

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
CASE NO.: 2016-CP-07-01466

Deutsche Bank National Trust Company as
Trustee for NovaStar Mortgage Funding
Trust, Series 2006-5 NovaStar Home
Equity Loan Asset-Backed Certificates,
Series 2006-5,

Plaintiff,

v.

Terry Lennette Grant,

Defendants

**MASTER IN EQUITY'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE**

**(GRANTING PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT AND DENYING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT)**

DEFICIENCY WAIVED

RECEIVED

Sep 05 2023

SC Court of Appeals

Hearing Date: May 4, 2023

Appearances: Chad W. Burgess, Esquire for Plaintiff; Vivian Michelle Woods

Court Reporter: Naomi McCracken

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-entitled matter was referred to the undersigned Special Referee to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the cause. Any appeal from the decision of the Special Referee shall be directly to the South Carolina Court of Appeals.

Pursuant to the said reference, a hearing was held on May 4, 2023 on the parties' pending cross motions for summary judgment, a record was made which is reported herewith, and from the testimony and evidence I find and conclude as follows:

FINDINGS OF FACT:

1. Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 NovaStar Home Equity Loan Asset-Backed Certificates, Series 2006-5 (hereinafter "Plaintiff" or "Deutsche Bank") filed its initial Lis Pendens, Summons and Complaint on June 29, 2016.



File reference: 15-22471



2. Service was made upon the Defendant Terry Lennette Grant (hereinafter “Defendant” or “Grant”) as is shown by the proofs of service filed herein.
3. Grant filed an answer to the initial complaint on October 28, 2016. The Complaint was amended on November 9, 2017. Grant answered the Amended Complaint on December 7, 2017.
4. Plaintiff’s Motion for Summary Judgment was filed on September 7, 2022. Defendant’s Motion for Summary Judgment was filed October 21, 2022.
5. According to an Affidavit filed herein, no Defendant is in the military service of the United States of America, as contemplated under the Servicemembers’ Civil Relief Act fka Soldiers’ and Sailors’ Civil Relief Act of 1940, and any amendments thereto.
6. Grant was notified of the time and date of this hearing as is evidenced by the Notice of Hearing and Certificate of Service filed April 21, 2023. Despite being duly notified of the hearing, Grant did not attend. The hearing was attended by Vivian Michelle Woods. Ms. Woods asserted she was attorney-in-fact via a limited power of attorney executed by Grant. Ms. Woods confirmed she was not a South Carolina licensed attorney. As such, she was not allowed to represent Grant at the hearing, but she was allowed to observe the hearing.
7. Counsel for Plaintiff acknowledged Defendant made various filings in opposition to Plaintiff’s Motion for Summary Judgment and in support of her motion. I take judicial notice of and have reviewed the parties’ respective filings in conjunction with issuing this Order. *Freeman v. McBee*, 280 S.C. 490, 494, 318 S.E.2d 325, 327 (Ct.App. 1984). (“A Court can take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records.”)
8. For value received, Terry Lennette Grant made, executed and delivered a note, dated September 18, 2006, promising thereby to pay to the order of Mortgage Electronic Registration

Systems, Inc. as nominee for NovaStar Mortgage, Inc. the sum of \$680,000.00 with interest at the rate of 7.75% per annum (hereinafter "Note"). Other terms and conditions are stated in the note, which is of record herein.

9. To better secure the payment of the Note described above, the said Terry Lennette Grant made, executed and delivered a mortgage to Mortgage Electronic Registration Systems, Inc. as nominee for NovaStar Mortgage, Inc., in writing, dated September 18, 2006, covering real property in Beaufort County, which is the same as that described in the Complaint. The Mortgage was recorded on September 26, 2006, and is of record in the Beaufort County Registry in Book 2448 at page 823.

10. This mortgage constitutes a valid first lien on the subject property.

11. Thereafter, the Mortgage was assigned to Deutsche Bank National Trust Company, as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 by assignment recorded on December 10, 2009, in Book 2915 at Page 902.

