

COMMON PREDATORY LENDING TRANSACTIONS

The following predatory lending scenarios are true situations. The typical predatory lending transaction target is someone whose house is in foreclosure but has significant equity. The individual seeks or is solicited for refinancing, but is unable to secure it. An alternative way to save the house is then presented to the person. The financing company will set up the transaction or the person will be referred to someone that specializes in financing for people facing foreclosure.

In order to save the house, the homeowner is usually required to deed the house to an outside investor who has good credit and then enter into a lease with an option to buy (or a land contract) to repurchase the house. Sometimes the transaction is explained generally to the homeowner, but the actual numbers are not explained or sometimes the homeowners are told the transaction is only a refinancing arrangement and have no idea they are selling their house.

Sales and repurchase on land contract

A woman whose house was in foreclosure owed approximately \$70,000 on a \$110,000 house. She was told that her house could be saved. She signed a deed and a land contract but was unaware of their effect. None of the documents were recorded and the homeowner did not receive copies of most of the documents. The investor, to whom the homeowner deeded her house, failed to make the mortgage payments and the house went right back into foreclosure. The homeowner never received any of the equity she had in the house. She was evicted and the bank filed an action to quiet title. The homeowner claims she was not notified about the action and the bank obtained a default judgment.

Hiding the equity in bogus expenses

A woman whose house was in foreclosure was told that she could sell her house to an outside investor for \$90,000 when her credit was improved. She owed \$63,000 on the house. She was told she would receive the balance of the equity after fees and expenses were taken out of the proceeds. She expected to receive about \$25,000. However, the individuals involved in the transaction misrepresented various items on the settlement statement: 1) a \$9,000 deposit was on the settlement statement that was not given to the homeowner; 2) a work order for \$13,400 was paid to a company that admitted to doing no work on the property; 3) a \$2,000 credit was given from seller to buyer that no one has been able to explain. The financing company explained that the \$9,000 was a deposit for the homeowner to buy the house in a year (at \$81,000 instead of \$90,000, although there is no writing to this effect) and the \$13,400 was a security deposit to ensure the property was not damaged but was characterized as an invoice.

Deceived about the nature of the transaction

A woman whose house was in foreclosure was told by a financing company they could arrange financing to save her house from foreclosure. She owed about \$36,000 on her house that had an appraised value of about \$100,000. She was told to sign numerous documents. She was told the documents were papers required to obtain financing for her. As it turns out, the papers included a deed conveying her house and a letter stating that she agrees to give all proceeds from the sale of her house, exceeding \$2,000, to the financing company. She received a check for \$2,000, the investor received her house and the financing company received all of her equity.

Taking the proceeds after the transaction

A woman whose house was in foreclosure owed approximately \$75,000 on a \$130,000 house. As she was looking for financing, she was referred to a loan officer who told her that he could not get a mortgage for her until her credit improved. This was determined by pulling a credit report without an application or any formal denial. He told her he could save her house from foreclosure and improve her credit with a series of transactions. Taking his advice she “sold” her house to an outside investor and simultaneously signed a lease with an option to buy. The selling price was \$130,000 and she was to receive about \$52,000 from the sale after the mortgage and taxes had been paid. However, the man (a loan officer at a local bank – which actually facilitated the loan to the investor) who arranged the transaction told her he needed numerous checks to complete the transaction. He went to another bank with her and had the bank issue checks paying himself and the title company the vast majority of the proceeds. The woman ended up only receiving about \$2,000 of her \$52,000 of equity. Her “option” price was \$110,000 to recover her \$130,000 house, on which she originally owed \$75,000.

Multiple conveyances

While this example does not involve “saving” foreclosed property, it was arranged by the same company/individual that has arranged various other predatory lending transactions. A married couple looked into buying a house but could not obtain financing. They were told by the financing company that they could draft a land contract for them so they could purchase the house. The couple paid a \$12,000 down payment, signed the land contract and moved into the house. Nothing was recorded and the couple did not receive any of the documents. Then the financing company informed them that the house had been sold to an investor and they had to sign a new land contract. The terms had changed and there was no reference to their down payment but they signed it anyway so they would not lose their house. At the time the balloon payment was due on the land contract the couple went to obtain financing. However, they could not receive financing because the investor had not recorded the deed. They made numerous requests for the investor to record the deed, but he never did. The investor stopped making payments on the property and it went into foreclosure.

Outright forgery

A woman whose house was in foreclosure sought refinancing. She did not have good credit and was told by lenders that they would not be able to finance her. She decided to sell her house and listed it with a real estate agent. A “lender” then came to her home and told her he had arranged financing for her. He explained a complicated transaction to her. She was not comfortable with the individual or the transaction, so she told him that she was not interested. She then found that her mortgage of \$110,000 had been paid off, although she had no idea why or by whom. She found that a deed had been recorded conveying her house to another individual and that individual gave a mortgage on the property securing a \$380,000 loan. As it turns out, the “lender” that visited her house ended up executing the transaction without her consent. The homeowner’s and her husband’s signatures were forged on the deed and other closing documents. Her husband, at the time, was incarcerated out of state and could not possibly have executed the documents in Oakland County, Michigan as the notary stated.

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