

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS

Hon. Teasa K. Weaver
Master in Equity

Case No. 2019-CP-46-01766

RECEIVED

Jan 13 2023

S.C. SUPREME COURT

Aracely Sanchez,

Respondent

v.

Vanessa M. Sumpter,

IN RE:

Pennington Place Home Owners Association of York, Inc.

v.

Vanessa M. Sumpter,

Appellant

NOTICE OF APPEAL

Vanessa M. Sumpter here files Notice of Appeal of the attached orders of December 14, 2021, August 17, 2022 Writ of Assistance Order, and Foreclosure Order dated October 3, 2019 issued by the Hon. Teasa K. Weaver, Master in Equity for York County. Appellant received written notice of entry of the Order denying Appellant motions for reconsideration of the above orders on the date of December 14, 2022.

Respectfully submitted January 13, 2023.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

Pennington Place Home Owners
Association of York, Inc.

Plaintiff,

vs.

Vanessa M. Sumpter,

Defendant.

IN THE COURT OF COMMON PLEAS

Docket No. 2019-CP-46-01766

**ORDER DENYING DEFENDANT'S
MOTIONS**

Rules 59(e) and 60(b)(5), SCRPC

This matter came before me for a hearing on October 13, 2022 upon Defendant's motions though Rules 59(e) and 60(b)(5), SCRPC. The Defendant filed a third motion to stay the execution of the Writ of Assistance, but at the time of the hearing, the Defendant had vacated the premises. Present at the hearing: Defendant Vanessa Sumpter with her counsel, J. Cameron Halford; and Aracely Sanchez with her counsel Thomas Roper. No other party appeared.

The Defendant argues, pursuant to Rules 59(e) and Rule 60(b)(5), that the Writ of Assistance should be vacated because the Defendant's equitable interests in the subject property are superior to any interests conveyed to Sanchez through the Master's Deed, or due to Sanchez's failure to file a certification of compliance with the CARES Act pursuant to the Administrative Order of the Supreme Court 2020-05-06-01. The Defendant further argues, pursuant to Rule 60(b)(5), that the October 2019 judgment order and the December 2019 sale should be vacated due to noncompliance with the aforementioned Supreme Court order. I disagree.

FINDINGS OF FACT

This action was a foreclosure action brought by a homeowners' association. A final order of judgment and sale was issued on October 3, 2019, and pursuant to that order, the subject property was sold at public auction on December 2, 2019. Sanchez was highest bidder at

foreclosure sale, having complied with her bid on the day of sale. A Master's Deed was issued to Sanchez, which was recorded with the York County Register of Deeds on December 4, 2019 in Book 17945, page 1.

On May 6, 2020, the Supreme Court issued the order regarding the Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act in Evictions and Foreclosures Forms ("Certification Order").

A few weeks before the Supreme Court issued the Certification Order, Sanchez filed an action for eviction against the Defendant in Magistrate Court. This action was dismissed in July 2020. Sanchez did not pursue an eviction against the Defendant again until 2022. Sanchez claims she would have pursued an eviction sooner, but was unable to proceed due to COVID restrictions placed upon Magistrate Courts. In 2022, Sanchez filed two more actions in Magistrate Court seeking to have the Defendant evicted, but both actions were dismissed. Shortly following the last dismissal, Sanchez, through her counsel, filed a motion for Writ of Assistance in Circuit Court on July 26, 2022.

CONCLUSIONS OF LAW

The Certification Order was not applicable to Sanchez upon her filing of the motion for Writ of Assistance. The Certification Order provides as follows:

IT IS FURTHER ORDERED that Master-in-Equity courts statewide shall not hold a foreclosure sale, or issue a judgment of foreclosure, writ of assistance, or writ of ejectment in a foreclosure action until the party pursuing the foreclosure has complied with the provisions of this Order. (emphasis added.)

Sanchez was not a party pursuing foreclosure, and thus was under no obligation to comply with the Order. Nonetheless, the Defendant was not in a forbearance plan as contemplated by the CARES Act at the time of the hearing regarding the Writ of Assistance, or thereafter. As shown in the form, a hearing could proceed as long as the party pursuing foreclosure certified that the

mortgagor was not currently in a forbearance plan under the CARES Act. Additionally, any interests the Defendant had in the subject property ended upon the sale of the subject property to Sanchez in December 2019.

As for the Judgment Order or December 2019 sale, the Defendant is not entitled to relief pursuant to Rule 60(b)(5). The order was issued and the sale was conducted prior to the effective date of the Certification Order, so Plaintiff was not under any obligation to comply with the order.