12. Plaintiff alleges the installments of principal and interest falling due from and after January 1, 2008, have not been paid, thereby placing Plaintiff in default under the terms of the Note and Mortgage. As a result of Plaintiff's default, foreclosure efforts were initiated and have been ongoing since 2009. I take judicial notice of the filings in the prior foreclosure actions as summarized below. *Id.*

13. The initial foreclosure action was filed on December 1, 2009. *See* SC Civil Action Number 2009-CP-07-05612. The 2009 foreclosure was voluntarily dismissed on February 12, 2010, without apparent service of process on Grant.

14. The second foreclosure action was filed on April 12, 2010. *See* SC Civil Action Number 2010-CP-07-01690. The case was referred to the Honorable Marvin H. Dukes, III, as Master in

Equity for Beaufort County on June 15, 2010. Grant appeared in the 2010 foreclosure *pro se* and no counterclaims were asserted. As a part of the 2010 foreclosure, Deutsche Bank sought to reform the subject Mortgage and sought an easement for ingress and egress for itself and its successors. On February 7, 2014, Judge Dukes entered an Order granting Deutsche Bank's Motion for Partial Summary Judgment as to the reformation and easement causes of action. The February 7, 2014, Master's Order which granted Deutsche Bank's motion for partial summary judgment, reformed the legal description contained in the Mortgage, and granted Deutsche Bank and its successors an easement as described therein. The Master's Order established: (1) that Grant, for value received, entered into the subject Note and Mortgage; (2) that Deutsche Bank was the present lienholder at the time the Order was entered thereby establishing standing to enforce the subject Note and Mortgage; (3) that Deutsche Bank was entitled to judgment as to its causes of action for reformation of the mortgage based upon mutual mistake; and, (4) entitlement to an easement for the purposes of ingress and egress.

15. Deutsche Bank was granted judgment as to its remaining cause of action for foreclosure in an Order entered May 28, 2014. The May 28, 2014 Foreclosure Order was vacated and the cause of action for foreclosure was dismissed without prejudice pursuant to SCRPC Rule 60(b) on January 14, 2016. The February 7, 2014 Order reforming the Mortgage and granting an easement for ingress and egress remains in full force and effect as it was not affected by the vacating of the foreclosure portion of the 2010 action. Grant has not appealed February 7, 2014 Order, and it has never been vacated.

16. "Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated

in the former suit and any issues which might have been raised in the former suit.” *Plum Creek Dec. Co. v. City of Conway*, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) (internal citations omitted). See also *Richburg v. Baughman*, 290 S.C. 431, 351 S.E.2d 164 (1986) (under the doctrine of collateral estoppel, once final judgment has been reached in prior claim, relitigation of those issues actually and necessarily litigated and determined in the first suit are precluded in any subsequent action based upon a different claim).

17. “Under the law-of-the-case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court.” *Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009). “[A]n unappealed ruling, right or wrong, is the law of the case.” *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012). “The law of the case applies both to those issues explicitly decided and to those issues which were necessarily decided in the former case.” *Ross v. Med. Univ. of S.C.*, 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997). “Under the law of the case doctrine, a party is precluded from re-litigating issues decided in a lower court order, when the party voluntarily abandons its appeal of that order.” *Hudson ex rel. Hudson v. Lancaster Convalescent Ctr.*, 407 S.C. 112, 119, 754 S.E.2d 486, 490 (2014).

18. Grant’s defenses in this foreclosure center around challenges to her entering the subject loan and her attack of Deutsche Bank’s standing to bring the foreclosure actions. The above-described doctrines bar Grant’s challenges.

19. Grant alleges she never entered into the subject note and Mortgage because the subject closing documents were “incorrectly prepared”. See Defendant’s Affidavit filed October 6, 2022, Paragraphs 2 through 4. These statements are inconsistent with the numerous answers filed by the Defendant in this case. See Defendant’s answers filed October 28, 2016, July 21, 2017, December

7, 2017, February 15, 2018. The Defendant's answers consistently admit entering into the subject Note and Mortgage. The Defendant's answers also consistently reference that the subject Mortgage had an incorrect legal description. As noted above, the Mortgage's legal description was addressed in the February 7, 2014 Order as a matter of law. Further, the publicly available records filed in the Beaufort County Register of Deeds' Office refute Grant's claims.

