

UNSIGNED ORDER



2016-9
08/19/2020 12:04:53 PM

Marilyn Farrell, County Clerk

Clerk: AEK

At Part ___ of the Supreme Court held in the County of Greene, at 320 Main Street, Catskill, NY 12414, on the ___ day of _____, 20__.

PRESENT: _____
JUSTICE OF THE SUPREME COURT

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LAELIA, LLC,

Index No. 0009/2016

Plaintiff

-against-

**ORDER OF REFERENCE AND
DEFAULT JUDGMENT**

BURTON GUTNICK, JR., AS ADMINISTRATOR OF THE ESTATE OF EDWARD J. NIHILL; KATHLEEN NIHILL; THOMAS NIHILL; BRANDON NIHILL; MICHAEL NIHILL; KATHLEEN MCGARRITY; CITIBANK, N.A.; PEOPLE OF THE STATE OF NEW YORK BY THE DEPARTMENT OF TAXATION AND FINANCE; UNITED STATES OF AMERICA BY THE INTERNAL REVENUE SERVICE; and "JOHN DOE" (said name being fictitious, it being the intention of Plaintiff to designate any and all occupants, tenants, persons or corporations, if any, having or claiming an interest in or lien upon the premises being foreclosed herein),

Mortgaged Premises
62-44 Main Street
Tannersville, NY 12485

Section: 165.20
Block: 1
Lot: 11.111

Defendants

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UPON the Summons, Complaint, and Notice of Pendency filed in this action on the sixth day of January, 2016, the Notice of Pendency filed on the twenty-fourth day of October, 2018, the Supplemental Summons, Amended Complaint, and Amended Notice of Pendency filed on the sixth day of August, 2019 the Notice of Motion dated August 17, 2020, the affirmation by Deborah Levine, Esq., the Affidavit in Support by Josh Ross who is Portfolio Manager of Land Home Financial Services, Inc., duly sworn to on February 12, 2020, together with the exhibits annexed thereto, and all prior papers filed in this action and prior proceedings had herein; and

UPON proof that each of the defendants herein has been duly served with the Summons and Complaint in this action, and required notices; and

UPON a Notice of Appearance by Burton Gutnick, Jr., as Administrator of the Estate of Edward J. Nihill and United States of America by the Internal Revenue Service;

AND the court having held a mandatory settlement conference pursuant to CPLR 3408 a settlement was not reached and the case was released from the foreclosure settlement conference part on December 12, 2019;

AND it appearing that the mortgagor is not resident of the property subject to foreclosure;

AND it appearing that Burton Gutnick, Jr., as Administrator of the Estate Of Edward J. Nihill, Kathleen Nihill, Thomas Nihill, Brandon Nihill, Michael Nihill, Kathleen McGarrity, Citibank, N.A., the People of the State of New York by the Department of Taxation and Finance, and United States of America by the Internal Revenue Service's time to answer the complaint has expired;

AND it appearing to the satisfaction of this court that this action was brought to foreclose a mortgage on real property located at 62-44 Main Street, Tannersville, NY 12485, in the county of Greene, State of New York [Section: 165.20, Block: 1, Lot: 11.111],

NOW, on motion by FRIEDMAN VARTOLO LLP, attorneys for the Plaintiff, it is hereby

ORDERED that defendant Burton Gutnick, Jr., as Administrator of the Estate Of Edward J. Nihill, Kathleen Nihill, Thomas Nihill, Brandon Nihill, Michael Nihill, Kathleen McGarrity, Citibank, N.A., the People of the State of New York by the Department of Taxation and Finance, and United States of America by the Internal Revenue Service are determined to be in default; and it is further

ORDERED that _____ with an address of _____, is hereby appointed Referee, in accordance with RPAPL §1321, to compute the amount due to Plaintiff and to examine whether the mortgaged property may be sold in parcels; and it is further

ORDERED that the Referee make his/her computation and report with all convenient speed; and it is further

