

Rule No. 20

Mortgage Foreclosure Cases.

A. Jurisdiction.

(1) Before any decree of foreclosure will be entered by the Court, the plaintiff shall provide sufficient documentation to establish that said plaintiff is the proper party in interest to bring the action as either the original lender or the successor in interest of the original lender.

(2) Any decree of foreclosure shall state for each named party defendant, whether they have been served with summons and process; if so, when and how, and whether each has answered or otherwise pled.

(3) If the Court does not have personal jurisdiction over a party defendant, or if a personal judgment against the mortgagor is not otherwise available, and if the Court has jurisdiction over the mortgage contract, the note, and/or the property, the Court may enter an *in rem* judgment in such case, but no personal judgment will be entered against the party over whom the Court does not have *in personam* jurisdiction.

(4) A signed copy of the original note and mortgage, with proof of proper recording, shall be attached to the petition in each case.

B. Judgments of Foreclosure.

(1) Default judgment upon a petition seeking unliquidated damages will not be granted absent proof of compliance with the notice requirement of Supreme Court Rule 118(d).

(2) When any proposed journal entry includes judgment for attorney's fees and/or the mortgagee's costs or expenses of the foreclosure proceeding, the fees,

costs and expenses shall be supported by the record. This support may be provided by affidavit establishing the mortgagee's entitlement to, and the amount, reasonableness and basis of, each such item. The decree shall state the total amount of the judgment.

C. Confirmation of Sale

(1) A motion to confirm a Sheriff's sale to plaintiff shall be accompanied by a copy of the signed Sheriff's Return of Sale, an Itemization of Judgment and a proposed Order Confirming Sale.

(2) A motion to confirm a Sheriff's sale to a third-party purchaser shall be accompanied by a copy of the signed Sheriff's Return of Sale, an Itemization of Judgment, a proposed Order Confirming Sale, a proposed Sheriff's deed and a receipt or other written verification of the payment of all real estate taxes due at the time of sale, not merely the first half of the taxing period.

(3) Plaintiff's counsel shall also prepare and provide directly to a third-party purchaser, a completed Sheriff's Deed transferring ownership to the third-party purchaser within ten (10) days after the expiration or extinguishment of any statutory period of redemption.

D. Redemption.

(1) If a decree of foreclosure or other order determines the owner's period of redemption to be less than twelve (12) months, it shall state the reason, which shall be supported by the record.

(2) Any motion to shorten or extinguish the period of redemption of the defendant owner pursuant to K.S.A. 60-2414(a) shall be set for hearing with not less than twenty-one (21) days notice to all parties and proof of service being filed with the

Court. The facts on which the motion relies must be supported by the record which, in the Court's discretion, may be provided by affidavit.

(3) The defendant owner or assignee may redeem for the amount paid by the then current holder of the Certificate of Purchase, including expenses incurred in accordance with K.S.A. 60-2414(a) and 60-2414(d), which expenses are evidenced by vouchers or receipts filed in the office of the Clerk of the District Court in accordance with K.S.A. 60-2414(d) and are entered on the appearance docket of the case. The holder of the certificate or a creditor who has redeemed prior to a defendant owner or assignor, shall be entitled to interest in accordance with K.S.A. 16-204(e)(1) on the net amount paid to redeem the property.

E. Upon the filing of an application for writ of assistance, the Court may, in its discretion grant the writ upon a showing that the applicant is entitled to possession. The required showing may be made either by showing that the applicant is the current holder of the Certificate of Purchase and any applicable period of redemption has run; or, in the alternative, the presentation of a recorded Sheriff's Deed to the applicant as grantee. All writs of assistance shall set forth that the plaintiff in the action is required to do any inventory of personal property as may be applicable under the writ requested.