

United States District Court  
Southern District of Texas

**ENTERED**

September 24, 2019

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ELOUISE LAVERNE HAYS,

Plaintiff,

v.

FINANCIAL FREEDOM LLC, AND  
CIT BANK, N.A.,

Defendants.

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CIVIL ACTION NO. H-17-603

**MEMORANDUM OPINION**

Pending before the court<sup>1</sup> is Defendant CIT Bank, N.A.'s ("CIT") Motion for Summary Judgment (Doc. 17). The court has considered the motion, the response, all other relevant filings, and the applicable law. For the reasons set forth below, the court **GRANTS** CIT's Motion for Summary Judgment.

CIT first attempted foreclosure on Plaintiff's residence located at 3130 Dacca Drive, Houston, Texas 77051 (the "Property"), because Plaintiff had failed to verify her occupancy of the Property in accordance with her mortgage. Plaintiff filed this lawsuit alleging that CIT's foreclosure on her property was unlawful because she was presently occupying the property. CIT rescinded the default based upon Plaintiff's occupancy of the Property. On September 6, 2019, the court held a status conference where the parties were in agreement that the motion for summary

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<sup>1</sup> The parties consented to proceed before the undersigned magistrate judge for all proceedings, including trial and final judgment, pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. See Doc. 15, Ord. Dated July 27, 2019.

judgment is now unopposed.<sup>2</sup> Accordingly, Defendant CIT Bank, N.A.'s motion for summary judgment is **GRANTED**.

The court notes that this opinion only affects Plaintiff's claim concerning the default related to her occupancy of the property. There has allegedly been a second default concerning unpaid insurance and taxes that is still a live dispute.

**SIGNED** in Houston, Texas, this 24<sup>th</sup> day of September, 2019.



Nancy K. Johnson  
United States Magistrate Judge

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<sup>2</sup> See Doc. 27, Ord. Dated Sept. 9, 2019.