ORDERED that, if necessary, the Referee may take testimony pursuant to RPAPL §1321; and it is further

ORDERED that by accepting this appointment the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2(c) (“Disqualifications from appointment”), and §36.2(d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of the Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that pursuant to CPLR 8003(a), the statutory fee of \$50.00, and in the discretion of the court, a fee of \$____, shall be paid to the Referee for the computation of the amount due and upon the filing of his/her report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(a); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED, that the named Plaintiff, “Laelia, LLC” shall be substituted with “Isanthes, LLC” and that the caption of this action shall be amended accordingly to reflect the proper alignment of the parties; and it is further

ORDERED, that the caption of this action is amended by removing those parties named herein as “JOHN DOE,” and all proceedings heretofore filed herein shall be deemed amended accordingly, and it is further

ORDERED, that the caption of this action, as amended, shall read as follows:

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ISANTHES, LLC,

Index No. 0009/2016

Plaintiff

-against-

BURTON GUTNICK, JR., AS ADMINISTRATOR OF
THE ESTATE OF EDWARD J. NIHILL; KATHLEEN
NIHILL; THOMAS NIHILL; BRANDON NIHILL;
MICHAEL NIHILL; KATHLEEN MCGARRITY;
CITIBANK, N.A.; PEOPLE OF THE STATE OF NEW
YORK BY THE DEPARTMENT OF TAXATION AND
FINANCE; UNITED STATES OF AMERICA BY THE
INTERNAL REVENUE SERVICE,

Defendants

-----X
; and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

This constitutes the decision and order of the court.

ENTER:

Dated: _____

HON. _____, J.S.C.

SCHEDULE A—LEGAL DESCRIPTION

All that piece or parcel of land with the buildings and improvements thereon, on the northerly side of New York State Route No. 23 A, situate, lying and being in the Village of Tannersville, Town of Hunter, County of Greene and State of New York, being more particularly described as follows:

Beginning at a point marked by an iron pin driven in the ground on the northerly side of New York State Route No. 23A where the southwesterly corner of lands of Mahr (L 489 cp 692) meets the southeasterly corner of lands of Katherine Nihill (L 723 cp 292); thence proceeding from said point of beginning along the northerly side of said New York State Route 23A, N 59° 57' 50'' W 29.21 feet; thence following five (5) courses and distances through lands of said Katherine Nihill (L 727 cp 292); N 31° 57' 26'' E 3.35 feet to a point marked by an iron pin driven in the ground; thence continuing N 31° 57' 26'' E 29.08 feet to a point marked by an iron pin driven in the ground, N 28° 10' 28'' E 81.28 feet to a point marked by an iron pin driven in the ground and thence N 19° 34' 25'' E 54.76 feet to a point marked by an iron pin driven in the ground and thence N 35° 33' 00'' W 77.98 feet to a point marked by an iron pipe driven in the ground; thence along lands of Larkin and Selkirk (L 690 cp 252); N 60° 16' 01'' W 100.01 feet to a point marked by an iron pin driven in the ground; thence three (3) courses and distances through lands of said Katherine Nihill (L 732 cp 292); N 41° 53' 28'' E 123.50 feet running along and through the centerline of an 8" concrete block foundation "party wall" to a point marked by an iron pin driven in the ground, S 48° 06' 32'' E 50.00 feet to a point marked by an iron pin driven in the ground and thence N 41° 53' 28'' E 160.33 feet to a point marked by an iron pin driven in the ground; thence along lands of Thorpe (L 482 cp 296); S 23° 39' 00'' E 103.78 feet running along a stone wall to a point marked by an iron pin driven in the ground and thence along land of aforementioned Mahr (L 489 cp 692); S 27° 05' 26'' W 405.78 feet to the point or place of beginning. Containing 0.939 acre of land.

Also granting and subject to all existing water lines and public utilities as they now exist for the use of the existing duplex dwelling which straddles the westerly property line of the above described 0.939 acre premises and the right to repair and/or maintain same.

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