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SUPERIOR COURT
OF GUAM

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IN THE SUPERIOR COURT OF GUAM

PERSONAL FINANCE CENTER, Plaintiff, vs. DEBORAH AFLAGUE DUENAS, Defendant.	CIVIL CASE NO. CV0317-26 DECISION AND ORDER

This matter came before MAGISTRATE JUDGE SEAN E. BROWN on August 7, 2026. Attorney Darron Berman represented Plaintiff and Attorney Nicholas Tyler Loch represented Defendant. Having heard the Parties' arguments for the motion, and considering the Parties' pleadings along with the Verified Complaint, the Court now issues the following written Decision and Order.

BACKGROUND

Defendant obtained the property at issue from her mother, Angelina Aflague via Deed of Gift with Reservation of Life Estate on December 6, 2024. Prior to the change in ownership to Defendant, Ms. Aflague signed a mortgage with Bank of Guam on April 3, 2023. Ms. Aflague passed away on May 9, 2025. The Bank of Guam recorded a Notice of Default on September 4, 2025. A foreclosure sale took place on March 5, 2026 where Defendant purchased the property at issue in this matter. Defendant continues to reside in the home deeded to her by Ms. Aflague. The Verified Complaint for Unlawful Detainer was filed June 19, 2026. Defendant filed a Motion to Dismiss on July 31, 2026. Plaintiff filed its written Opposition on August 6, 2026. Defendant filed a written reply on August 6, 2026.

DISCUSSION

I. **Defendant's Motion to Dismiss**

Defendant argues that unlawful detainer is not the appropriate avenue to gain possession of property after a non-judicial foreclosure and that Plaintiff must file a quiet title or ejectment action. Defendant also raised issues as to the notice in this matter and challenged the designation of a rental relationship at the heart of Plaintiff's Verified Complaint. Finally, Defendant requested a stay while the issues in this case are resolved via a recently filed quiet title action brought by Defendant. Defendant cited to *Bank of Hawaii v. Chan*, 2003 Guam 7 ¶ 5 for its analysis of what remedies are available to a bank buying a property after a non-judicial foreclosure. The Guam Supreme Court directly stated that 21 GCA § "21104 does not expressly allow unlawful detainer after a non-judicial foreclosure". *Id.* However, 21 GCA § 21104 was not the statute Plaintiff cited, or the theory of its claim, in its Verified Complaint. While the *Chan* decision may also apply to this matter, the more immediate concern before the Court is strict compliance with the notice provision under the Guam unlawful detainer statute.

A. Standard for a Rule 12(b)(6) Motion

The facts in a complaint are presumed to be true and the complaint should be construed in the plaintiff's favor when a court decides on a Rule 12(b)(6) motion. *First Hawaiian Bank v. Manley*, 2007 Guam 2 ¶ 9. Dismissal would only be appropriate if a plaintiff can prove no set of facts that would entitle it to relief. *Taitano v. Calvo Fin. Corp.*, 2008 Guam 12 ¶ 9.

B. Plaintiff Failed to State a Claim Upon Which Relief Can be Granted

Plaintiff argues that Defendant is a tenant at sufferance based on the language of the Mortgage. Plaintiff included the Mortgage in its opposition which provides, in the event of default, "if Grantor remains in possession of the Property after the Property is sold…Grantor shall become a tenant at sufferance." Pl. Opp. Exh. A. pg. 4. Even if the Court deemed the Mortgage to have created a tenancy, the law still requires strict compliance with statutory notice provisions. *Archbishop of Guam v. GFG Corp.*, 1997 Guam 12 ¶ 10. Unlawful detainers on Guam are governed by 21 GCA § 21103 and Plaintiff's Verified Complaint only referenced the subsection applicable to rental agreements. The Notice to Quit also only referenced 21 GCA § 21103(b).

21 GCA § 21103(b) provides that the notice state the amount which is due. Here, the Notice to Quit did not list a specific amount owed but indicated "...damages on a per diem basis based on a reasonable rental rate". Pl. Opp. Exh. B. The notice did not indicate how much was owed or for which months rent was owed. The Notice to Quit did not provide Defendant with an amount she could pay to remain on the property. *Id.* While the Court is not making a determination now whether or not Defendant is a tenant, the faulty Notice to Quit fails to provide Plaintiff with an avenue to success on the Verified Complaint.

Furthermore, 21 GCA § 21108 also requires that the complaint, in an unlawful detainer action, must state the amount of rent owed. The Verified Complaint in this matter referenced fair market rent several times but never listed a specific amount of rent owed. As the notice in this matter is faulty and the Verified Complaint also neglected to state the amount of rent owed, the Court finds that there is no set of facts that would currently entitle Plaintiff to relief. Therefore, the Plaintiff failed to state a claim upon which relief can be granted.

At the hearing for this matter, Plaintiff's counsel indicated Plaintiff would be willing to forgo damages to avoid dismissal and that the focus of the Complaint is to obtain possession of the property. However, that was not the theory advanced either in the Verified Complaint or Notice to Quit. While the Court does have discretion to convert the theory of the complaint under 21 GCA § 21114, the *Chan* case limits what options are available to the new owner of a property after a non-judicial foreclosure. *Chan* 7 ¶ 5. Moreover, this matter is dismissed prior to any hearing on the merits of the unlawful detainer. The Court does not find a basis to amend the theory supporting Plaintiff's Verified Complaint. The Court is not going to address what options are available to Plaintiff should the matter be pursued in the future, however, the Court does note that the Mortgage was an agreement signed by Defendant's predecessor that may move this matter beyond the scope of the *Chan* case. Plaintiff must still comply with the notice requirements even if Defendant is deemed a tenant under 21 GCA § 21103(b) based on operation of the default provision in the Mortgage.

The issues presented in the *Chan* decision will not be specifically addressed in this matter because the Court determines that Plaintiff failed to state a claim upon which relief can be granted.

The issue discussed in *Chan* and the other issues raised by the Parties will only be addressed if the matter is brought back to Court. Defendant's request for a stay will not be addressed as the matter is dismissed.

CONCLUSION

The Court, GRANTS Defendant's Motion to Dismiss. This matter is dismissed WITHOUT prejudice and Plaintiff may pursue unlawful detainer if the statutory requirements are met.

So ORDERED this 14th day of August, 2026.

HONORABLE SEAN E. BROWN
MAGISTRATE JUDGE, SUPERIOR COURT OF GUAM

SERVICE VIA E-MAIL
I acknowledge that an electronic copy of the original was e-mailed to:
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Berman Law.
Date: 8/14/26 Time: 1056am
R. Quinata
Deputy Clerk, Superior Court of Guam