

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND  
FOR NEW CASTLE COUNTY

**U.S. BANK NATIONAL f/k/a FIRST )  
BANK NATIONAL ASSOCIATION TR )  
U/A dated June 1, 1997, solely in its )  
capacity as Trustee for EQCC Home )  
Equity Trust 1997-2, assignee of )  
EquiCredit Corporation of America, )  
assignee of EquiCredit Corporation of )  
DE, )**

**C. A. No. 03L-09-142**

Plaintiff, )

v. )

**POSIE H. SWANSON )**

Defendant. )

**ORDER**

Thomas D. H. Barnett and Neil F. Dignon, Esquires, Draper & Goldberg,  
P.L.L.C., Georgetown, Delaware, Attorney for Plaintiff.

John R. Weaver, Jr., Esquire, Wilmington, Delaware, Attorney for  
Defendant.

**Scott, J.**

This 1st day of May, 2006, upon review of Defendant's, Posie H. Swanson ("Swanson"), Motion to Satisfy Mortgage, it is the decision of the Court that the tender of \$54,656.16 satisfies the mortgage of record of 140 Winder Road, New Castle, Delaware, for the foregoing reasons.

The doctrine of equitable estoppel may be invoked when a party by his conduct intentionally or unintentionally leads another, in reliance upon that conduct to change position to his detriment.<sup>1</sup> To establish estoppel, it must be shown that the party claiming estoppel lacked knowledge of the truth of the facts in question; relied on the conduct of the party against whom estoppel is claimed; and suffered a prejudicial change of position as a result of his reliance.<sup>2</sup>

The U.S. Bank, the mortgagee, quoted a payoff and later discovered that more was owed. Thus, the original payoff quote was a false representation. Meyer & Meyer, Inc. ("Meyer & Meyer"), the purchaser of the property, was without actual knowledge of the true payoff quote and had no means of knowledge of the real facts other than through the U.S. Bank. Additionally, since the mortgage foreclosure was filed, after the real estate closing by Meyer & Meyer, it could not have had any constructive notice of

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<sup>1</sup> *Department of Natural Resources v. Front Street Properties*, 2002 WL 31432384, at \*5 (Del. Supr.).

<sup>2</sup> *Id.*

the additional costs. Furthermore, Meyer & Meyer sought clarification of the payoff costs in the quote they received on October 6, 2003, yet no clarification was provided. The element, that the misrepresentation be made with the intention that it should be acted upon, is satisfied in the context that U.S. Bank made the payoff quote with the intention that at settlement it be acted upon. It quoted a payoff knowing that the property would be sold. The final element of estoppel, that of detrimental reliance on the misrepresentation, is supported by the evidence. Meyer & Meyer bought property that it thought would be free and clear of all liens. However, instead of owning property free and clear, it is subject to a debt obligated to be paid by another party. Finding sufficient evidence in the record to support the elements of estoppel, the court finds that the bank is estopped to recover the additional payoff costs on the mortgage. Accordingly, the Court finds that \$54,656.16 satisfies the mortgage.

**IT IS SO ORDERED.**

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Judge Calvin L. Scott, Jr.