

Supreme Court of Nova Scotia

Between: [copy standard heading]

Plaintiff

and

Defendant

Order for Foreclosure, Sale, and Possession

Before the Honourable Justice [name or blank] in chambers

On the motion of [name], the following is ordered:

1. The amount due to the plaintiff on the mortgage under foreclosure is settled at \$ with interest on \$ [insert the amount upon which interest is claimed in paragraph 5(a) of the statement of claim] at the rate of % a year from , 20 up to:

(a) fifteen days after the day of sale by public auction, if the mortgagee purchases the property; or

(b) fifteen days after the day the balance of the purchase price is paid to the sheriff or other person conducting a sale by public auction, if a person other than the mortgagee purchases the property;

together with any other charges and protective disbursements, as approved by the court, and costs to be taxed.

2. The sheriff shall, if requested by the plaintiff, take possession of the lands described in the mortgage and deliver possession to the plaintiff or a person designated by the plaintiff.

3. All the interest and equity of redemption of the [mortgagor/defendant name] and of all persons claiming through the [mortgagor/defendant name] in the lands described in the mortgage are forever barred and foreclosed, and shall be sold by the sheriff, the sheriff's nominee, or another person appointed by the court at a public auction conducted in accordance with the Instructions for Conduct of Foreclosure Auction, which is incorporated by reference except only to the extent varied by this or further order of the court, unless before the time of sale

the amount due, together with costs, are paid to the plaintiff. The sale is to be held at [*a courthouse in the county in which the lands being foreclosed are located. / The courthouse at* _____, *Nova Scotia.*]. Conveyance shall be by deed to the purchaser.

The proceeds of the sale shall be applied to cover the expenses of the sale, with the balance paid to the plaintiff to the extent of the mortgage debt and any surplus paid to the prothonotary at the place of this proceeding.

4. The plaintiff shall give at least fifteen days notice of public auction to the defendant by ordinary mail and to each recorded subsequent encumbrancer by delivery to Canada Post for transmission by registered mail, and advertise the public auction by two insertions, the first in the _____ at least fifteen days before the day of sale, and the second in the _____, not more than seven days before the day of sale. The abbreviated description of the lands contained in Schedule "A" is approved for use in the notices and advertisements.

5. A subsequent encumbrancer is bound by the terms of this order when the notice to subsequent encumbrancer under Rule 35.12 is delivered to Canada Post in the time provided in paragraph 4. A subsequent encumbrancer may defend or contest this proceeding by making a motion in chambers before the date of the public auction.

6. The plaintiff shall record a true copy of this order in the parcel register for the lands described in the mortgage.

7. The plaintiff shall have judgment for the mortgage debt against the [name of each defendant liable on the covenants excluding any bankrupt defendant] effective as of the day payment of sale proceeds is made to the plaintiff or, if no payment is to be made, fifteen days after the day of the sale. Interest is to be calculated under the *Interest on Judgments Act* afterwards. Enforcement of the judgment is stayed until the plaintiff establishes that there is a deficiency and the court determines the amount of the deficiency. [Note: If all defendants are bankrupt, paragraph 7 shall be deleted.]

8. On or after a motion for confirmation of the sale, the plaintiff may make a motion to assess the amount of any deficiency, provided that no deficiency shall be claimed against a bankrupt. [Note: no deficiency is to be claimed against a bankrupt mortgagor.]

Issued _____, 20

Prothonotary