20. Grant asserts, and Plaintiff agrees, that the proceeds from the subject loan purportedly paid off a prior mortgage held by Mortgage Electronic Registration System's Inc, as nominee for GreenPoint Mortgage Funding, Inc. recorded in the Beaufort County Registry on December 15, 2003 in Book 1886 at Page 1116 (the "GreenPoint Mortgage"). Grant claims that the Greenpoint Mortgage was paid off in 2004 and satisfied by a document recorded in the Beaufort County Registry on April 23, 2004 in Book 1942 at Page 2544. *See* Defendant's Affidavit filed October 6, 2022, Paragraph 2(D) and Exhibit #2 attached thereto. The document Defendant relies upon as evidence that the GreenPoint Mortgage was paid off in 2004 is a Partial Release of Mortgage which releases from the GreenPoint Mortgage a portion of land excluding the .46 acres which are the subject of the Plaintiff's Mortgage and this foreclosure action. The 2004 Partial Release does not support a finding that the GreenPoint Mortgage was fully paid off in 2004.

21. In support of her assertions, Grant filed a copy of the Settlement Statement from the subject closing which occurred on September 18, 2006 (*See* Defendant's Affidavit, Exhibit #1). Plaintiff conceded at the hearing that the copy of the Settlement Statement filed by Grant is a true and accurate copy of the unsigned Settlement Statement from the closing of the subject loan. The Settlement Statement indicates the amount of \$387,910.25 was paid to GreenPoint from the proceeds of the subject loan. A Satisfaction of Lost Mortgage was executed by Mortgage Electronic Registration Systems Inc, as nominee for GreenPoint Mortgage Funding, Inc. was

recorded in the Beaufort County Registry on October 10, 2006 in Book 2456 at Page 1986. The Satisfaction of Lost Mortgage conclusively establishes that the GreenPoint Mortgage was fully paid off in 2006 from the proceeds of the subject loan.

22. The Settlement Statement also shows a payoff of a second mortgage to South Carolina Bank and Trust (“SCB&T Mortgage”) in the amount of \$101,788.42. The SCB&T Mortgage was recorded in the Beaufort County Registry on June 31, 2005, in Book 2220 at Page 1497. A Satisfaction of the SCB&T Mortgage was executed October 10, 2006, and recorded in the Beaufort County Registry on March 21, 2007 following the closing of the subject loan. This payoff further establishes Grant’s entry into the subject loan.

23. The Settlement Statement also shows a payment to the South Carolina Department of Revenue in the amount of \$22,837.33. A SCDOR Tax Lien was recorded in the Beaufort County Registry on April 5, 2006 in Book 24 at Page 1305. A Tax Lien Satisfaction was recorded in the Beaufort County Registry on October 27, 2006 in Book 27 at Page 1942. The Settlement Statement also shows payment to the United States IRS for Federal Tax in the amount of \$105,908.28. No Federal tax liens appear in the Beaufort County Registry.

24. The February 7, 2014 Order, coupled with the indisputable evidence found in the Beaufort County Registry of the funds from this loan being used to pay off prior debts owed by the Defendant put falsity to her claim that she walked out of the closing without signing the subject Note. There is simply no genuine issue of material fact remaining regarding the Defendant having entered into and benefited from the subject loan and the Plaintiff is entitled to summary judgment regarding this issue.

25. Grant asserts Plaintiff lacks standing to pursue the foreclosure action both as grounds for her motion for summary judgment and against the Plaintiff’s motion for summary judgment.

“Standing refers to a party’s right to make a legal claim or seek judicial enforcement of a duty or right.” *Michael P. v. Greenville Cty. Dep’t of Soc. Servs.*, 385, S.C. 407, 415, 684 S.E.2d 211, 215 (Ct. App. 2009) (citing *Powell ex re. Kelley v. Bank of Am.*, 379 S.C. 437, 444, 665 S.E.2d 237, 241 (Ct. App. 2008)). SCRCP Rule 17(a) provides that, “[e]very action shall be prosecuted in the name of the real party in interest” and further sets forth that, “[n]o actions shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until such time has been allowed, after objection, for ratification of commencement of the action by, or joinder or substitution of, the real party in interest”. In *Bank of America, N.A. v. Draper*, 405 S.C. 214, 746 S.E.2d 478 (Ct. App. 2013), the Court of Appeals took up the issue of standing in the context of a mortgage foreclosure and noted, “[t]he requirement of Standing is not an inflexible one.” *Id.* at 220 (quoting *Sloan v. Sch. Dist. Of Greenville Cnty.*, 342 S.C. 515, 524, 537 S.E.2d 299, 304 (Ct. App. 2000)). The Court of Appeals further noted the following regarding transfers of Notes and Mortgages:

