The Supreme Court of South Carolina

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July 26, 2013

The Honorable Jerri Ann Roseneau
Clerk of Court
PO Box 1128
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REMITTITUR

Re: Wachovia Bank v. Ann T. Coffey - Appellate Case No. 2010-174086
Lower Court Case No. 2006CP0701655

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc: Sarah Patrick Spruill, Esquire
Gregory Milam Alford, Esquire
Hamilton Osborne, Jr., Esquire
James Y. Becker, Esquire
Curtis Lee Coltrane, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Wachovia Bank, N.A., Petitioner,

v.

Ann T. Coffey and Bank of America, N.A., Respondents.

Appellate Case No. 2010-174086

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Beaufort County
Marvin H. Dukes, III, Master In-Equity

Opinion No. 27282
Heard October 31, 2012 – Filed July 10, 2013

AFFIRMED AS MODIFIED

Sarah Patrick Spruill, of Haynsworth Sinkler Boyd, PA of Greenville, Hamilton Osborne, Jr. and James Y. Becker of Haynsworth Sinkler Boyd, PA of Columbia, all for Petitioner.

Gregory Milam Alford and Curtis Lee Coltrane, both of Alford Wilkins and Coltrane, LLC of Hilton Head Island, for Respondents.

CHIEF JUSTICE TOAL: We granted certiorari in this case to review a court of appeals' decision finding that Wachovia Bank, N.A. (Petitioner) committed the unauthorized practice of law in closing a home equity loan in 2001, and that Petitioner's unclean hands barred it from any equitable relief. We affirm as modified.

FACTS/PROCEDURAL BACKGROUND

In 2001, Michael Coffey (Husband) obtained a home-equity line of credit from Petitioner. Husband signed a mortgage prepared by Petitioner's employees that purported to encumber Husband's Hilton Head Island home (the property). The mortgage contained the express language that Husband lawfully owned the property, and held the right to mortgage the property. However, Husband did not possess any interest in the property. In fact, Ann Coffey (Wife) held sole title to the property. Wife did not participate in the loan transaction and had no knowledge of Husband's transaction with Petitioner. Petitioner did not perform a title search to determine ownership of the property at time of the transaction. Additionally, Petitioner prepared the loan documents and closed the loan transaction without the participation or supervision an attorney licensed to practice law in South Carolina.

Husband subsequently purchased a sailboat, and financed the purchase through a $125,000 draw on the line of credit. Husband placed title to the sailboat in the name of A&M Partners, a corporation Husband and Wife jointly owned, and of which they served as President and Vice-President, respectively. Husband made regular payments on the line of credit from July 2001 until his death on March 21, 2005. Husband made these payments using funds from a personal checking account he shared with Wife. Following Husband's death, Wife continued making monthly payments using the same checking account. In September 2005, Wife discovered documents showing a loan or mortgage on the sailboat. Wife wrote "boat loan," or "boat" on the memo line of at least three checks she sent to Wachovia in September and November 2005.

That same year, Wife also began efforts to sell the boat with the assistance of her daughter, Maureen Coffey-Edri (Daughter). In December 2005, Daughter provided St. Barts Yachts (St. Barts), a yacht broker, with loan information for the sailboat showing a payoff amount due to Petitioner in the amount of $125,643.30. An employee of St. Barts prepared a draft "Seller's Disbursement Summary," showing a sale price of $112,000, with a $125,600 "payoff" to Petitioner. This payoff amount required a balance due from Wife of $25,525. However, when

Wife asked a St. Barts employee to check on the status of the loan, the employee informed her that there was no lien or mortgage on the sailboat. Wife believed the sailboat was "paid for," and never inquired with Petitioner about the line of credit or any other possible encumbrances on the sailboat. Wife sold the sailboat in January 2006 for $112,000 and received $100,075 from the sale. Wife deposited the proceeds in her personal bank account and did not make any further payments to Petitioner.

In June 2006, Petitioner filed a foreclosure action in the circuit court against Husband's estate, Wife, both individually and as personal representative of Husband's estate, and three of the couple's five children. In September 2006, Wife filed an inventory and appraisal of Husband's estate with the Beaufort County Probate Court. This inventory and appraisal acknowledged Husband and Wife's joint ownership of the boat. Petitioner then filed an amended complaint in 2008 naming Wife and Bank of America, N.A. as the only defendants. Petitioner sought to foreclose on the mortgage signed by Husband and included causes of action for equitable lien, prejudgment interest, restitution, ratification, quantum meruit, and quasi-contract. Petitioner filed a motion for summary judgment, and Wife filed a cross-motion for summary judgment on all of Petitioner's claims.

