

**IN THE COURT OF COMMON PLEAS  
FOR COSHOCTON COUNTY, OHIO  
CIVIL DIVISION**

PEOPLES BANK, successor by merger with  
Ohio Heritage Bank

Plaintiff

vs.

ROBERT L. FRAZEE, et al.

Defendants

CASE NO. 17 CI 0239

JUDGE ROBERT J. BATCHELOR

**JUDGMENT DECREE IN FORECLOSURE AND ORDER OF SALE**

**(33263 Township Road 516, Walhonding, Ohio 43843)**

**(PPN: 027-00000371-00)**

Upon review of all pleadings and evidence of record, and the August 21, 2017 Judgment Entry granting default judgment against Defendants, Robert L. Frazee, his Unknown Spouse, Carolyn S. Ervin, her Unknown Spouse, and Any Tenants of the above-referenced real premises, upon all counts in the Complaint filed by Plaintiff, Peoples Bank, successor by merger with Ohio Heritage Bank (Peoples), seeking relief in mortgage foreclosure and other relief, the Court **FINDS** as follows:

1. That all necessary Parties have been served with the Complaint according to law and are properly before the Court;

2. That Plaintiff's claim for foreclosure against the real property known as 33263 Township Road 516, Walhonding, Ohio 43843 (the "Premises"), has been adjudicated against the title holder and borrower, Robert L. Frazee (Frazee), as a matter of law pursuant to the Judgment

Entry dated August 21, 2017, granting default judgment against said Defendant. The Premises are further described as:

Situated in the City of Walhonding, County of Coshocton and State of Ohio:  
And known as Lot Sixty-six (66) in the Village of Walhonding, as same is marked and delineated on said records of plat of the above village, recorded at Plat Book I, Transcribed at Page 200, Coshocton County Plat Records.  
Parcel No. 027-00000371-00

3. That Plaintiff holds a promissory note dated January 29, 2010 (the "Note"), executed by Defendant, Frazee, and the Note is secured by a mortgage of even date, recorded on February 5, 2010 as Instrument No. 201000000424, OR Book 511 Page 444-164, of the records of the Coshocton County Recorder (the "Mortgage"), with respect to the Premises;

4. That Pursuant to the default judgment entered against all Defendants, default on the terms of the Note and Mortgage have been established as a matter of law;

5. That Defendant, Frazee, executed the Note and the Mortgage, granting a security interest in the Premises to Plaintiff.

6. That the Mortgage is the valid and subsisting first lien upon the Premises, subject only to the lien of the Coshocton County Treasurer (Treasurer), for real estate taxes;

7. That the conditions of the Mortgage have been broken by reason of non-payment of the Note, and that the Mortgage has become absolute entitling Plaintiff, the holder thereof, to have the equity of redemption and dower of all Defendants in and to the Premises foreclosed;

8. That there is due and owing on the Note \$48,326.31 [principal sum of \$47,160.96; accrued interest in the sum of \$1,105.35 as of May 1, 2017; late fees in the amount of \$60.00], plus interest at the rate of \$8.9758751 per day from May 1, 2017, court courts; and collection expenses, pursuant to the Note;

9. That Defendant, Frazee, was granted a discharge of indebtedness pursuant to the April 25, 2017 Order of the United States Bankruptcy Court for the Southern District of Ohio in case No. 2:17-bk-50137 (Preston, J.), and as a result no deficiency judgment on the Note after sale of the real estate encumbered by Plaintiff's mortgage shall be awarded.