Based on the foregoing finding and conclusions, IT IS ORDERED that the Defendant's motions be denied.

Judge's Signature Page to Follow



York Common Pleas

Case Caption: Pennington Place Home Owners Association Of York Inc , plaintiff, et al VS Vanessa M Sumpter
Case Number: 2019CP4601766
Type: Master/Order/Other

So Ordered

s/ Teasa K. Weaver 3084

1. By Order of Judgment of Foreclosure and Sale dated October 3, 2019, in Case Number 2019-CP-46-01766, this Court reserved jurisdiction to issue a Writ of Assistance or otherwise decreed that in the event the successful bidder at the foreclosure sale is other than the Respondent in possession, that the County Sheriff remove the occupant(s) from the property and to place the successful bidder or her heirs, successors or assigns, in permanent peaceable possession of the subject property; or, further decreed that, if furnishings, fixtures, or other items are left at the subject property after the occupant(s) have been removed or have voluntarily vacated the premises, the Petitioner, or her assigns, are authorized to consider the property as abandoned and remove the property to the public street or highway, or remove it by some other means.

2. The Petitioner was the successful bidder at the foreclosure sale, has fully complied with the terms of her bid and has been issued a deed to the property.

3. The Respondent and others occupying under the Respondent still occupy and remain in possession of the subject property. Personal property, apparently belonging to the Respondent or other occupiers, remains at the subject property which has the address of 3052 Rocket Road, Rock Hill, South Carolina 29732 in York County.

NOW, THEREFORE, it is

ORDERED that the Respondent and those claiming under her, shall vacate the subject property no later than **12 o'clock noon on September 12, 2022**, and you, finding the Respondent and any others still occupying the subject property after that date, shall forthwith, or as soon as practicable thereafter, by force if the same be necessary, seize the subject property, eject and remove from the subject property the Respondent who still occupies and remains in possession of the subject property as well as any and all tenants and other persons claiming under the said

Respondent who still occupy the subject property or their assigns in full, quiet and peaceable possession of the subject property without delay, and keep the Petitioner or her assigns in full, peaceful and quiet possession of the subject property without delay and thereafter make immediate return to the undersigned showing how this Order has been executed. As the undersigned has granted the Respondent thirty-three (33) days from the date of this hearing before the Writ of Assistance is to be effective, the Sheriff is directed to comply with this Writ of Assistance on the date and time set forth above and not grant the Respondent additional time before vacating the property.

AND IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]



York Common Pleas

Case Caption: Pennington Place Home Owners Association Of York Inc , plaintiff, et al VS Vanessa M Sumpter
Case Number: 2019CP4601766
Type: Order/Writ Of Assistance

So Ordered

s/ Teasa K. Weaver 3084

State of South Carolina
County of York

In The Court of Common Pleas
Docket No. 2019-CP-46-1766

<p>Pennington Place Home Owners Association of York, Inc. Plaintiff, vs. Vanessa M. Sumpter, Defendant.</p>	<p>MASTER IN EQUITY'S REPORT AND JUDGMENT OF FORECLOSURE SALE (DEFICIENCY WAIVED)</p>
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Pursuant to Rule 53 SCRPC, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the cause.

Pursuant to the said Order of Default and Reference, a hearing was held on October 2, 2019 attended by Timothy G. Sellers, attorney for the Plaintiff. Defendant Vanessa M. Sumpter appeared *pro se*. Exhibits filed by the Plaintiff on September 25, 2019 were received into evidence without objection, and from the evidence and other filings, I find, conclude and order as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on May 20, 2019.
2. The titleholder(s) of record in and to the subject property as of the filing of the Lis

Pendens in this action is Vanessa M. Sumpter, which Property is more particularly described as follows:

All that certain piece, parcel or lot of land lying and being situated in the County of York, State of South Carolina, designated as Lot 27 of Pennington Place Subdivision Phase 2, shown in Plat Book C318 at Page 9, Office of the Clerk of Court for York County, south Carolina, reference to which hereby is made for a more particular description.

Being the same property described in the deed recorded in Deed Book 13003, at Page 133 of the York County Public Registry.

The subject property is referred to herein as the “Property.”

3. The Property is subject to and encumbered by the Declaration of Covenants, Conditions and Restrictions for Pennington Place Home Owners Association of York, Inc. recorded in 6594 at Page 51 of the York County Public Registry (“Declaration”).

