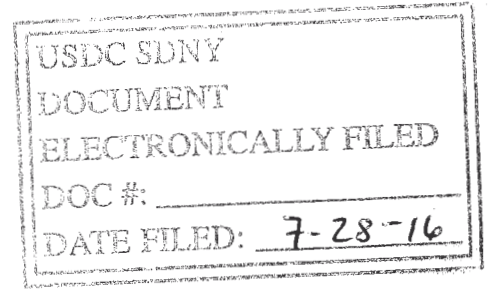


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
 :
 ONEWEST BANK N.A., now known as CIT :
 Bank, N.A., :
 :
 Plaintiff, :
 :
 -against- :
 :
 BUTEAU LOUIS, DANIEL C. OGBONNA, :
 et al. :
 :
 Defendants. :
 -----X

15 Civ. 597 (PAC) (BCM)

OPINION & ORDER
ADOPTING REPORT &
RECOMMENDATION

HONORABLE PAUL A. CROTTY, United States District Judge:

Mortgagee Plaintiff OneWest Bank N.A., now known as CIT Bank, N.A. (“CIT”), brought this action to foreclose on a mortgage for property located at 905 East 218th Street, Bronx, New York. CIT now moves for summary judgment against mortgagors Buteau Louis and Daniel C. Ogbonna, along with various other items of ancillary relief.

On June 22, 2016, Magistrate Judge Barbara Moses issued a Report and Recommendation (“R&R”). Since no parties objected to the R&R, the Court reviews its recommendations for clear error. *Feehan v. Feehan*, 2011 WL 497776, at *1 (S.D.N.Y. Feb. 10, 2011). Finding none, the Court adopts the R&R in full. As recommended by Magistrate Judge Moses, the Court holds as follows:

1. The Court GRANTS CIT’s motion for summary judgment as to its right to foreclosure and sale. CIT established its right to foreclose by submitting copies of the note and mortgage, along with an affidavit attesting to defendants’ failure to make any payments under the note since September 2013. *See Regency Savings Bank*,

F.S.B. v. Merritt Park Lands Assoc., 139 F. Supp. 2d 462, 465-66 (S.D.N.Y. 2001).

Louis waived an insufficient service of process defense by failing to raise it in his answer. *See* Fed. R. Civ. P. 12(h)(1).

2. The Court DENIES CIT's requests for (i) calculation of principal, interest, and other sums due; (ii) attorneys' fees and costs; and (iii) appointment of a special master to conduct the sale of the property. The denials are without prejudice to renewal following CIT's submission of additional information.
3. The Court DENIES CIT's motions for default judgment against CitiMortgage, Inc., the New York City Environmental Control Board, Nicole Johnson (served as "John Doe No. 1"), Elizha Mbengue ("John Doe No. 2"), Pancheta Gordon ("John Doe No. 3"), and Kadezha Mbengue ("John Doe No. 4").
4. The Court DISMISSES all claims against any still-unnamed John Doe defendants.

The Clerk is directed to update the caption to add Plaintiff's new name: CIT Bank, N.A.

The Clerk is also directed to terminate the motion at Docket 43, and maintain the reference to the Magistrate Judge.

Dated: New York, New York
July [28], 2016

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copy Mailed By Chambers To:
Daniel C. Ogbonna
905 E. 218th Street
Bronx, NY 10469