IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

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**BAUTISTA REO PR CORP.,** 

Plaintiff,

V.

ÁNGEL ZAHID VÉLEZ RAMÍREZ, ET AL,

Defendants.

## **MEMORANDUM OPINION**

**CASE NO. 16-1352 (GAG)** 

Plaintiff's Motion for Confirmation of Judicial Sale regarding a foreclosed property is **DENIED without prejudice** for failure to comply with Rule 51.7 of the Puerto Rico Rules of Civil Procedure, which governs judicial sales. 32 P.R. Ann. Laws App. V § 51.7. Said Rule requires the publication of a Notice of Sale, and, at issue here, requires Plaintiff to send a copy of the Notice to Defendant and Defendant's counsel within five days of publication via certified mail. Id. A close reading of Rule 51.7 reveals that a Notice of Sale is considered "published" when it is placed in three public places of the municipality where the sale will be held, or published in a daily newspaper of general circulation. Id. ("[The sale] must be given to publication for a space of two weeks through written announcements visibly placed in three public places of the municipality in which the sale will be held . . . . Said announcement shall also be published through an edict twice in a diary of general circulation . . . ." (translation ours))

Here, the Sale Notice was first published on October 13, 2017 when it was posted in three public places. (Docket No. 34-2). Plaintiff's Statement Under Penalty of Perjury says that they

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notified the Defendant at her address on October 17, 2017. <u>Id.</u> Yet it does not specify if it was through certified mail—or how she was notified at all. Moreover, Plaintiff claims that "the Notice of Sale was duly sent by certified mail to Defendants." (Docket No. 34 at 2). But the supporting Exhibit 3, which contains the letters and certified mail receipts, shows that the letters were sent via certified mail on October 20, 2017. (Docket No. 34-3). This is more than five days after publishing the Sale Notice. "Rule 51.7 establishes the procedure in [cases of judicial sale] that must be strictly complied with under penalty of the judicial sale's annulment." RAFAEL HERNÁNDEZ COLÓN, PRÁCTICA JURÍDICA DE PUERTO RICO: DERECHO PROCESAL CIVIL § 6310 (6th ed. 2017) (translation ours). Therefore, the Court hereby **DENIES** Plaintiff's Motion for Confirmation of Judicial Sale at Docket No. 34 because Plaintiff failed to notify Defendant within five days of publication as required.

## SO ORDERED.

In San Juan, Puerto Rico this 19th day of December, 2017.

s/ Gustavo A. Gelpí
GUSTAVO A. GELPI
United States District Judge

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