The master-in-equity denied Petitioner's motion for summary judgment on its claims against Wife, and granted Wife summary judgment on all of the claims asserted by Petitioner. The master-in-equity held, *inter alia*:

> I am troubled by the concept that [Wife] sold the sailboat and retained the proceeds and that there is some perception of unfairness to Petitioner. However, in this court's opinion, Petitioner is the architect of its own problem. Petitioner prepared the loan documents and closed the loan with Husband without an attorney. Had Petitioner retained an attorney to prepare the loan documents and *performed a title search, which should have been done, it would have known Husband did not own the subject [p]roperty to be mortgaged.* This case would not have been filed and Petitioner's mistake would have been caught. It now attempts to seek equitable relief for its own mistake. Its own mistake arose by its own acts.

(emphasis added).

Petitioner appealed, and the court of appeals affirmed. *Wachovia Bank, N.A. v. Coffey*, 389 S.C. 68, 698 S.E.2d 244 (Ct. App. 2010). The court of appeals held

that Petitioner's actions constituted the unauthorized practice of law, and therefore, barred its equitable and legal claims. *Id.* at 76–77, 698 S.E.2d at 248 ("We therefore reach the inescapable conclusion that [Petitioner] has come to court with unclean hands and is barred from seeking equitable relief . . . . [Petitioner's] legal causes of action are barred as well.") (citations omitted).

This Court granted Petitioner's request for certiorari pursuant to Rule 242, SCACR.

ISSUES PRESENTED

I. Whether the court of appeals erred in holding that Wachovia was on notice that its conduct constituted the unauthorized practice of law and that Wachovia had unclean hands.

II. Whether the court of appeals erred in stating that Petitioner's legal remedies were barred.

III. Whether the holding of the court of appeals conflicts with that court's prior holding that a trial court does not have jurisdiction to determine the unauthorized practice of law.

STANDARD OF REVIEW

"An appellate court reviews the granting of summary judgment under the same standard applied by the trial court under Rule 56, SCRCP." *Quail Hill, LLC v. Cnty. of Richland*, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010) (citation omitted). Rule 56, SCRCP provides that summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP. "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party." *Quail Hill, LLC*, 387 S.C. at 235, 692 S.E.2d at 505. (citation omitted).

LAW/ANALYSIS

Petitioner's arguments, and to a significant degree the lower court decisions in this case, center on whether Petitioner's alleged unauthorized practice of law

bars equitable and legal relief. However, this is not the dispositive question in this case. Instead, the pertinent inquiry is whether Petitioner may foreclose on an invalid mortgage.

As explained, *supra*, Husband obtained a $125,000 home equity line of credit from Petitioner, and secured the loan with the couple's residence, which was titled in Wife's name only. Petitioner failed to verify Husband's interest in the couple's residence. Therefore, Petitioner never possessed a valid mortgage on the property and cannot pursue an action against Wife related to that mortgage. *See, e.g.*, *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 248, 489 S.E.2d 472, 475 (1997) ("A mortgage foreclosure is an action in equity.").[1]

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[1] We respectfully disagree with the dissent's view that Petitioner may rely on equitable principles to foreclose on an invalid mortgage. One of equity's most important aspects is the principle of "right and fair dealing," between *parties* to particular transaction. *See, e.g.*, *Kelly v. McCray*, 278 S.C. 88, 90, 292 S.E.2d 587, 589 (1982) (agreeing with the lower court that equity prevented the respondent from rendering *her own* agreement unenforceable). However, equitable maxims do not operate to place burdens on individuals made party to a particular transaction through no fault or expressed interest of their own, or, as in this case, through the fault and mistake of others. *Cf.* Henry L. McClintock, McClintock on Equity, at 52 (2d 1948) (listing the equitable maxims, "(1) equity regards as done what ought to be done; (2) equity looks to intent, rather than to form; . . . [(3)] equity imputes an intention to fulfill an obligation; [(4)] equity will not suffer a wrong without a remedy; and [(5)] equity follows the law." (citation omitted) (alterations added)); *see also Regions Bank v. Wingard Props. Inc.*, 394 S.C. 241, 249, 715 S.E.2d 348, 352 (Ct. App. 2011) ("Maxims developed, at least in part, to reflect the attempt by the courts of equity to create guiding principles, in the same way that the legal courts developed binding precedent.").

