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Dec 12 2023

SC Court of Appeals

THE SOUTH CAROLINA COURT OF APPEAL

Aracely Sanchez, Respondent,

v.

Vanessa M. Sumpter, Appellant,

IN RE:

Pennington Place Home Owners Association
of York, Inc., Plaintiff,

v.

Vanessa M. Sumpter, Appellant

Appellate Case No. 2023-000044

The Honorable Teasa Kay Weaver
York County
Trial Court Case No. 2019CP4601766

MOTION TO DISMISS APPEAL

The Respondent, Aracely Sanchez, hereby moves this Court to dismiss this appeal in its entirety.

The Appellant filed her Designation Of Matter To Be Included In The Record On Appeal and her Initial Brief on November 28, 2023. In the Designation Of Matter To Be Included In The Record On Appeal, the Appellant indicates that transcripts from the proceedings before the Master in Equity on October 2, 2019, and February 18, 2020, are to be included on the Record on Appeal. However, each of these transcripts are totally irrelevant to the within appeal. The transcript from October 2, 2019, was a hearing in the foreclosure action by Pennington Place Homeowners Association of York, Inc. vs. Vanessa M. Sumpter, 2019-CP-46-01766, which hearing resulted in the Master In Equity's Report and Judgement of Foreclosure Sale dated

December 10, 2019 and filed with the York County Clerk of Court on the same date. The Appellant was present at this hearing. No appeal was taken from this Master in Equity's Report and Judgement of Foreclosure Sale. The Respondent purchased the subject property at the foreclosure sale which was held pursuant to the Master in Equity's Report and Judgment of Foreclosure Sale dated October 3, 2019.

This sale resulted in surplus funds. The hearing on February 18, 2020 was held regarding the disposition of these surplus funds. The transcript of proceedings to be included in the Record on Appeal was the transcript from this hearing. The Appellant was present at this hearing. This hearing resulted in the Order to Disburse Funds dated May 18, 2020. No appeal was taken from this Order.

These two transcripts are absolutely irrelevant to the appeal in this action. Each of the Orders resulting from the hearings which have been transcribed, resulted in the orders where no appeal was taken by the Appellant. The Appellant cannot raise issues from un-appealed orders.

The only transcript which is relevant to this appeal is the transcript of the hearing held on October 13, 2022, which was unable to be transcribed. This hearing resulted in the Master's Order and Rule to Show Cause dated July 26, 2022, which order gives rise to the within appeal.

Even though no transcript is available from the October 13, 2022 hearing, the Appellant's Initial Brief is replete with providing testimony which the Appellant claims was presented at this hearing. Some examples of this are as follows: (i) "At oral argument, Sanchez gave sworn testimony that the subject property was not her residential home, that it was an investment for resale."; (ii) "Here a home purchased at price of \$183,790.00 in year 2007..."; (iii) "Sanchez [sic] sworn testimony before the Equity Court..."; (iv) "Appellant asserts error where the trial judge found as fact that Sumpter had 'abandoned' or vacated the property as a conclusion which

was not properly supported by evidence that was property [sic] adduced.”; (v) “...the court’s Order denotes the court’s conclusions under presumed and unproven facts...”; and (vi) “However, no testimony is preserved as to the allegation Sumption has ‘vacated’”.

Given the inclusion of all these alleged facts in the Appellant’s Initial Brief, which could be proven or disproven by a transcript of the proceeding, it is impossible for this Court to determine a ruling on this appeal without this transcript.

It is well known, or should be well known, by all licensed attorneys in this state that the South Carolin Court Administration does not provide court reporters for Masters in Equity and if either party anticipates the possibility of an appeal resulting from a hearing, it is that party’s duty and responsibility to arrange for a court reporter. Since the Appellant did not arrange for a court reporter at the hearing on October 13, 2022, the within appeal should be dismissed in its entirety.

CONCLUSION

Wherefore, the Respondent respectfully requests that this court dismiss the within appeal in its entirety.

Respectfully Submitted,

/s/ Thomas B. Roper
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Rock Hill, SC
December 12, 2023

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PROOF OF SERVICE

I, hereby certify that I am the attorney for the Respondent in the above matter and that I served a copy of the foregoing Motion to Dismiss Appeal upon the Appellant, Vanessa M. Sumpter by email, electronic filing and by depositing a copy of it in the United States Mail, postage prepaid, on December 12, 2023, addressed to her attorney of record, J. Cameron Halford, at his office located at Post Office Box 72, Barnwell, South Carolina 29710.

/s Thomas B. Roper

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Attorney for Respondent, Aracely Sanchez

Rock Hill, SC
December 12, 2023

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SC Court of Appeals


Catherine S. Harrison
Deputy Clerk
South Carolina Court of Appeal
Post Office Box 11629
Columbia, South Carolina 29211

RE: Aracely Sanchez v. Vanesa M. Sumpter
Appellate Case No. 2023-000044

Dear Ms. Harrison:

Enclosed for filing please find the original and one copy of the Motion to Dismiss Appeal and Proof of Service together with my Attorney Escrow Check for the \$50.00 filing fee. I would appreciate you filing the originals and returning the clocked copies to me.

Thank you for your assistance in this matter, and should you have any questions please do not hesitate contacting me.

Sincerely,

Thomas. B. Roper

TBR/eb
Enclosures
cc: Client
J. Cameron Halford, attorney for Appellant