

[Cite as *U.S. Bank, N.A. v. Minter*, 2010-Ohio-5609.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 94604**

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**U.S. BANK, N.A.**

PLAINTIFF-APPELLEE

vs.

**JOYCE MINTER**

DEFENDANT-APPELLANT

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**JUDGMENT:  
AFFIRMED**

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Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CV-626010

**BEFORE:** Sweeney, J.,\* Rocco, P.J., and Stewart, J.

**RELEASED AND JOURNALIZED:** November 18, 2010

## **FOR APPELLANT**

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JAMES D. SWEENEY, J.:\*

{¶ 1} In this pro se appeal, defendant Joyce Minter appeals from the order of the trial court that denied her motion to set aside a default judgment entered against her in a foreclosure action filed by plaintiff U.S. Bank National Association, as Trustee for the Structured Asset Stanley ABS Capital I Trust (“U.S. Bank”). For the reasons set forth below, we affirm.

{¶ 2} On June 4, 2007, U.S. Bank filed this foreclosure action against Minter in connection with a June 2005 promissory note in the amount of \$435,000, and mortgage<sup>1</sup> for property located at 35875 Pettibone Road in Solon.

{¶ 3} On September 7, 2007, U.S. Bank filed a motion for default judgment against Minter and all other defendants who had not answered the complaint. On April 15, 2008, the trial court granted U.S. Bank's motion for default judgment against Minter.

{¶ 4} Following a bench trial, the magistrate issued a decision that noted that Minter was in default of answering, "thereby confess[ing] the allegations of the Complaint[.]" The magistrate further determined that the U.S. Bank Mortgage was first in priority. On August 18, 2009, the trial court adopted the magistrate's decision, ordered foreclosure of the U.S. bank mortgage, and awarded U.S. Bank judgment against Minter in the amount of \$431,339.71.

{¶ 5} The property was eventually sold on January 4, 2010. On October 22, 2009, Minter filed a pro se motion to set aside the default judgment. On January 15, 2010, the trial court denied Minter's motion to set aside the default judgment.

{¶ 6} Minter filed a notice of appeal on January 29, 2010. In her sole assignment of error, she argues that the trial court erred in denying her motion to

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<sup>1</sup>The record further indicates that a second mortgage in the amount of \$348,000 and a third mortgage in the amount of \$87,000 also encumber this property.

set aside the default judgment. Minter insists that the mortgage and note are not genuine and have been recorded in bad faith.

{¶ 7} On August 26, 2010, this court determined that key documents were missing from the file and entered the following sua sponte order:<sup>2</sup>

{¶ 8} “In reviewing the record, the Court noted that several filings, including \* \* \* Minter’s 10-22-2009 motion to set aside the default judgment, were missing from the record. This Court will allow the parties to this appeal until 9-17-2010, to inspect the record and supplement it with any of the missing filings which they deem necessary to pursue this appeal, pursuant to App.R. 9(E).”

{¶ 9} No supplementation of the record has occurred, however. Accordingly, Minter has not exemplified her claimed error. Thus, as explained in *First Fed. Sav. & Loan Assn. v. Community Housing Dev., Inc.*, Fairfield App. 10-CA-10, 2010-Ohio-4280:

{¶ 10} “When the record is incomplete, this court must presume the regularity of the trial court’s proceedings. *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 400 N.E.2d 384. Appellant bears the burden of supplying those portions of the record that demonstrate the error on appeal.

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<sup>2</sup>This notice was sent to Minter at the address that she provided in her notice of appeal and on her Appellant’s Brief, but it was returned as “Vacant unable to forward.” She has therefore not complied with Loc.App.R. 3(B)(3) and Loc.App.R. 44(A)(5), which requires an unrepresented party to provide this Court with the party’s current address.

*DeCato v. Goughnour* (2000), 136 Ohio App.3d 795, 737 N.E.2d 1042.” Accord *Loss v. Claxton*, Portage App. No. 2003-P-0128, 2005-Ohio-347.

{¶ 11} Because we must presume the regularity of the proceedings before the trial judge, we cannot conclude that Minter was entitled to relief from judgment under Civ.R. 60(B) and *GTE Automatic Elec., Inc. v. ARC Industries, Inc.* (1976), 47 Ohio St.2d 146, 351 N.E.2d 113. Accord *Breen v. H&K, Inc.* (May 22, 1997), Cuyahoga App. No. 71018.

{¶ 12} In accordance with the foregoing, the assignment of error is overruled.

Affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

JAMES D. SWEENEY, JUDGE\*

KENNETH A. ROCCO, P.J., and  
MELODY J. STEWART, J., CONCUR

\*(Sitting By Assignment: Judge James D. Sweeney, J., Retired, of the Eighth District Court of Appeals)