We do not agree with the view that what "ought to be done" is to place responsibility for Petitioner's mistake on to Wife. The dissent offers an incorrect summation of today's decision, stating that we find Petitioner is not entitled to equitable relief because of a mere "mistake." To the contrary, equity should not be used to validate Husband's decision to mortgage a property for which he held no interest, and Petitioner's choice to simply take Husband at his word, and then attempt to charge Wife with responsibility for that blunder. This finding comports with well-settled equitable principles and poses no new "bar" or "universal rule" as the dissent asserts.

Thus, the master-in-equity properly granted summary judgment in favor of Wife. We need not discuss the remaining issues presented by the parties. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 518 S.E.2d 591 (1999) (providing that an appellate court need not address remaining issues when resolution of a prior issue is dispositive).

For the foregoing reasons, the court of appeals decision is

AFFIRMED AS MODIFIED.

BEATTY and KITTREDGE, JJ., concur. PLEICONES, J., dissenting in a separate opinion in which HEARN, J., concurs.

The dissent focuses too narrowly on the notion that Petitioner committed an "error," to the exclusion of Petitioner's and Husband's *actual* conduct in this case.

We stress that sophisticated financial institutions that prepare mortgages purporting to encumber a customer's property must ensure that the customer in fact holds a legal interest in that property so as to protect all pertinent interests. Concomitantly, South Carolina courts should not stretch equitable principles to unfairly place fault on parties who did not contribute to the underlying transaction. *See, e.g.*, McClintock on Equity, at 320 ("Where *the parties* have manifested an intention that the real property *of one of them* shall be especially set aside as security for the payment of an obligation due to the other, equity will give effect to the intention by treating the property as though it had been validly mortgaged." (emphasis added)). We earnestly appreciate the dissent's concerns. However, we would be more concerned with an equitable doctrine so broad as to allow lenders to ameliorate their complete failure to exercise proper due diligence at the expense of third parties.

JUSTICE PLEICONES: I respectfully dissent and would remand the matter to the Court of Appeals. Petitioner (Wachovia) sought to recover the proceeds from respondent Coffey's sale of the boat under several equitable theories: mortgage foreclosure, unjust enrichment, equitable mortgage, restitution, ratification, quantum merit, or quasi-contract. While the majority may well be correct that Wachovia's foreclosure action fails because the purported mortgage was invalid, it is the unavailability of recovery under that cause of action that is the predicate for Wachovia's other theories. In footnote 1, the majority makes explicit its philosophy that equity acts to punish those who make a mistake. *See also Matrix Fin. Servs. Corp. v. Frazer*, 394 S.C. 434, 714 S.E.2d 532 (2011). In my view, equity exists to correct mistakes and prevent windfalls. *E.g.*, *McNair v. Rainsford*, 330 S.C. 332, 499 S.E.2d 488 (Ct. App. 1998) (unjust enrichment/constructive trust used to recover money from innocent third party where third party would be unjustly enriched by a windfall actually owed to plaintiff). The majority offers no explanation why the lender should be denied the opportunity to recover the money it lent other than that it made an error.

We granted certiorari to review a Court of Appeals' decision that affirmed the trial court's grant of summary judgment to respondent. The Court of Appeals held that because Wachovia committed the unauthorized practice of law (UPL) in closing a home equity loan in 2001, its unclean hands barred it from any equitable relief. Further, the Court of Appeals held Wachovia's UPL barred it from any legal remedies. I would reverse the equitable ruling under *BAC Home Loan Servicing LP v. Kinder*, 398 S.C. 619, 731 S.E.2d 547 (2012), which clarified that UPL bars equitable remedies[2] only when the transaction occurred after August 8, 2011. Further, I would vacate the dicta stating that UPL also bars Wachovia from any legal relief, as no legal relief was sought by Wachovia in this case. Since the trial court's order granting respondent summary judgment on Wachovia's theories of unjust enrichment/restitution/quasi-contract, mortgage ratification and foreclosure, equitable lien, and prejudgment interest rest on several grounds other than UPL, I

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[2] It is with some irony I note that the UPL ruling announced in *Matrix Fin. Serv. Corp. v. Frazer*, 394 S.C. 134, 714 S.E.2d 532 (2001) is intended to protect borrowers from lenders. Here, viewing the facts in the light most favorable to Wachovia, it appears the lender was taken advantage of by a long-time client.

would remand the case to the Court of Appeals to consider the issues raised by Wachovia on appeal but left unaddressed by its original decision.

