line of the J. D. Wesson Survey for the most Western Southwest corner of said 4.9869 acres. Iron rod also the most Western Southwest corner of original called 5.227 acre tract. A 16" post oak marked X bears North 85 deg. East, 14.9 feet and an 8" post oak marked X bears South 05 deg. West. 26.85 feet.

THENCE: Along survey line North 00 deg. 22 min. 07 sec. West, 503.89 feet to a railroad iron in the center line of County Road No. 1239 for the Northwest corner. An old 3/8" iron rod bears South 00 deg. 22 min. 07 sec. East, 26.32 feet and a 20" pine marked X bears South 10 deg. East. 53.20 feet and a 18" post oak marked X bears North 45 deg. East, 54.35 feet.

THENCE: Along center line of County Road No. 1239, North 79 deg. 16 min. 30 sec. East, 177.51 ft.; North 81 deg. 56 min. 12 sec. East, 121.20 feet; and North 85 deg. 36 in. 44 sec. East, 3.16 ft. to a railroad iron for the Northeast corner. An old 3/8" iron rod bears South 25.0 feet and a 6" hickory marked X bears North 25 deg. East, 38.70 feet and a 10" pine marked X bears South 10 deg. East, 38.85 ft.

THENCE: South 836.17 feet to an old 3/8" iron rod for the Southeast corner;

THENCE: West 131.82 feet to a railroad iron in the center line of County Road No. 1240 for the most Southern Southwest corner. An old 3/8" iron rod bears East 9.06 ft. and a 18" post oak marked X bears South 15 deg. West, 18.80 feet and a 12" pine marked X bears North 50 deg. East, 22.75 feet;

THENCE: Along center line of County Road, North 29 deg. 57 min. West, 325.48 feet to the Place of Beginning, containing 4.98699 acres of land.

EXHIBIT "B"

CAUSE NO. 19C149

FILED FOR RECORD
CASS COUNTY, TEXAS
10/25/2019 2:00 PM
JAMIE ALBERTSON
DISTRICT CLERK

21ST MORTGAGE CORPORATION,

Plaintiff,

V.

SARAH S. RUARK,
SYLVIA CLARIDA, FLOYD RUARK, JR., and
THE UNKNOWN HEIRS AT LAW OF
VIVIAN C. RUARK, DECEASED,

Defendants.

IN RE: 2704 County Road 1240, Linden, TX 75563§

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IN THE DISTRICT COURT

OF CASS COUNTY, TEXAS

5th JUDICIAL DISTRICT

FINAL JUDGMENT

CAME ON for consideration Plaintiff's Motion for Final Judgment against Sarah S. Ruark a/k/a Sarah Ruark, Sylvia Clarida, Floyd Ruark, Jr. a/k/a Floyd Ruark, and The Unknown Heirs at Law of Vivian C. Ruark, Deceased. The Court finds that the Motion is well taken and is of the opinion that said Motion should be granted.

The Court finds that Sarah S. Ruark a/k/a Sarah Ruark and Floyd Ruark, Jr. a/k/a Floyd Ruark were served with citations and have not made an appearance herein. The Court further finds that the Sylvia Clarida and Unknown Heirs at Law of Vivian C. Ruark, Deceased, were served with citation by publication and have made an appearance herein through counsel. Attorney Clint Allen who was appointed by the Court to represent the interests of Sylvia Clarida and The Unknown Heirs at Law of Vivian C. Ruark.

The claims in Plaintiff's Original Petition are proven by a written instrument. The Court grants Plaintiff's Motion for Final Judgment against Defendants Sarah S. Ruark a/k/a Sarah Ruark, Sylvia Clarida, Floyd Ruark, Jr. a/k/a Floyd Ruark, and The Unknown Heirs at Law of Vivian C. Ruark, Deceased.

IT IS THEREFORE ORDERED that:

All of Vivian C. Ruark's ("Decedent's") heirs-at-law, including, but not limited to, Sarah S. Ruark a/k/a Sarah Ruark, Sylvia Clarida, and Floyd Ruark, Jr. a/k/a Floyd Ruark, have been made Defendants to this suit and are vested with all of their rights, title and interests in the real property and improvements legally described as follows:

See the legal description attached hereto as Exhibit "A", together with an Oakwood/HBOS manufactured home with Serial Number HOTX09913028, together with all furnishings, equipment, appliances, and accessories included at the time of purchase.

Vivian C. Ruark granted a Deed of Trust lien which is currently held by 21st Mortgage Corporation but defaulted under the terms of the Note and Deed of Trust, and therefore it is ordered that a non-judicial foreclosure sale occur in accordance with the terms and conditions of Deed of Trust and Tex. Prop. Code §51.002.

One of the effects of the non-judicial foreclosure shall be that Defendants, including any unknown heirs at law of Vivian C. Ruark, are divested of all rights, title, and interest to the property, and the purchaser of the property at the non-judicial foreclosure sale is vested with all rights, title and interests to the property.

After the non-judicial foreclosure is held, if the property remains occupied after this judgment becomes final, and the Plaintiff is the purchaser of the property at the non-judicial foreclosure sale, a writ of possession shall issue against any occupant of the property in accordance with Tex. R. Civ. P. 310.

As part of costs of court, and payable by Plaintiff, Clint Allen, the Attorney Ad Litem, is hereby granted reasonable attorney's fees and costs in the amount of \$⁵⁰⁰_____. All other costs of court are taxed against the party by whom incurred.

All relief not expressly granted is denied.

SIGNED this the 25th day of October, 2019.



PRESIDING JUDGE

APPROVED AS TO FORM:

/s/Shawn K. Brady

SHAWN K. BRADY

Texas Bar No. 00787126

BRADY LAW FIRM, PLLC

6351 Preston Road, Suite 160

Frisco, Texas 75034

(972) 424-7200 Telephone

(972) 424-7244 Facsimile

E-Mail: sbrady@brady-law-firm.com

Attorney for Plaintiff 21st Mortgage Corporation

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