4. This action was commenced with the filing of a Summons and Complaint by the Plaintiff on May 20, 2019.

5. Vanessa M. Sumpter was served with process as required by Rule 4 of the South Carolina Rules of Civil Procedure as specifically set forth in the Affidavit of Service filed by the Plaintiff, as well as other returns and entries of service which appear in the court file.

6. Vanessa M. Sumpter failed to plead or otherwise defend within the time limits provided and as otherwise required by the South Carolina Rules of Civil Procedure.

7. An Order of Default and Reference was filed on August 22, 2019.

8. No Defendant is a minor or incompetent person.

9. The Plaintiff filed and served its Affidavit in Response to Temporary Restraining Order Issued by the Supreme Court of the State of South Carolina, in accordance with the Supreme Court’s Administrative Order dated May 22, 2009. Vanessa M. Sumpter filed no response in accordance with said Administrative Order.

10. No Defendant is in the military service of the United States so as to be entitled to protection under the terms of the Service Members Civil Relief Act of 2003 (“Act”).

11. The Plaintiff is entitled under the terms of the Declaration to recover reasonable attorney fees incurred and the plaintiff’s attorney has filed an Affidavit of Attorney’s Fees in support of that request which details services performed and costs incurred prior to the hearing,

and expenses incurred in connection with this hearing and an estimate of services that will be required after this hearing in connection with the sale of the Property.

12. Having considered the nature, extent and difficulty of the services rendered and expected (the field of association lien foreclosures being a specialized area of practice), the time involved in reviewing the various documents, performing title searches, preparing the pleadings, attendance at the hearings and argument, the professional standing of counsel, the fee customarily charged for similar services and the beneficial results obtained for the Plaintiff, I find that the sum of \$2,112.00 for Plaintiff's Attorney for services performed and anticipated to be performed until final adjudication and completion of the within action to be reasonable. In addition, I find that reasonable costs in the amount of \$542.06 have been incurred to and through the date of this hearing.

13. The amount due and owing by the Defendant, levied and charged by the Association pursuant to the Declaration and with interest at the rate provided in the Declaration, and other costs and expenses of collection, including an attorney's fee is:

(a)	Association Payoff through September 17, 2019 ("Calculation Date")	\$427.50
(b)	Costs of collection prior to hearing	\$542.06
(c)	Attorney's Fees	\$2,112.00
	TOTAL DEBT	\$3,081.56

Interest shall accrue on the Total Debt after the date of judgment at the rate of at an annual rate of fifteen percent (15%) and should be added to such Total Debt to comprise the amount of Plaintiff's debt secured by the Lien, as well as assessments that may become due and owing to the Plaintiff after the Calculation Date and before the foreclosure sale is final.

14. Repayment of the Total Debt plus interest, as well as assessments that may become due and owing to the Plaintiff after the Calculation Date and before the foreclosure sale is final is secured by Plaintiff's lien as provided in the Declaration and as memorialized in the Notice of Delinquent Assessments and Lien filed in the Office of the Register of Deeds Office for York County on February 22, 2019 in Book 467; Page 491. ("Lien")

15. Plaintiff is entitled to have Judgment entered against the Defendant(s):

(a) adjudging the Defendant(s) indebted to the Plaintiff in the amount of the Total Debt including attorney's fees.

(b) granting the Plaintiff equitable relief by declaring the Property of the Defendant(s) subject to the Lien in favor of the Plaintiff which secures repayment of the Total Debt plus interest, as well as assessments that may become due and owing to the Plaintiff after the entry of judgment and before the foreclosure sale is final, and which Lien attached to the Property as of February 22, 2019, and

(c) ordering that the Property be sold under the direction of the Court and the proceeds applied to the costs and expenses of this action and to payment of the Total Debt plus interest as prayed for in the Complaint, as well as assessments that may become due and owing to the Plaintiff after the entry of judgment and before the foreclosure sale is final.

16. The Plaintiff waives its rights to a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the Plaintiff, including costs and attorney fees.