The majority holds Wachovia is not entitled to equitable relief because it made a mistake. I cannot tell whether this new bar is applicable only to commercial lenders, or if it is a universal rule. Further, the majority leaves standing the dicta in the Court of Appeals' opinion to the effect that UPL bars a lender from legal as well as equitable remedies. While I am concerned about the impact of the majority's decision on lenders especially, I am even more apprehensive about its impact on the status of equity generally in South Carolina.

HEARN, J., concurs.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Wachovia Bank, N.A., Appellant,

v.

Ann T. Coffey and

Bank of America, N.A., Respondents.

Appeal From Beaufort County
Marvin H. Dukes, III, Master-in-Equity

Opinion No. 4685
Heard February 9, 2010 – Filed May 6, 2010

AFFIRMED

James Y. Becker and R. David Proffitt, of Columbia, for Appellant.

Gregory M. Alford, of Hilton Head Island, for Respondent Ann. T. Coffey.

Steven R. Anderson, of Columbia, for Respondent Bank of America, N.A.

GEATHERS, J.: Appellant Wachovia Bank, N.A. (Wachovia), brought this mortgage foreclosure action against Respondents Ann T. Coffey (Mrs. Coffey) and Bank of America, N.A., seeking relief from Mrs. Coffey's default on a home equity loan made to her late husband for the purchase of a sailboat. The master-in-equity granted Mrs. Coffey's summary judgment motion and denied Wachovia's summary judgment motion. Wachovia challenges both the grant of summary judgment to Mrs. Coffey and the denial of its summary judgment motion on its unjust enrichment, equitable lien, and prejudgment interest causes of action on the ground that it proved the required elements of these causes of action. Wachovia also challenges the grant of summary judgment to Mrs. Coffey on its ratification and foreclosure causes of action on the ground that there were material factual issues preventing summary judgment. We affirm.

FACTS/PROCEDURAL HISTORY

On January 27, 2001, Dr. Michael D. Coffey (Dr. Coffey), a Hilton Head obstetrician, was diagnosed with terminal lung cancer and was told that he had six months to live. On July 23, 2001, Dr. Coffey took out a $125,000 home equity line of credit with Wachovia. Mrs. Coffey was not aware of the transaction, and Wachovia's employees failed to verify Dr. Coffey's authority to mortgage the couple's home. Dr. Coffey signed a mortgage document

purporting to secure the loan with the couple's home, which was titled in Mrs. Coffey's name only. On July 30, 2001, at Dr. Coffey's request, Wachovia wired the loan proceeds to the Hilton Head branch of Carolina First Bank to be deposited in the account of Hilton Head Yachts, Ltd., a business that had sold to Dr. Coffey a thirty-six-foot Beneteau sailboat (the boat). The boat was then titled in the name of A&M Partners, Inc., a Delaware corporation in which Dr. Coffey and Mrs. Coffey were the only shareholders. Dr. Coffey told Mrs. Coffey that the boat was "paid for." Dr. Coffey, who handled virtually all of the couple's financial transactions, used the couple's joint checking account to make payments on the loan until his death in March 2005.

Soon after Dr. Coffey's death, Mrs. Coffey began a months-long effort to sell the boat. She continued the payments on the loan from Wachovia, but for several months she was unaware that the loan was for the boat purchase. She testified that by the fall of 2005, she realized that these payments related to Dr. Coffey's boat purchase but that she was under the impression that the loan was secured by a lien on the boat, rather than a mortgage on their home, and that the amount of the loan was much smaller than it actually was.

In September 2005, Mrs. Coffey hired a broker to locate a buyer for the boat. By late November 2005, the broker located a buyer, and on January 5, 2006, the broker prepared an initial seller's disbursement summary showing the balance of Wachovia's boat loan to Dr. Coffey. However, the final seller's disbursement summary did not reflect the debt owed to Wachovia. According to Mrs. Coffey, she had given the boat loan information to the broker, but the broker contacted Wachovia and learned that there was "no lien" on the boat and that the sale proceeds could be transferred to A&M Partners, Inc., the corporation in which she and Dr. Coffey held stock. Ultimately, Mrs. Coffey received the net proceeds of the sale, and she deposited them into one of her bank accounts.

Mrs. Coffey also stated that shortly after the closing of the boat sale in January 2006, she realized that Dr. Coffey had purchased the boat with loan proceeds from a home equity line of credit and that he had signed a mortgage purportedly securing the debt with their home. Mrs. Coffey indicated that she became angry at Wachovia's employees about the transaction taking place without her knowledge and refused to make any further payments on the loan.

