582.25 MORTGAGES; VALIDATING FORECLOSURE SALES.

Every mortgage foreclosure sale by advertisement in this state under power of sale contained in any mortgage duly executed and recorded in the office of the county recorder or registered with the registrar of titles of the proper county of this state, together with the record of such foreclosure sale, is, after expiration of the period specified in section 582.27, hereby legalized and made valid and effective to all intents and purposes, as against any or all of the following objections:

(1) that the power of attorney, recorded or filed in the proper office provided for by section 580.05:

(i) did not definitely describe and identify the mortgage;

(ii) did not definitely describe and identify the mortgage, but instead described another mortgage between the same parties;

(iii) did not have the corporate seal affixed thereto, if executed by a corporation;

(iv) had not been executed and recorded or filed prior to sale, or had been executed prior to, but not recorded or filed until after such sale;

(v) was executed subsequent to the date of the printed notice of sale or subsequent to the date of the first publication of such notice;

(2) that no power of attorney to foreclose such mortgage as provided in section 580.05, was ever given, or recorded, or registered;

(3) that the notice of sale:

(i) was published only three, four or five times, or that it was published six times but not for six weeks prior to the date of sale;

(ii) properly described the property to be sold in one or more of the publications thereof but failed to do so in the other publications thereof, the correct description having been contained in the copy of said notice served on the occupant of the premises;

(iii) correctly stated the date of the month and hour and place of sale but named a day of the week which did not fall on the date given for such sale, or failed to state or state correctly the year of such sale;

(iv) correctly described the real estate but omitted the county and state in which said real estate is located;

(v) correctly described the land by government subdivision, township and range, but described it as being in a county other than that in which said mortgage foreclosure proceedings were pending, and other than that in which said government subdivision was actually located;

(vi) did not state the amount due or failed to state the correct amount due or claimed to be due;

(vii) incorrectly stated the municipal status of the place where the sale was to occur;

(viii) in one or more of the publications thereof, or in the notice served on the occupant or occupants designated either a place or a time of sale other than that stated in the certificate of sale;

(ix) failed to state the names of one or more of the assignees of the mortgage and described the subscriber thereof as mortgagee instead of assignee;

(x) failed to state or incorrectly stated the name of the mortgagor, the mortgagee, or assignee of mortgagee;

(xi) was not served upon persons whose possession of the mortgaged premises was otherwise than by their personal presence thereon, if a return or affidavit was recorded or filed as a part of the foreclosure record that at a date at least four weeks prior to the sale the mortgaged premises were vacant and unoccupied;

(xii) was not served upon all of the parties in possession of the mortgaged premises, provided it was served upon one or more of such parties;

(xiii) was not served upon the persons in possession of the mortgaged premises, if, at least two weeks before the sale was actually made, a copy of the notice was served upon the owner in the manner provided by law for service upon the occupants, or the owner received actual notice of the proposed sale;

(xiv) gave the correct description at length, and an incorrect description by abbreviation or figures set off by the parentheses, or vice versa;

(xv) was served personally upon the occupants of the premises as such, but said service was less than four weeks prior to the appointed time of sale;

(xvi) did not state the original principal amount secured, or failed to state the correct original principal amount secured;

(4) that distinct and separate parcels of land were sold together as one parcel and to one bidder for one bid for the whole as one parcel;

(5) that no authenticated copy of the order appointing, or letters issued to a foreign representative of the estate of the mortgagee or assignee, was properly filed or recorded, provided such order or letters have been filed or recorded in the proper office prior to one year after the last day of the redemption period of the mortgagor, the mortgagor's personal representatives or assigns;

(6) that a holder of a mortgage was a representative appointed by a court of competent jurisdiction in another state or county in which before the foreclosure sale an authenticated copy of the representative's letters or other record of authority were filed for record in the office of the county recorder of the proper county but no certificate was filed and recorded therewith showing that said letters or other record of authority were still in force;

(7)(i) that said mortgage was assigned by a decree of a court exercising probate jurisdiction in which decree the mortgage was not specifically or sufficiently described;

(ii) that the mortgage foreclosed had been assigned by the final decree of the court exercising probate jurisdiction to the heirs, devisees, or legatees of the deceased mortgagee, or the mortgagee's assigns, and subsequent thereto and before the representative of the estate had been discharged by order of the court, the representative had assigned the mortgage to one of the heirs, devisees, or legatees named in such final decree, and such assignment placed on record and the foreclosure proceedings conducted in the name of such assignee and without any assignment of the mortgage from the heirs, devisees, or legatees named in such final decree, and the mortgaged premises bid in at the sale by such assignee, and the sheriff's certificate of sale, with accompanying affidavits recorded in the office of the county recorder of the proper county;