An assignee stands in the shoes of its assignor. *Twelfth RMA Partners, L.P. v. Nat’l Safe Corp.*, 335 S.C. 635, 639, 518 S.E.2d 44, 46 (Ct. App. 1999); see also S.C. Code Ann. §36-3-203(b) (Supp. 2012) (Providing a transfer of an instrument vests in the transferee any rights the transferor had). “[T]he assignment of a note secured by a mortgage carries with it an assignment of the mortgage, but...the assignment of the mortgage alone does not carry with it an assignment of the note.” *Hahn v. Smith*, 157 S.C. 157, 167, 154 S.E. 112, 115 (1930); see also *Ballou v. Young*, 42 S.C. 1710, 176, 20 S.E. 84, 85 (1984) (“The Transfer of a note carries with it a mortgage given to secure payment of such note.”).

Id. at 220. Thus, a holder of a note has standing as the real party in interest to bring a foreclosure action. In *Draper*, the Court of Appeals also acknowledged that a mortgage servicer has standing to initiate a foreclosure action. “Several bankruptcy courts and federal district courts, including those in South Carolina, have recognized the servicer of a loan to be a real party in interest and able to initiate a foreclosure. We agree with this view.” *Id.* at 223.

26. The Plaintiff produced the original Note for this Court's inspection at the May 4, 2023 hearing. As evidenced by the stamps placed on the face of the document, Plaintiff previously produced the Note for Judge Dukes' inspection in the 2010 Foreclosure Action on May 28, 2014 in conjunction with entry of foreclosure judgment in that case. The original Note was again produced for the Court's inspection in connection with a prior hearing in this action on August 3, 2021. On its face, the Note is a negotiable instrument as defined in S.C. Code Ann. §36-3-104. Plaintiff is the holder of the Note as defined in S.C. Code Ann. § 36-1-201 (b)(21)(A), formerly S.C. Code Ann. §36-1-201(20) as they are in possession of the negotiable instrument indorsed in blank. As the holder of the Note, Plaintiff is a "person entitled to enforce" the Note pursuant to S.C. Code Ann. § 36-3-301 as a matter of law.

27. Further, the Defendant lacks standing to challenge the transfer of the subject Note and Mortgage because she was not a party to said transfer. In *Re McFadden*, 471 BR 136 (2012); see also *Reese v. United States Bank Nat'l Ass'n*, No. 3:11-2990-CMC-SVH, 2012 U.S. Dist. LEXIS 75652, at *8-9 (D.S.C. Apr. 30, 2012) ("Plaintiff is only a party to the Mortgage and, because the Assignment is a separate contract to which Plaintiff is not a party, she cannot question its validity"); see also *Windsor Green Owners Ass'n, Inc. v. Allied Signal, Inc.*, 362 S.C. 12, 605 S.E.2d 750 (Ct. App. 2004). ("Generally, one not in privity of contract with another cannot maintain an action against him for breach of contract.").

28. Based upon the foregoing, I find the Plaintiff has standing to bring the instant foreclosure action as a matter of law.

29. As required by South Carolina Supreme Court Administrative Order 2009-05-22-01 (hereinafter, "the Administrative Order"), Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to

participate in the Home Affordable Modification Program (hereinafter, "the HAMP"); however, Plaintiff alleges upon information and belief, that the loan is not subject to modification under the HAMP as contemplated under the Administrative Order because the Borrower(s) failed to respond to the HAMP inquiries or failed to provide the necessary supporting documentation.

30. Furthermore, Plaintiff complied with Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court¹.

31. The titleholder(s) of record of the Property as of the filing of the Lis Pendens in this action was/were Terry Lennette Grant.

32. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note and Mortgage in the hands of its attorney of record herein for collection.

33. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sums outlined in the Plaintiff's Affidavit filed April 3, 2023², to constitute reasonable attorney's fees for the Plaintiff's attorney for services performed up to this point in time under the terms of the note and mortgage. Performance of additional services may result in a determination by this court that additional reasonable attorney's fees are due.