10. That reasonable minds can come to but one (1) conclusion, which is adverse to all Defendants, and that there exists no genuine issues of material fact and that Plaintiff is entitled to judgment as a matter of law;

11. That the Treasurer is due taxes, assessments, interest, and penalties on the Premises, as shown on the Treasurer's tax duplicate, the exact amount being un-ascertainable at the present time, but which amount will be ascertained at the time of the Sheriff's Sale, and which is the statutory first lien pursuant to Revised Code §§ 5721.10 upon the Premises for that amount so owing;

12. That during the pendency of this action Plaintiff may have advanced certain sums for the payment of taxes, hazard insurance premiums, and protection of the Premises, the total amount of which is undetermined at the present time, but which amount will be ascertained at the time of a Sheriff's Sale, which amount may be added to the lien of Plaintiff;

13. That plaintiff has requested appointment of a private selling officer to auction the Premises instead of the sheriff (PSO).

Therefore, it is **ORDERED, ADJUDGED** and **DECREED** that, unless the sums herein found due, together with the costs of this action, be fully paid within three (3) days from the date of this Judgment Decree in Foreclosure, the equity of redemption and dower of all Defendants in and to the Premises shall be foreclosed and the Premises sold.

It is **FURTHER ORDERED** that judgment is entered in favor of Plaintiff and against

Defendant, Frazee, in the amount of \$48,326.31 [principal sum of \$47,160.96; accrued interest in the sum of \$1,105.35 as of May 1, 2017; late fees in the amount of \$60.00], plus interest at the rate of \$8.9758751 per day from May 1, 2017, court costs; and collection expenses, pursuant to the Note.

It is **FURTHER ORDERED** that, as set forth in this Judgment Decree, Plaintiff may file an Order of Sale based upon its first lien upon the Premises, subject only to the lien of the Treasurer for real estate taxes.

It is **FURTHER ORDERED** that if Plaintiff files an Order of Sale, then the Sheriff of Coshocton County (the “Sheriff”) shall appraise, advertise in a paper of general circulation within this County, Ohio for three (3) consecutive weeks, and sell the Premises as upon execution and according to law, free and clear of all liens and encumbrances and the interest of all Parties to this action. If however, the Premises are sold by a private selling officer, the procedures for sale, confirmation, and distribution shall be set forth by separate order.

It is **FURTHER ORDERED** that the Sheriff shall be authorized to sell the Premises, free and clear of all liens, claims, and encumbrances, and is authorized to execute a Sheriff Deed and/or any other documents necessary to complete the transaction and sell the Premises.

It is **FURTHER ORDERED** that if the Premises are sold, then Plaintiff shall prepare and submit an Order of confirmation of sale to the Court specifying how the Sheriff’s Sale proceeds are to be distributed, or if sold by PSO, how closing procedures and distributions of sale will be conducted.

It is **FURTHER ORDERED** that any proceeds from a Sheriff’s Sale of the Premises shall be held in an escrow account or by the Sheriff and all liens, claims, and encumbrances, as set forth in the Judgment Decree, shall be transferred to the proceeds and be paid and distributed pursuant to the terms of any order confirming the sale of the Premises.

It is **FURTHER ORDERED** that coming now to distribute the proceeds of the Sheriff's Sale out of the funds in his hands (if the Premises are sold at sheriff's sale and not by private selling officer), the Sheriff shall pay the following claims in their stated order of priority:

- FIRST: To the Clerk of Courts of Coshocton County, Ohio, for the costs of this action;
- SECOND: To the Coshocton County Treasurer, for prorated taxes payable on the Premises;
- THIRD: To the Sheriff, for the Sheriff's Deed, costs, and advertising fees;
- FOURTH: To the Treasurer, for transfer and conveyance fees;
- FIFTH: To the Plaintiff, payment on its judgment; and
- SIXTH: The balance, if any, to be held in escrow by the Sheriff pending further order of this Court.

It is **FURTHER ORDERED** that there is no just reason for delay pursuant to Civ. R. 54.

It is **FURTHER ORDERED** that the Clerk of Courts shall serve notice of this Judgment Decree and its date of entry upon the Journal upon all Parties not in default for failure to appear pursuant to Civ. R. 58.

**IT IS SO ORDERED.**

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JUDGE ROBERT J. BATCHELOR

Submitted by:

/s/ Wade T. Doerr  
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& MASTRANTONIO, LLP  
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