Wachovia later filed this mortgage foreclosure action against Mrs. Coffey. In its initial complaint filed on June 30, 2006, Wachovia originally named as defendants Dr. Coffey's estate, Mrs. Coffey, both individually and as personal representative of Dr. Coffey's estate, and three of the couple's five children. Wachovia filed an amended complaint on May 9, 2008, to name as defendants only Mrs. Coffey and Bank of America, N.A. In the meantime, Mrs. Coffey had filed with the Beaufort County Probate Court an inventory and appraisement of Dr. Coffey's estate in September 2006. The inventory and appraisement acknowledged Dr. Coffey's and Mrs. Coffey's joint ownership of the boat. The inventory and appraisement also indicated that Dr. Coffey's probate estate had a negative value. Mrs. Coffey admitted that most of Dr. Coffey's assets had been transferred to her and other family members outside the probate estate through a marital trust.

In its amended complaint, Wachovia sought to foreclose on the mortgage signed by Dr. Coffey and asserted additional causes of action for ratification, prejudgment interest, unjust enrichment, equitable lien, and equitable mortgage. Wachovia filed a motion for summary judgment on the unjust enrichment, equitable lien, and prejudgment interest causes of action, and Mrs. Coffey filed a cross-motion for summary judgment on all of Wachovia's

causes of action. The master granted Mrs. Coffey's summary judgment motion and denied Wachovia's summary judgment motion. This appeal followed.

ISSUE ON APPEAL

Is Wachovia barred from seeking relief in the courts due to its unauthorized practice of law in the loan transaction with Dr. Coffey ?

STANDARD OF REVIEW

On appeal from the grant of a summary judgment motion, this Court applies the same standard as that required for the circuit court under Rule 56(c), SCRCP. Brockbank v. Best Capital Corp., 341 S.C. 372, 379, 534 S.E.2d 688, 692 (2000). "'Summary judgment is proper where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.'" Adamson v. Richland County Sch. Dist. One, 332 S.C. 121, 124, 503 S.E.2d 752, 753 (Ct. App. 1998) (quoting Tupper v. Dorchester County, 326 S.C. 318, 487 S.E.2d 187 (1997)).

LAW/ANALYSIS

Wachovia assigns error to the master's granting of summary judgment to Mrs. Coffey on the claim that she ratified the note and mortgage signed by Dr. Coffey. Wachovia argues that there was a genuine dispute about the inferences to be drawn from the evidence pertaining to this claim. Wachovia also assigns error to the master's grant of Mrs. Coffey's summary judgment motion and denial of its summary judgment motion on its causes of action for unjust enrichment, equitable lien, and prejudgment interest.

However, Mrs. Coffey asserts that the doctrine of unclean hands bars Wachovia from seeking equitable relief from our courts.[1] She argues that Wachovia committed the unauthorized practice of law, and, therefore, Wachovia came into court with unclean hands. We agree.[2]

"The doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." First Union Nat'l Bank of S.C. v. Soden, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct. App. 1998). "The expression 'clean hands' means a clean record with respect to the transaction with the defendants themselves and not with respect to others." Arnold v. City of Spartanburg, 201 S.C. 523, 532, 23 S.E.2d 735, 738 (1943). The rule must be understood to refer to some misconduct concerning the matter in litigation of which the opposing party can, in good conscience, complain in a court of equity. Id.

As early as 1987, lending institutions doing business in South Carolina were on notice that they could not prepare legal documents in connection with a mortgage loan without review by an independent attorney and that the loan closing had to be supervised by an attorney. See State v. Buyers Serv. Co., 292 S.C. 426, 431-434, 357 S.E.2d 15, 18-19 (1987) (holding that a commercial title company's employment of attorneys to review mortgage loan closing documents did not save the company's preparation of those documents from constituting the unauthorized practice of law and that the closings should be conducted only under an attorney's supervision), modified by Doe v. McMaster, 355 S.C. 306, 585 S.E.2d 773 (2003); see also Doe Law Firm v. Richardson, 371 S.C. 14, 17, 636 S.E.2d 866, 868 (2006) (citing Buyers and McMaster) (clarifying that a lender may prepare legal documents for use in

financing or refinancing a real property loan as long as an independent attorney reviews them and makes any corrections necessary to ensure their compliance with the law and reaffirming that mortgage loan closings should be conducted only under an attorney's supervision).[3]

