

2022



Hfx No. 515975

SUPREME COURT OF NOVA SCOTIA

Between:

ASSADI PRIVATE CAPITAL INC.

Plaintiff

- and -

**CHARLES P. STEPHEN HOWATT, MICHAELA NICOLE SMITH,
ANNE ELIZABETH LATHAM, 3292691 NOVA SCOTIA LTD. and
3337285 NOVA SCOTIA LTD.**

Defendants

Order for Foreclosure, Sale, and Possession

JUSTICE KEVIN COADY

Before the Honourable Justice _____ in Chambers:



SGD
K.C.
J

WHEREAS the Plaintiff obtained an order granting summary judgment as against the Defendants Michaela Nicole Smith, Anne Elizabeth Latham, 3292691 Nova Scotia Ltd., and 3337285 Nova Scotia Ltd. on January 18, 2024 in Hfx No. 515975 in the total amount of \$496,283.50, in connection with the obligations of Suzanne Martin ("**Martin**") to the Plaintiff;

AND WHEREAS the Defendant Charles P. Stephen Howatt ("**Howatt**") guaranteed the obligations of Martin to the Plaintiff and, as security for such obligations, provided a collateral mortgage (the "**Hebron Mortgage**") in favour of the Plaintiff charging the real property located at 180 Highway #340 in Hebron, Nova Scotia (PID 90141086);

AND WHEREAS the Defendant Howatt made an assignment of bankruptcy on August 8, 2023 and Powell Associates Ltd. was appointed as trustee of the estate of the Defendant Howatt (in such capacity, the "**Trustee**");

On the motion of the Plaintiff, Assadi Private Capital, Inc., the following is ordered:

1. The amount due to the Plaintiff on the Hebron Mortgage under foreclosure is settled at \$496,283.50, with interest on \$450,210.78 at the rate of 5% per annum from January 18, 2024 up to:
 - (a) fifteen days after the day of sale by public auction, if the mortgagee purchases the property; or

- (b) fifteen days after the day the balance of the purchase price is paid to the sheriff or other person conducting a sale by public auction, if a person other than the mortgagee purchases the property;

together with any other charges and protective disbursements, as approved by the court, and costs to be taxed.

2. The sheriff shall, if requested by the Plaintiff, take possession of the lands described in the Hebron Mortgage and deliver possession to the Plaintiff or a person designated by the Plaintiff.
3. All the interest and equity of redemption of the Defendant Howatt and of all persons claiming through the Defendant Howatt in the lands described in the Hebron Mortgage (including, without limitation, the Trustee) are forever barred and foreclosed, and shall be sold by the sheriff, the sheriff's nominee, or another person appointed by the Court at a public auction conducted in accordance with the Instructions for Conduct of Foreclosure Auction, which is incorporated by reference except only to the extent varied by this or further order of the Court, unless before the time of sale the amount due, together with costs, are paid to the Plaintiff. The sale is to be held at a courthouse in the county in which the lands being foreclosed are located. Conveyance shall be by deed to the purchaser. The proceeds of the sale shall be applied to cover the expenses of the sale, with the balance paid to the Plaintiff to the extent of the Hebron Mortgage debt and any surplus paid to the prothonotary at the place of this proceeding.
4. The Plaintiff shall give at least fifteen days notice of public auction to the Defendant Howatt by ordinary mail and to each recorded subsequent encumbrancer by delivery to Canada Post for transmission by registered mail, and advertise the public auction by two insertions, the first in the Provincial Edition of the Chronicle Herald, at least fifteen days before the day of sale, and the second in the Provincial Edition of the Chronicle Herald, not more than seven days before the day of sale. The abbreviated description of the lands contained in Schedule "A" is approved for use in the notices and advertisements.
5. A subsequent encumbrancer is bound by the terms of this Order when the notice to subsequent encumbrancer under Rule 35.12 is delivered to Canada Post in the time provided in paragraph 4. A subsequent encumbrancer may defend or contest this proceeding by making a motion in chambers before the date of the public auction.
6. The Plaintiff shall record a true copy of this Order in the parcel register for the lands described in the Hebron Mortgage.

Issued January 30th, 2024



Prothonotary


LORRAINE LUNN
Deputy Prothonotary

SCHEDULE "A"

All those lands and premises known as 180 Highway #340 in Hebron, Nova Scotia (PID no. 90141086), as more fully described in the collateral mortgage recorded at the Shelburne County Land Registration Office on February 1, 2022 as document no. 120058400. The lands are burdened by (i) a right right-of-way in favor of K. Anthony's Landscaping & Snow Removal Ltd. for the purposes of removing soil from the lands, (ii) an easement in favour of the Town of Yarmouth to lay, construct, repair and maintain a water line on the lands, and (iii) an easement in favour of the Nova Scotia Power Commission granting the right to erect and maintain transmission lines over and across the lands, all as more fully described in the parcel register for the lands. The lands have been registered pursuant to the *Land Registration Act*.

IN THE SUPREME COURT
COUNTY OF HALIFAX, N.S.
I hereby certify that the foregoing document,
identified by the seal of the court, is a true
copy of the original document on the file herein.

JAN 30 2024



Deputy Prothonotary

LORRAINE LUNN
Deputy Prothonotary