¹ The Plaintiff's compliance with the 2009 and 2011 Administrative Orders regarding HAMP and creating foreclosure intervention are evidenced by the filings herein with no evidence appearing in the record to refute compliance with the Administrative Orders. I further note that these Administrative Orders were rescinded on May 17, 2023, by SC Supreme Court Administrative Order 2023-05-17-01.

34. Based upon the uncontroverted evidence presented, the amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	10/28/2022		\$672,991.46
Deferred Principal Balance:			\$0.00
Accrued interest from:	12/01/2007	to: 03/13/2023	\$801,015.05
Per diem interest from:	03/14/2023	to: 05/04/2023	\$8,110.53
Accruing at:	7.75% per annum		
Escrow Balance:			\$192,476.07
- Taxes for the years 2019-2023			\$12,234.25
- Insurance for the years 2019-2023			\$34,460.10
- Prior Servicer Escrow Balance			\$145,899.41
Prior Servicer Fees			\$2,672.03
Property Inspections			\$767.00
Property Valuation Fee/BPO			\$255.00
Prior Servicer Foreclosure Fee/Costs (Paid through 9/12/2018)			\$38,628.98
Late charges:			\$2,681.27
Credits:			
- Escrow Payments/ Credits			\$ (117.69)
Foreclosure Fee/Costs(paid through (03/06/2023):			\$15,813.23

35. Total Debt secured by Note and Mortgage, is **\$1,735,410.62²**. Interest shall be added to the total debt at the rate stated above until the date a judicial sale is conducted herein. Additional interest accrual after the date of such judicial sale will be governed by terms set forth herein below.

36. The Plaintiff is seeking foreclosure of its mortgage and has, in the Complaint or subsequently thereto in writing, expressly Waived the right to a personal or deficiency Judgment pursuant to Rule 71(b), SCRCF.

² A review of the Defendant's filings does not reveal a challenge or evidence to refute the amount of damages claimed by the Plaintiff.

CONCLUSIONS OF LAW: I, therefore, conclude as follows:

1. The Plaintiff's Motion for Summary Judgment should be granted and the Defendant's motion for summary judgment should be denied.
2. The Plaintiff should have judgment of foreclosure of its Mortgage; and the Property should be ordered sold at public auction after due advertisement.
3. That there is due to the Plaintiff on its Note and Mortgage the sum of **\$1,735,410.62**, representing the Total Debt due to the Plaintiff as outlined above.
4. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest as previously set forth at the rate of 7.75% per annum.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. The Plaintiff's Motion for Summary Judgment is granted and the Defendant's Motion for Summary Judgment is Denied.
2. That the Defendant(s) liable for the aforesaid Mortgage debt shall, prior to the date and time of the sale of the Property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt to include continuing accruing interest as aforesaid, together with the costs and disbursements of this action.
3. That on default of payment prior to the date and time of the sale, the Property, hereinafter described, shall be sold by the undersigned Master In Equity at public auction, at the Beaufort County Courthouse, City of Beaufort, County and State aforesaid, on some convenient sales day hereafter, on the following terms, that is to say:
 - A. FOR CASH: The undersigned Master In Equity shall require a deposit of 5% on the amount of the bid (in cash or equivalent) the same to be applied on the purchase price only

File reference: 15-22471

upon compliance with the bid, but in case of non-compliance within thirty (30) days the same to be forfeited and first applied to the costs incurred by the Plaintiff related to the sale and the balance then applied to the Plaintiff's debt in a manner suitable to the Plaintiff.

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.75% per annum.

C. The sale shall be subject to taxes and assessments, existing easements and restrictions of record, and any other senior encumbrances.

D. Purchaser to pay for the deed and the cost of recording the deed.

4. If the Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of the Plaintiff in full, the Plaintiff may pay to the undersigned Master In Equity only the amount of the costs and expenses, crediting the balance of the bid on the Plaintiffs indebtedness.
5. That a personal or deficiency Judgment being Waived, the bidding will not remain open for thirty (30) days and bidding will be final on the date of the sale, and compliance with the bid may be made immediately.
6. That the undersigned Master In Equity will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he/she will execute to the purchaser, or purchasers, a deed to the Property sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. If such sale is made to anyone other than the Plaintiff or its assignee, should the successful bidder, or his/her assignee, fail to comply with the terms thereof within thirty (30) days after the date of sale, then the undersigned Master In Equity or the Plaintiff may re-advertise the Property for sale on the next, or some other subsequent, sales day, according to

the same terms set forth herein, and so on from time to time thereafter until a full compliance shall be secured.

