

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-050075

03/20/2014

COMMISSIONER JOHN R. DOODY

CLERK OF THE COURT  
E. Morgenstern  
Deputy

MICHAEL O JOHNSON, et al.

LAURA B BRAMNICK

v.

MOUNTAIN VISTA RANCH OWNERS  
ASSOCIATION INC, et al.

MOUNTAIN VISTA RANCH OWNERS  
ASSOCIATION INC  
NO ADDRESS ON RECORD

COAST PROPRITIES 1 LIMITED  
PARTNERSHIP  
NO ADDRESS ON RECORD  
JOSEPH FAIT  
NO ADDRESS ON RECORD  
LEE E GOLDSTEIN  
NO ADDRESS ON RECORD  
SUSAN D GOLDSTEIN  
NO ADDRESS ON RECORD  
I M I INVESTMENT L L C  
NO ADDRESS ON RECORD  
SOUTHCOAST PROPERTY L L C  
NO ADDRESS ON RECORD  
ROSAS INTERNATIONAL L L C  
NO ADDRESS ON RECORD

MINUTE ENTRY

The Court has Plaintiffs' Motion To Amend Judgment And Decree Of Foreclosure filed on March 11, 2014. The motion is denied.

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The Court is unwilling to grant a judgment simply allowing the Plaintiffs to sell the property to the Goldsteins. While the Court appreciates that they may be innocent victims and that this practical solution benefits the Plaintiffs and the Goldsteins, the judicial foreclosure statute and the default rules both exist for the protection of all parties, potentially including the defaulted defendants. While the other defendants in this case defaulted, they did not default under a version of the complaint that proposes to sell the property directly to the Goldsteins. It may be that the defaulted defendants would not have objected, but the Court cannot simply make that assumption for them. The bottom line is that the Court cannot amend the judgment to grant relief that was not requested in the complaint that forms the basis for the default. The Plaintiffs have not cited the Court to any contrary authority on this issue.

As to Plaintiffs' alternative request to order the sheriff to conduct the sale, the Court does not understand why this is necessary. Presumably the timing of the sale depends on when the sheriff is asked to schedule the sale, an event presumably under the Plaintiffs' exclusive control. Also, the Court is not aware of any authority for going beyond the terms of the judgment last October, nor any authority granting the Court permission to amend a judgment for what appears to be a change in strategy, not a clerical error under ARCP Rule 59. Alternatively, the Court cannot grant the relief sought by the Plaintiffs without some allegation and proof of excusable neglect under Rule 60(c).

Due to the potential significance of the six month period, the Plaintiffs are free to urge reconsideration of this ruling, but must be sure to address the questions practical and legal questions raised by the Court in this minute entry.