(iii) that a mortgage owned by joint tenants or tenants in common was foreclosed by only one tenant;

(8) that the sheriff's certificate of sale or the accompanying affidavits and return of service were not executed, filed or recorded within 20 days after the date of sale, but have been executed and filed or recorded prior to the last day of the redemption period of the mortgagor, the mortgagor's personal representatives or assigns;

(9) that the year, or the month, or the day, or the hour of the sale is omitted or incorrectly or insufficiently stated in the notice of sale or the sheriff's certificate of sale;

(10)(i) that prior to the foreclosure no registration tax was paid on the mortgage, provided such tax had been paid prior to one year after the last day of the redemption period of the mortgagor, the mortgagor's personal representatives or assigns;

(ii) that an insufficient registration tax has been paid on the mortgage;

(11) that the date of the mortgage or any assignment thereof or the date, the month, the day, hour, book, and page, or document number of the record or filing of the mortgage or any assignment thereof, in the office of the county recorder or registrar of titles is omitted or incorrectly or insufficiently stated in the notice of sale or in any of the foreclosure papers, affidavits or instruments;

(12) that the notice of mortgage foreclosure sale or sheriff's certificate of sale designated the place of sale as the office of a county official located in the court house of the county when such office was not located in such court house;

(13) that no notice of the pendency of the proceedings to enforce or foreclose the mortgage as provided in section 508.57, was filed with the registrar of titles or no memorial thereof was entered on the register at the time of or prior to the commencement of such proceedings; or that when required by section 508.57, the notice of mortgage foreclosure sale failed to state the fact of registration;

(14) that the power of attorney to foreclose or the notice of sale was signed by the person who was the representative of an estate, but failed to state or correctly state the person's representative capacity;

(15) that the complete description of the property foreclosed was not set forth in the sheriff's certificate of sale, if said certificate correctly refers to the mortgage by book and page numbers or document number and date of filing and the premises are accurately described in the printed notice of sale annexed to said foreclosure sale record containing said sheriff's certificate of sale;

(16) that the date of recording of the mortgage was improperly stated in the sheriff's certificate of mortgage foreclosure sale, the mortgage being otherwise properly described in said sheriff's certificate of mortgage foreclosure sale and said certificate of mortgage foreclosure sale further referring to the printed notice of mortgage foreclosure sale attached to said sheriff's certificate of mortgage foreclosure sale in which printed notice the mortgage and its recording was properly described;

(17) that prior to the first publication of the notice of sale in foreclosure of a mortgage by advertisement, an action or proceeding had been instituted for the foreclosure of said mortgage or the recovery of the debt secured thereby and such action or proceeding had not been discontinued;

(18) that at the time and place of sale the sheriff considered and accepted a bid submitted prior to the date of the sale by the owner of the mortgage and sold the mortgaged premises for the amount of such bid, no other bid having been submitted, and no one representing the owner of the mortgage being present at the time and place of sale;

(19) that such sale was postponed by the sheriff to a date or time subsequent to the one specified in the notice of sale but there was no publication or posting of a notice of such postponement;

(20) that there was not recorded with letters or other record of authority issued to a representative appointed by a court of competent jurisdiction in another state or county, a certificate that said letters or other record of authority were still in force and effect;

(21) that the sheriff's affidavit of sale correctly stated in words the sum for which said premises were bid in and purchased by the mortgagee, but incorrectly stated the same in figures immediately following the correct amount in words;

(22) that the notice of pendency of the foreclosure as required by section 580.032 was not filed for record before the first date of publication of the foreclosure notice, but was filed before the date of sale;

(23) that the servicer did not comply with the requirements of section 582.043;

(24) that notice for any postponement of the sheriff's sale by the party conducting the foreclosure was not timely or properly mailed or published; and

(25) that the publication of the notice of sale did not comply with section 580.033.

History: *1976 c 148 s 1; 1976 c 181 s 2; 1986 c 444; 1995 c 92 s 13; 1995 c 189 s 8; 1996 c 277 s 1; 2013 c 115 s 4; 2015 c 13 s 3; 2015 c 14 s 2*