

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CASE NO.

Plaintiff,

Vs.

JUDGE

MOTION TO VACATE JUDGMENT

Defendant

AND APPROVAL OF REDEMPTION

Now comes the Defendant _____ and respectfully moves this court to Vacate the Judgment of _____ granted by this court on _____; to permit Defendant _____, owner of the subject premises, to redeem her property pursuant to Ohio Revised code 2329.33; to refund to the _____, _____ (Name of Purchaser) _____, their deposit of _____ (\$ _____); and to pay all secured parties, namely _____ (First lien holder) _____, _____ (Second lien holder, if any) _____, _____ (Third lien holder, if any) etc. _____.

Defendant _____ states that on _____, the Plaintiff, _____ obtained a judgment on their mortgage which is the first and best lien on the subject premises and thereafter application was made for this court for an order authorizing the Sheriff of Cuyahoga County to appraise, advertise, and sell such real estate pursuant to Ohio Revised Code 2329.01 et seq. Pursuant to the order of this court the Sheriff of Cuyahoga County had the subject property appraised and an advertisement for foreclosure in certain newspapers as required by Ohio Revised Code 2329.26. On _____ (Date of Sale) _____ the subject premises was sold to _____, _____ (Name of purchaser) _____, _____ Street _____ Address _____, _____ City _____, _____ State _____, _____ Zip Code _____, for the purchase price of

_____ (\$ _____). The purchaser deposited with this court the sum of _____ (\$ _____) as and for a deposit to apply toward the purchase price of aforesaid property.

Ohio Revised Code 2329.33 provides that the owner of real estate to wit: Defendant _____, on execution may at anytime before the confirmation of sale, redeem the property by depositing in the hands of the Clerk of The Court of common Pleas the amount of the judgment or decree upon which such lands were sold, with all costs, including poundage, and interest at the rate of eight percent (8%) per annum on the purchase money from date of sale to the time of such deposit. The Court of Common Pleas thereupon shall make an order setting aside such sale and apply the deposit to the payment of such judgment or decree and costs and award such interest to the Purchaser who shall receive from the Court the interest from the Clerk.

In accordance with Ohio Revised Code 2329.33, the Defendant _____, has deposited with this court the sum of _____ (\$ _____) to satisfy all outstanding obligations due the Defendants in this action including but not limited to the clerk of Courts of Cuyahoga County, the Cuyahoga County sheriff's Office, and the successful bidder for interest upon his earnest money deposit for the purchase of said property. To wit: the following sums are due and owing each of the parties as of _____:

1. To the Clerk of Courts of Cuyahoga County,
the cost of this action the sum of _____ \$
2. To the Cuyahoga County Sheriff's Department,
The cost of sale the sum of _____ \$
3. To the Clerk of Courts of Cuyahoga County,
For poundage the sum of _____ \$
4. To the _____ (First lien holder),
The sum of _____ \$
5. To the _____ (Second lien holder),
The sum of _____ \$
6. To the _____ (Third lien holder) etc.,
The sum of _____ \$

7. To _____ (Purchaser's Name) _____,
Interest on their deposit. \$

Accordingly, the Defendant _____ moves this Court to her Motion to Vacate the Judgment of _____; grant Defendant _____ Motion for Redemption and Order that the Sheriff of Cuyahoga County return of the earnest money deposited to the successful bidder, _____ (Name of Purchaser) _____, interest on its deposit at the rate of eight person (8%) per annum from the date of purchase _____.

Respectfully submitted,

Defendant _____

Certificate of Service

A copy of the foregoing Motion to Vacate Judgment and for Approval of Redemption has been sent by regular U.S. Mail to the following parties or their counsel of record:

[List of all parties in the Case and their addresses]

Defendant _____

Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

_____,)
)
Plaintiff,) CASE NO. _____
) JUDGE _____
)
vs.)
)
_____, et al.,)
)
Defendants.)

REDEMPTION JOURNAL ENTRY

This cause came to be heard on the motion of defendant _____ to vacate judgment, stay confirmation of sale, and approval of redemption. Upon consideration thereof, the Court finds that, pursuant to R.C. 2329.33, Defendant _____ is entitled to an order redeeming the property located at _____, upon the tendering of certain funds required by R.C. 2329.33 to the Clerk of Courts.

Inasmuch as it appears to the Court that Defendant _____ has sufficient funds available to comply with said statute and to redeem the subject property, IT IS ORDERED,

ADJUDGED AND DECREED that:

1. The Prior order of this Court staying confirmation of the Sheriff's Sale in this case is extended until _____;
2. The defendant must deposit \$_____ with the Clerk of Courts to redeem the property as required by R.C. 2329.33 and the Clerk of Courts is ordered to accept said amount for

the purposes of redemption;

3. Upon the tendering of said funds, the following shall, without further order of the Court, automatically occur:

- a. The Sheriff's sale held on _____, will be vacated;
- b. The Sheriff will return the Order of Sale without execution;
- c. The judgment and decree of foreclosure previously entered herein will be vacated;
- d. The Sheriff must return the deposit made by the purchaser;
- e. The case will be dismissed with prejudice at the costs of defendant _____.

4. Upon receipt of said funds, the Clerk must distribute the funds as follows:

- A. To the Clerk of Courts of Cuyahoga County,
the cost of this action the sum of _____ \$
- 2. To the Cuyahoga County Sheriff's Department,
The cost of sale the sum of _____ \$
- 3. To the Clerk of Courts of Cuyahoga County,
For poundage the sum of _____ \$
- 4. To the _____ (First lien holder),
The sum of _____ \$
- 5. To the _____ (Second lien holder),
The sum of _____ \$
- 6. To the _____ (Third lien holder) etc.,
The sum of _____ \$
- 7. To _____ (Purchaser's Name),
Interest on their deposit. _____ \$

IT IS SO ORDERED

_____, JUDGE