

The South Carolina Court of Appeals

Freedom Mortgage Corporation, Respondent,

v.

Sherman Smith, Appellant.

Appellate Case No. 2023-001826

ORDER

After careful consideration, Appellant's "motion for stay of proceedings" is denied because Appellant failed to comply with section 18-9-170 of the South Carolina Code. *See* Rule 241(b)(4), SCACR (providing that judgments directing the sale or delivery of possession of real property is not automatically stayed by the service of the notice of appeal); S.C. Code Ann. § 18-9-170 (2014) ("If the judgment appealed from direct[s] the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, of

any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal.").



FOR THE COURT

Columbia, South Carolina

cc:

Sherman-Lanarous Smith
James Martin Page, Esquire
Don Maxwell Sims, Esquire

FILED
Dec 21 2023
