

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil No. 16-1031-KGG

JERRY LEE ZABALA,

Defendant.

ORDER CONFIRMING UNITED STATES MARSHAL'S SALE OF REAL ESTATE

This matter is before the Court for decision on Plaintiff's Motion for Order Confirming United States Marshal's Sale of Real Estate (Doc. 25) in the above-entitled case. The United States of America appears by Thomas E. Beall, United States Attorney for the District of Kansas, and Michelle A. Jacobs, Assistant United States Attorney. There are no other appearances.

The Court, having examined the file and pleadings in this case, finds the following.

1. The United States of America obtained an *in rem* judgment of foreclosure as to certain real estate and an *in rem* judgment against Defendant Jerry Lee Zabala in the above-captioned action on September 27, 2016, Doc. 20.

2. The subject real estate is located in Rice County, Kansas, described as follows:

Lot Three (3) in Block Eleven (11) in the City of Chase, Rice
County, Kansas

Subject to the following:

Encroachments by the (gravel) driveway located on the premises in question over the northern portion of the property located on the south of subject premises, and sidewalk located on the premises in question over and on the property located on the west of subject premises, as shown by the survey (Project No. 2448), dated December 31, 1984, made by Robert L. Moser, L.S. 452, with Macon Company, Inc., of Newton Kansas.

3. As of December 12, 2016, the date of sale, there was due and owing the sum of \$12,919.30 (\$9,645.82 due on the date of judgment; plus post-judgment interest in the total amount of \$12.05, (accrued from the date of judgment to the date of sale, 76 days, at the post-judgment interest rate of 0.60 as set forth in 28 U.S.C. § 1961); and the costs and expenses of sale in the amount of \$607.44 and the guardian *ad litem* fees and expenses in the amount of \$2,653.99).

4. The subject real estate was sold by the Office of the United States Marshal on December 12, 2016, to Community Presbyterian Church for the sum of \$5,100.00, and the funds have been receipted by the Clerk of the District Court, District of Kansas, pursuant to the order of this Court.

5. This bid was the highest and best bid at the sale and the price is a fair and equitable price for the property.

6. The sale proceeds are currently held by the Clerk as provided in the Order of Default Judgment, Judgment of Foreclosure, and Final Judgment entered on September 27, 2016, Doc. 20.

7. The proceedings of the United States Marshal under the Order of United States Marshal's Sale are regular and in conformity with law and equity and the orders of this Court and should be confirmed in all respects.

8. The United States Marshal's Sale is subject to a twelve (12) month redemption period from the date of sale pursuant to the provisions of K.S.A. § 60-2414(m), however, by agreement of the parties and pursuant to page eight of the Journal Entry of Judgment, Judgment

of Foreclosure, and Final Judgment [Doc. 20], the defendant waived his redemption rights upon sale of the real property.

9. The U.S. Marshal is hereby directed to issue a Deed conveying the real estate to the buyer, Community Presbyterian Church.

10. Should the grantee named in the United States Marshal's Deed or the grantee's assigns be denied possession of the real property and, upon proper application of the grantee or assigns, a Writ of Assistance shall issue out of this Court to the United States Marshal for the District of Kansas, ordering and directing the United States Marshal to place the grantee or assigns in full, complete, and peaceful possession of the real property without further order of this Court.

IT IS THEREFORE ORDERED BY THE COURT, ADJUDGED AND DECREED that the United States Marshal's Sale held on December 12, 2016, at which the above described real property was sold by the United States Marshal for the District of Kansas, is confirmed.

IT IS FURTHER BY THE COURT ORDERED that defendant's redemption rights are hereby extinguished.

IT IS FURTHER BY THE COURT ORDERED that the United States Marshal for the District of Kansas should make and execute to Community Presbyterian Church, the purchaser of the real property, a good and sufficient deed for the property.

IT IS FURTHER BY THE COURT ORDERED that if the grantee named in the United States Marshal's Deed or the grantee's assigns is denied possession of the real property and, upon proper application of the grantee or assigns, a Writ of Assistance shall issue out of this Court to the United States Marshal for the District of Kansas, ordering and directing the United

States Marshal to place the grantee or assigns in full, complete, and peaceful possession of the real property without further order of this Court.

IT IS SO ORDERED.

Dated this 18th day of January, 2017.

S/ KENNETH G. GALE
KENNETH G. GALE
Magistrate Judge
United States District Court

Submitted by:

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