

Bond Case Briefs

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U.S. Bank National Association v. Columbia Park East MHP, L.L.C.

Court of Appeals of Ohio, Eighth District, Cuyahoga County - December 20, 2018 - N.E.3d - 2018 WL 6819427 - 2018 -Ohio- 5234

Mortgagee brought an action against mortgagor of commercial property seeking judgment on a matured promissory note, foreclosure on the premises and fixtures, and appointment of a receiver to oversee the property subject to the mortgage and other liens.

The Court of Common Pleas entered an order appointing a receiver. Mortgagor appealed.

The Court of Appeals held that:

- Mortgagee complied with statute governing prerequisites to appointing a receiver and obtaining foreclosure;
- Wastewater treatment plant located on mortgaged property was a fixture which receiver had authority to oversee; and
- Trial court acted within its discretion in appointing a receiver, despite argument that such appointment stymied mortgagor's efforts to sell the property.

Wastewater treatment plant that provided drinking water and sanitary sewer service to residents of mobile home facility located on mortgaged property was a fixture which receiver appointed in mortgagee's foreclosure action against mortgagor had authority to oversee, even though it was not covered by the subject mortgage, where plant existed solely to serve mobile home facility, plant was permanently affixed to the property, plant was integral to the mortgaged property in that it provided the source of sanitary sewer services to residents, and ongoing environmental violations directly affected the value of the mortgaged property such that receiver was required to manage the remediation efforts in order to protect the value of the property.