CONCLUSION OF LAW:

I, therefore, conclude that the Plaintiff should have judgment allowing foreclosure of the Lien and the Property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED:

1. The amount due and owing to the Plaintiff which is secured by the Lien is \$3,081.56 ("Total Debt") plus any assessments that become due and owing to the Plaintiff after the Calculation Date and before the foreclosure sale is final.
2. The "Total Debt" shall bear interest hereafter at the rate of at an annual rate of fifteen percent (15%).
3. The Property of the Defendant(s) located at 3052 Rocket Road, Rock Hill, SC 29732, and more particularly in Paragraph 2 above, is subject to a Lien in favor of the Plaintiff which secures repayment of the Total Debt plus interest and any assessments that become due and owing to the Plaintiff after the entry of judgment and before the foreclosure sale is final, which lien relates back to and attaches to the Property as of February 22, 2019.
4. The Master in Equity shall give notice of the sale of the Property in satisfaction of the Lien on some convenient sales day hereafter as by law provided.
5. The Defendant(s) shall pay to the Plaintiff, or Plaintiff's attorney, the amount of the Total Debt plus interest, any assessments that become due and owing to the Plaintiff after the entry of judgment and before the foreclosure sale is final, and the costs and expenses of sale on or before the date set for sale of the Property.
6. Should the Defendant(s) fail to make payment in full on or before the date set for sale, the Property shall be sold by the Master in Equity, at public auction, at the Courtroom of the Master in Equity in York, South Carolina, on the following terms:
 - A. FOR CASH: The Master in Equity will require a deposit of five percent (5%) on the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid. In case of non-compliance, the same will be forfeited and delivered to the Plaintiff for application to the costs and Plaintiff's debt. If the required deposit is not by the

high bidder, the property may be sold to the next high bidder, subject to the deposit requirements set forth herein.

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of interest of at an annual rate of fifteen percent (15%).

C. The sale shall be subject to prior mortgages, taxes and assessments, to easements, restrictions and rights-of-ways of record, and to any other senior or superior liens or encumbrances.

D. Purchaser to pay for Deed Stamps and costs of recording the Deed.

7. If Plaintiff be the successful bidder at the sale, for a sum not exceeding the amount of costs, disbursements and expenses and the Total Debt owing to the Plaintiff with interest, plus any assessments that become due and owing to the Plaintiff after the entry of judgment and before the foreclosure sale is final, Plaintiff may pay to the Master in Equity only the amount of the costs, disbursements and expenses crediting the balance of the bid on the Plaintiff's indebtedness.

8. The Master in Equity will by advertisement according to law, give notice of the time and place of sale, and the terms thereof; and will execute to the Purchaser, or Purchasers, a deed to the Property sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale. If the Purchaser, or Purchasers, should fail to comply with the bid and the terms thereof within twenty (20) days after date of sale, then the Master in Equity may advertise the Property for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until full compliance with the high bid and the terms thereof is secured.

9. That the Master in Equity will apply the proceeds of the sale as follows:

FIRST: To payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Total Debt and interest, as well as any assessments that become due and owing to the Plaintiff after the Calculation Date and before the foreclosure sale is final, so much thereof as the purchase money will pay on the same to the Plaintiff or Plaintiff's attorney.

NEXT: Any surplus will be held pending further order of the court.

10. **IT IS FURTHER ORDERED** that in the event the successful bidder is other than the Defendants in possession herein, the Sheriff of York County is ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

11. **IT IS FURTHER ORDERED** that each Defendant, all defendants served, and all persons whomsoever claiming under him, her or them, be forever barred and foreclosed of all right of title, interest and equity of redemption in the Property so sold, or any part thereof.

12. **IT IS FURTHER ORDERED** that the Deed of conveyances made pursuant to said sale shall contain the names of the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the Property at the time of filing of the Notice of Lis Pendens, and the name of the Grantee, and the Clerk of Court/RMC is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

13. The Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of Writ of Assistance and hearing any

issues involving appraisal proceedings under Section 29-3-680 et seq., South Carolina Code of Laws (1976) as amended.

14. The Master in Equity shall direct the Register of Deeds to release of record the Lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed.

15. The following is a description of the Property ordered to be sold:

All that certain piece, parcel or lot of land lying and being situated in the County of York, State of South Carolina, designated as Lot 27 of Pennington Place Subdivision Phase 2, shown in Plat Book C318 at Page 9, Office of the Clerk of Court for York County, south Carolina, reference to which hereby is made for a more particular description.

Being the same property described in the deed recorded in Deed Book 13003, at Page 133 of the York County Public Registry.

TMS# 589-06-01-035

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:



York Common Pleas

Case Caption: Pennington Place Home Owners Association Of York Inc VS Vanessa
M Sumpter
Case Number: 2019CP4601766
Type: Master/Order/Foreclosure & Sale and Form 4

So Ordered

s/ Teasa K. Weaver 3084