

VERMONT SUPERIOR COURT
Washington Unit
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Montpelier VT 05602
802-828-2091
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 22-CV-01936

**WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR
SOUNDVIEW HOME LOAN TRUST 2007-OPT1, ASSET-BACKED
CERTIFICATES, SERIES 2007-OPT1 v. Fuad Ndibalema et al**

ENTRY REGARDING MOTION

Title: Motion to Vacate Judgment Motion to Vacate Order Confirming Sale and Cert. of Non-Redemption; Motion for Stay; or grant permission to take Appeal (Motion: 27)
Filer: Fuad Ndibalema; Fatu Kankolongo
Filed Date: May 16, 2026

The motion is DENIED.

The sole issue in this matter that remains before this Court concerns an allegation made by Defendants in their May 16, 2026 filing that the judicial sale for this property did not occur as reported on April 28, 2026 at Defendant's property, 41 Beckley Street in Barre, Vermont ("the property").

In light of this allegation, the Court put a stay on its May 5, 2026 Confirmation Order and conducted a hearing on June 8, 2026 concerning the allegations.

Before and after the June 8, 2026 hearing, Plaintiff supplemented the record by filing the following exhibits:

- 1) A notarized report of the sale sworn and subscribed by Matthew Katz, the auctioneer retained by Plaintiff to conduct the April 28, 2026 judicial sale of the property. This report attests that the sale was conducted on the date in question in front of the property.
- 2) A declaration sworn and subscribed by Ed Dansereau, the representative of Plaintiff who attended the judicial sale and entered the winning bid. Mr. Dansereau states that he attended the April 28, 2026 sale and that it occurred at the property.
- 3) A contemporaneous email report filed by Matthew Katz with Plaintiff on the day of the sale reporting that one bidder attended and one neighbor attended to observe but not bid.
- 4) A photograph from Matthew Katz of the property and date stamped from the day of the judicial sale at 10:06 am with an auction sign placed in front of the property.
- 5) A selfie picture of Mr. Katz taken in front of the property and the auction sign on the date of the judicial sale at 10:06 am.

Defendants have not provided the Court with any additional details other than their general statement that the judicial sale did not occur.

Legal Analysis

The Court's role in supervising a judicial sale is to ensure that these provisions are followed. A judicial sale is a court's sale, and it is not a plaintiff's sale—that is the plaintiff does not have free reign to conduct the sale in any manner that it may see fit. *Bank of New York Mellon v. Campbell*, Dckts. No. 229-4-10 Wrcv, 78-2-12 Wrcv, 568-10-11 Wrcv, 319-5-12 Wrcv, available at 2013 WL 6631044, at *6 (Dec. 2, 2013) (Teachout, J.) (discussing how judicial sales are controlled and over seen by the courts). The Court's overarching purpose in such supervision is to ensure fairness and equity in the process. "Confirmation of a foreclosure sale is a discretionary judicial action, the purpose of which is to ensure fairness in the judicial process." *HSBC Bank USA N.A. v. McAllister*, 2018 VT 9, ¶ 7, 206 Vt. 445 (citing 12 V.S.A. § 4954(a)); see also Reporter's Notes—1982 Amendment, V.R.C.P. 80.1 ("A foreclosure action, even when by sale, remains an equity action, and the court has the power to refuse to confirm a sale where the result would be inequitable.").

Under 12 V.S.A. § 4953, a judicial sale conducted pursuant to a foreclosure must be held at the mortgaged property unless the court directs another location. 12 V.S.A. § 5953(a). The sale is to be conducted pursuant to notices issued to the public and printed in newspapers for three successive weeks prior to the sale. 12 V.S.A. § 4952. Any person may enter a bid at the sale, and the property is sold to the highest bidder. 12 V.S.A. § 4953 (a), and (c).

Defendants in this case have made a general allegation concerning the conduct of the sale. Their statement does not cite any specific details but avers that they were at the property on the day of the sale and did not see the auctioneer or sale take place.¹ Plaintiff has now come forward with both admissible and credible evidence that disputes these allegations and provides the Court with sufficient and reliable details to show that Mr. Katz did conduct the sale at the property on April 28, 2026.

To these exhibits, Defendants have not offered any substantive details or clarifications. They seek an evidentiary hearing, but they do not indicate what such a hearing would provide beyond what has already been introduced. Defendants have also sought to take an appeal from the Court's prior rulings before the Court could act or make a ruling on the present issue.²

¹ At the June 8, 2026 hearing, Defendants offered little to no additional details or information on their denial, other than to maintain that they did not see the sale.

² Given that Court has not ruled on this matter, and Defendants have not been granted a stay, the Court understands this limited issue to remain in this Court's jurisdiction to resolve. *State v. Kuhlmann*, 2022 VT 28, ¶ 15 (noting that trial courts retain limited, residual jurisdiction on issues outside of the scope of an appeal).

More important to the Court's oversight, there is little evidence to suggest any unfairness has occurred. Defendants have not identified or alleged that any potential buyers appeared at the sale and were excluded; that Plaintiff failed to provide notice of the sale or omit a detail that would have excluded a member of the public from coming; or that there was any unfairness to them that arose from the sale. To this last point, the Court will note that Plaintiff has waived any deficiency judgment against Defendants, rendering largely moot any question of whether a higher bidder would have affected the outcome.

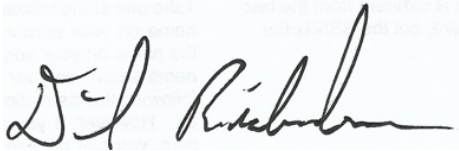
The question for the Court at this juncture is whether a further hearing would assist in the Court's oversight role and whether there is a significant question of whether Plaintiff complied with the judicial sale process in 12 V.S.A. §§ 4952 and 4953. In addition, the Court notes that there is a strong legislative policy favoring finality in foreclosure proceedings and disfavoring the type of endless challenges that can potentially be raised. *TBF Fin., LLC v. Gregoire*, 2015 VT 36 ¶ 20.

Given these factors and the available evidence, the Court makes two findings. First, the Court finds that Plaintiffs have demonstrated substantial compliance with 12 V.S.A. § 4953 concerning the conduct of the judicial sale on April 28, 2026. The Court finds that the overwhelming evidence indicates that the sale took place at the property on the date in question. While Defendants have suggested that it did not, their objections lack specificity and detail to give the Court reasonable doubts about the process in light of Plaintiff's confirming evidence. Second, the Court finds that holding an evidentiary hearing or further proceeding would not advance the present matter as Defendants have not provided any rebuttal to Plaintiff's filings and have not expanded their general statements to raise any specific issue that would require an evidentiary hearing to sort through further evidence or credibility.

ORDER

For the reasons stated, the May 19, 2026 stay is **Vacated**, and the May 6, 2026 Confirmation Order may proceed as initially ordered.

Electronically signed on 6/25/2026 7:24 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "Daniel Richardson", is written over a light blue rectangular background.

Daniel Richardson
Superior Court Judge