

**FEDERAL LAND BANK V. JUNGBLUTH, 1936-NMSC-032, 40 N.M. 298, 58 P.2d  
1203 (S. Ct. 1936)**

**FEDERAL LAND BANK OF WICHITA, KAN.,  
vs.  
JUNGBLUTH et al.**

No. 4207

SUPREME COURT OF NEW MEXICO

1936-NMSC-032, 40 N.M. 298, 58 P.2d 1203

May 27, 1936

Appeal from District Court, Union County; Livingston N. Taylor, Judge.

Action by the Federal Land Bank of Wichita against Walter G. Jungbluth and others.  
From an adverse order, the plaintiff appeals.

**COUNSEL**

W. E. Pepperell and John B. Tittmann, both of Wichita, Kansas, and O. P. Easterwood,  
of Clayton, for appellant.

**JUDGES**

Zinn, Justice. Hudspeth and Brice, JJ., concur. Sadler, C. J., and Bickley, J., did not  
participate.

**AUTHOR: ZINN**

**OPINION**

{1} The appellant herein asked for a deficiency judgment in a foreclosure suit on a note and mortgage executed by appellees. The final judgment and decree was entered when appellees failed to appear or plead to the foreclosure suit brought by appellant. The judgment was for \$ 8,322.81, with interest, and was in all respects regularly entered. It provided for a personal and deficiency judgment after the application of the proceeds from the sale of the mortgaged land. The sale was regularly advertised by the special master designated for that purpose. The land sold for \$ 6,500, leaving a deficiency in the sum of \$ 2,151.25, which amount the trial court refused to allow. From this order of disallowance, this appeal is prosecuted.

{2} Without any evidence in the record to support the action of the trial court, the disallowance was arbitrary. Nothing more need be added to this opinion.

{3} For the reasons given, the cause will be remanded to the district court, with directions to confirm the report of the special master and to allow a deficiency and personal judgment against the appellees here, the defendants below, in the sum of \$ 2,151.25 as shown by said report.

{4} It is so ordered.