Here, on July 23, 2001, Wachovia's employees processed the home equity loan to Dr. Coffey without the supervision of an attorney. Their unauthorized practice of law resulted in prejudice to Mrs. Coffey when the mortgage signed by Dr. Coffey was recorded and when Wachovia filed this foreclosure action against Mrs. Coffey. While Mrs. Coffey could have applied the proceeds from the sale of the boat to the balance due on the boat loan, we cannot allow her failure to do so to obscure the misconduct of Wachovia's employees. The unauthorized practice of law is inherently prejudicial to not only the parties involved in the instant transaction but also to the public at large for the reason so cogently stated in Buyers:

> The reason preparation of instruments by lay persons must be held to constitute the unauthorized practice of law is not for the economic protection of the legal profession. Rather, it is for the protection of the public from the potentially severe economic and emotional consequences which may flow from erroneous advice given by persons untrained in the law.

Buyers, 292 S.C. at 431, 357 S.E.2d at 18. We therefore reach the inescapable conclusion that Wachovia has come to court with unclean hands and is barred from seeking equitable relief.

Wachovia's legal causes of action are barred as well. In Linder v. Ins. Claims Consultants, Inc., 348 S.C. 477, 560 S.E.2d 612 (2002), our supreme court refused to allow a public insurance-adjusting business to be compensated for the value of its performance attributable to the unauthorized practice of law. Linder, 348 S.C. at 496, 560 S.E.2d at 622. This is consistent with South Carolina precedent asserting that no person be permitted to acquire a right of action from their own unlawful act and that one who participates in an unlawful act cannot recover damages for the consequence of that act. See Jackson v. Bi-Lo Stores, Inc., 313 S.C. 272, 276-77, 437 S.E.2d 168, 170-71 (Ct. App. 1993) (applying this policy to a contract secured and maintained by bribery). "This rule applies at both law and in equity and whether the cause of action is in contract or in tort." Jackson, 313 S.C. at 276, 437 S.E.2d at 170.

Based on the foregoing, Mrs. Coffey was entitled to judgment as a matter of law. Therefore, the master properly granted her summary judgment motion. In no way do we condone the actions of either Dr. Coffey or Mrs. Coffey in relation to this loan. However, we are bound by precedent and must therefore deny Wachovia's request for relief. In view of our disposition of this issue, we need not address Wachovia's remaining arguments. See Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (stating that the appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

CONCLUSION

Accordingly, the order of the master-in-equity is

AFFIRMED.

PIEPER, J., and CURETON, A.J., concur.

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[1] One of Wachovia's grounds for challenging the master's reliance on the unclean hands doctrine is that Coffey was barred from raising this affirmative defense because she failed to raise it in her answer. The master did not address this procedural issue when he ruled that Wachovia had unclean hands, and Wachovia failed to file a motion to alter or amend pursuant to Rule 59(e), SCRCP. Therefore, the issue is not preserved for our review. See Hancock v. Wal-Mart Stores, Inc., 355 S.C. 168, 171, 584 S.E.2d 398, 399 (Ct. App. 2003) (holding that an argument raised to the trial judge but not addressed in the final order is not preserved for appellate review when the appellant fails to file a motion to alter or amend). Further, Wachovia did not include Coffey's answer in the Record on Appeal. Because we are unable to review the answer to determine whether the defense of unclean hands was adequately pled, we will not consider this procedural challenge to the master's order. See Rule 210(h), SCACR (the appellate court will not consider any fact which does not appear in the Record on Appeal); Germain v. Nichol, 278 S.C. 508, 509, 299 S.E.2d 335 (1983) ("Appellant has the burden of providing this Court with a sufficient record upon which this Court can make its decision.").

[2] In no way do we purport to regulate the practice of law by addressing the unauthorized practice of law in this opinion. The regulation of the practice of law is within the exclusive province of our supreme court. See S.C. Const. art. V, § 4 ("The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted."); S.C. Code Ann. § 40-5-10 (2001) ("The inherent power of the Supreme Court with respect to regulating the practice of law, determining the qualifications for admission to the bar and disciplining, suspending and disbarring attorneys at law is hereby recognized and declared."). Rather, we address Wachovia's unauthorized practice of law as it affects the merits of this action against Mrs. Coffey.

[3] The attorney supervising the loan closing may represent both the lender and the borrower after full disclosure and with each party's consent. Richardson, 371 S.C. at 17, 636 S.E.2d at 868.