

**STATE OF SOUTH CAROLINA
COUNTY OF HORRY**

RHH Land Investors, LLC,
Plaintiff,

vs.

Leonard R. Watts, The Plantation at
Colonial Charters, LLC and Sago
Plantation II Development, Inc.,
Defendants.

**IN THE COURT OF COMMON PLEAS
THE FIFTEENTH JUDICIAL CIRCUIT**

County C/A No. 2016-CP-26-06056

**ORDER DENYING MOTION TO SET
ASIDE JUDGMENT**

RECEIVED
Dec 12 2023
SC Court of Appeals

This matter came before me, as Special Referee, on September 18, 2023 for a hearing on Defendant, Leonard R. Watts' (Defendant, Watts) Motion to Set Aside Default and Motion to Stay Supplemental Proceedings and Enforcement of Judgment. This matter was referred to me as Special Referee by the Second Amended Consent Order of Reference of Judge William H. Seals, Jr. filed on September 1, 2023. Marshall Biddle, Esquire was present on behalf of the moving Defendant. Plaintiff was represented by Jonathan Waller, Esquire and Kevin Molony, Esquire. After reviewing the record, hearing the respective arguments made by Counsel for both the Plaintiff and Defendant, and reviewing all filings presented by each as it relates to this matter, I find as follows:

1. The Defendant, Watts was personally served with the Summons and Complaint on October 29, 2016.
2. The Defendant, Watts filed his *pro se* Answer on December 20, 2016. There is no evidence that the Defendant, Watts mailed or otherwise served his Answer on the Plaintiff or its counsel.
3. Plaintiff's Counsel filed a Motion for Entry of Default on February 28, 2017.
4. Judge Benjamin H. Culbertson entered a Default Judgment against the Defendant, Watts on August 1, 2017.

5. The Defendant, Watts was in default due to filing his Answer Fifty-One (51) days after he was served with the Summons and Complaint.
6. Subsequent to filing his late answer, the Defendant, Watts did nothing to avail himself to any other action(s) associated with the case. Instead, the Defendant waited six (6) years to move to have the Default Judgment set aside.
7. Although it is unclear whether the Plaintiff's Affidavit of Default was fully disclosing of all facts relevant to the matter, no evidence has been presented that the Affidavit filed by Plaintiff's Counsel was intentionally misleading in any way, or fraudulent in any way.
8. No evidence was submitted that Judge Culbertson, who held the Defendant, Watts in default and issued the Default Judgment, did not review the court file and determine that a Default Judgment being entered against the Defendant, Watts was proper.
9. The Defendant, Watts filed this Motion to Set Aside Default Judgment and Stay Supplemental Proceedings and Enforcement on August 11, 2023.

The standard for granting relief from an entry of default under Rule 55(c) is mere "good cause." *Rule 55(c), SCRCP*. "This standard requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice." See, Sundown Operating Co. v. Intedge Indus., Inc., 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009). Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted." See, Wham v. Shearson Lehman Bros., Inc., 298 S.C. 462, 465, 381 S.E.2d 499, 501–02 (Ct. App. 1989).

When a party moves for Relief from Judgment or Order under Rule 60 (b), SCRCP, "[t]he motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more

than one year after the judgment, order or proceeding was entered or taken.” The standard for relief from entry of a default judgment is more stringent than the standard for relief from the entry of default. See, Roberson v. Southern Finance of SC, Inc. 365 S.C. 6, 615 S.E. 2d 112 (2005).

Unless an extension is granted, a defendant must **serve** his answer within thirty (30) days “after the service of the complaint upon him.” Rule 12(a), SCRPC. The Defendant, Watts filed his pleading on December 20, 2016, which is twenty-two (22) days late. There is no evidence an extension of time to Answer was granted. Therefore, the Defendant, Watts was in default under the South Carolina Rules of Civil Procedure. Additionally, there is no evidence in the record that Defendant, Watts ever served his “Answer” on Plaintiff, at any time, and certainly not within thirty (30) days.

The evidence and record clearly indicate that the Defendant, Watts failed to timely file or serve his Answer, and was therefore properly held in default. Since this Motion to be Relived was filed six (6) years after the Default Judgment was entered, I find it is also not timely. Even if it was timely, the Defendant, Watts has provided insufficient proof that the Default Judgment was the product of any of the basis set forth in Rule 60(b), SCRPC, including fraud, misrepresentations, or other misconduct of an adverse party. Additionally, since a Default Judgment was entered, and Rule 55(c), SCRPC does not apply, the Defendant, Watts has failed to establish good cause for relief from an entry of default.

IT IS, THEREFORE, ORDERED that the Motion to Set Aside Default and Motion to Stay Supplemental Proceedings and Enforcement of Judgment in this Matter is hereby DENIED.



Daniel John MacDonald, Sr., Esquire
Special Referee, Horry County

September __, 2023
Horry County, South Carolina