7. In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.

8. That the undersigned Master In Equity shall apply the proceeds of the sale as follows:

FIRST: To the 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; and

NEXT: To the payment of the amount to the Plaintiff, or the Plaintiffs Attorney, of the amount of the Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same; and

NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRPC.

9. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

10. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Beaufort County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

11. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants in possession herein, the Sheriff of Beaufort County may be 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 to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises, and to keep said successful bidder or his assigns in such peaceable possession.
12. That it is further ORDERED ADJUDGED AND DECREED that after the Order Confirming Sale and Disbursements has been issued and filed, the undersigned Master In Equity shall direct the Register of Deeds to release of record the lien(s) being foreclosed, which lien(s) are described in the Findings of Fact herein above.
13. That it is further ORDERED ADJUDGED AND DECREED that the following is a description of the Property herein ordered to be sold:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, TOGETHER WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING ON HILTON HEAD ISLAND, COUNTY OF BEAUFORT, STATE OF SOUTH CAROLINA, DESIGNATED AS PARCEL A AND CONTAINING 0.46 ACRES AS SHOWN ON A SURVEY ENTITLED "AN ASBUILT SURVEY OF PARCEL A, WILD HORSE ROAD," PREPARED FOR TERRY L. GRANT BY COOK LAND SURVEYING, BY DONALD R. COOK, JR., S.C.R.L.S. #19010, DATED FEBRUARY 13, 2013 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY SOUTH CAROLINA IN PLAT BOOK 136 AT PAGE 139. THIS BEING THE SAME PROPERTY DESIGNATED AS PARCEL A AND CONTAINING 0.46 ACRES AS SHOWN ON THAT SURVEY ENTITLED "3.99 AC., WILD HORSE ROAD," PREPARED FOR MS. TERRY L. GRANT BY DONALD R. COOK, JR., S.C.R.L.S. #19010, DATED DECEMBER 22, 2003 AND RECORDED DECEMBER 31, 2003 IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 96 AT PAGE 191.

ALSO:

A NON-EXCLUSIVE, APPURTENANT, ASSIGNABLE EASEMENT AND RIGHT OF WAY, WHICH SHALL RUN WITH THE TITLE TO PARCEL A CONTAINING 0.46 ACRES, REFERENCED ABOVE, OR ANY PORTIONS THEREOF, FOR INGRESS, EGRESS AND ACCESS OF VEHICULAR AND PEDESTRIAN TRAFFIC TO AND FROM WILD HORSE ROAD OVER, ACROSS, AND THROUGH THOSE CERTAIN PARCELS OWNED BY TERRY LENNETTE GRANT DESCRIBED AS PARCEL B AND ACCESS & DRAIN FIELD EASEMENT ON BOTH THAT SURVEY ENTITLED "3.99 AC.," PREPARED FOR MS. TERRY L. GRANT BY DONALD R. COOK, JR., S.C.R.L.S. #19010, DATED DECEMBER 22, 2003 AND RECORDED DECEMBER 31, 2003 IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 96 AT PAGE 191 AND THAT SURVEY ENTITLED "AN ASBUILT SURVEY OF PARCEL A, WILD HORSE ROAD," PREPARED FOR TERRY L. GRANT BY COOK LAND SURVEYING, BY DONALD R. COOK, JR., S.C.R.L.S. #19010, DATED FEBRUARY 13, 2013 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY SOUTH CAROLINA IN PLAT BOOK 136 AT PAGE 139, INCLUDING WITHOUT LIMITATION A NON-EXCLUSIVE, APPURTENANT, ASSIGNABLE EASEMENT AND RIGHT OF WAY, WHICH SHALL RUN WITH THE TITLE TO PARCEL A CONTAINING 0.46 ACRES, REFERENCED ABOVE, OR ANY PORTIONS THEREOF, FOR INGRESS, EGRESS AND ACCESS OF VEHICULAR AND PEDESTRIAN TRAFFIC TO AND FROM WILD HORSE ROAD OVER, ACROSS, AND THROUGH THE "ASPHALT DRIVE" AS SHOWN ON THE SURVEY RECORDED IN PLAT BOOK 136 AT PAGE 139.

SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS AND RESTRICTIONS, IF ANY, MORE PARTICULARLY IDENTIFIED IN THE ABOVE REFERENCED PLAT OR OTHERWISE RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY, SOUTH CAROLINA, WHICH ARE APPLICABLE TO THE ABOVE DESCRIBED PROPERTY.

THIS BEING A PORTION OF THE SAME PROPERTY CONVEYED TO TERRY LENNETTE GRANT BY DEED OF TERRY GRANT ENTERPRISES, INC. DATED AUGUST 9, 2001 AND RECORDED AUGUST 24, 2001 IN BOOK 1463 AT PAGE 54 AND RE-RECORDED FEBRUARY 10, 2004 IN BOOK 1908 AT PAGE 2034 IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY, SOUTH CAROLINA.

CURRENT ADDRESS OF PROPERTY: 226 Wildhorse Road, Hilton Head Island, SC 29926

TMS: R510 007 000 018A 0000

AND IT IS SO ORDERED.



The Honorable Benjamin C.P. Sapp
Special Referee for Beaufort County

Dated: 6/12/23
Beaufort, South Carolina

RECEIVED

Sep 05 2023

SC Court of Appeals

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COMMON PLEAS COURT

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-07-01466

Deutsche Bank National Trust Company as
Trustee for NovaStar Mortgage Funding Trust,
Series 2006-5 NovaStar Home Equity Loan
Asset-Backed Certificates, Series 2006-5

Terry Lennette Grant

DEFENDANT(S)

PLAINTIFF(S)

Submitted by: Brock & Scott, PLLC
Westpark Center
3800 Fernandina Road, Suite 110
Columbia, SC 29210

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the
Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		N/A
If applicable, describe the property, including tax map information and address, referenced in the order:		

ELECTRONICALLY FILED - 2023 Jun 28 3:02 PM - BEAUFORT - COMMON PLEAS - CASE#2016CP0701466

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being on Hilton Head Island, County of Beaufort, State of South Carolina, designated as Parcel A and containing 0.46 acres as shown on a survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139. This being the same property designated as Parcel A and containing 0.46 acres as shown on that survey entitled "3.99 AC., Wild Horse Road," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191.

ALSO:

A non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through those certain parcels owned by Terry Lennette Grant described as Parcel B and Access & Drain Field Easement on both that survey entitled "3.99 AC.," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191 and that survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139, including without limitation a non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through the "asphalt drive" as shown on the survey recorded in Plat Book 136 at Page 139.

SUBJECT to all easements, rights of way, covenants and restrictions, if any, more particularly identified in the above referenced Plat or otherwise recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, which are applicable to the above described property.

This being a portion of the same property conveyed to Terry Lennette Grant by Deed of Terry Grant Enterprises, Inc. dated August 9, 2001 and recorded August 24, 2001 in Book 1463 at Page 54 and re-recorded February 10, 2004 in Book 1908 at Page 2034 in the Office of the Register of Deeds for Beaufort County, South Carolina.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.** E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.



Circuit Court Judge *S.A.*

Judge Code

6-12-23

Date

For Clerk of Court Office Use Only

This judgment was entered on the ___ day of _____, 2023 and a copy mailed first class or placed in the appropriate attorney's box on this ___ day of _____, 2023 to attorneys of record or to parties (when appearing pro se) as follows:

Terry Lennette Grant
PO Box 21936
Hilton Head Island, SC 29925

Terry Lennette Grant
226 Wild Horse Road
Hilton Head Island, SC 29926

Chad W. Burgess, Esquire
Brock & Scott, PLLC
3800 Fernandina Road Suite 110
Columbia, SC 29210

**ATTORNEY(S) FOR THE
PLAINTIFF(S)**

**ATTORNEY(S) FOR THE
DEFENDANT(S)**

CLERK OF COURT

Court Reporter: John A Sullivan

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
