

The South Carolina Court of Appeals

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, Respondent,

v.

Terry Lennette Grant, Appellant.

Appellate Case No. 2023-001394

ORDER

On December 29, 2023, Appellant filed a petition for a stay pending appeal or for a writ of supersedeas. Specifically, Appellant sought "a writ of supersedeas to stay the [o]rder and foreclosure sale" issued by the special referee on November 21, 2023, and she requested this stay be granted either without the requirement of a bond or with the posting of a minimal bond. She also requested this court set aside, vacate, dismiss, reverse, or stay orders issued on June 28, 2023, September 1, 2023, and October 4, 2023. Appellant requested sanctions be awarded as well. In the alternative, Appellant moved for an expedited briefing schedule or transfer of this matter to the court's original jurisdiction docket. Appellant also moved for expedited consideration of her petition. Respondent filed a return, arguing the petition for a stay or a writ of supersedeas was moot because the subject property was sold at the foreclosure sale on November 3, 2023. Respondent also noted the special referee considered and denied a motion to stay immediately prior to the foreclosure sale. Finally, Respondent argues Appellant's request for vacating orders and granting of sanctions is improper without proper appellate briefing. Appellant filed a reply to the return. After careful consideration of the filings, we deny Appellant's petition for a stay or for a writ of supersedeas concerning the November 21, 2023 order and foreclosure sale as moot. *See Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the]

reviewing Court to grant effectual relief."); *Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996) ("Before any action can be maintained, there must exist a justiciable controversy."); *id.* at 431, 468 S.E.2d at 864 ("This Court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy."). We also deny Appellant's request to set aside, vacate, dismiss, reverse or stay orders issued on June 28, 2023, September 1, 2023, and October 4, 2023; Appellant's request for sanctions; Appellant's request for an expedited briefing schedule; and Appellants' request for her appeal to be transferred to this court's original jurisdiction docket.

On December 11, 2023, Respondent moved to dismiss this appeal because "Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure." In the alternative, Appellant requests this court require Appellant to serve and file an amended initial brief and designation of matter in compliance with the rules. Appellant filed a return, asking for her appeal to not be dismissed, "the time to make any needed changes to conform [her] initial brief," and sanctioning of Respondent "for making frivolous arguments." After careful consideration, we deny Respondent's motion to dismiss and Appellant's request for sanctions. However, we order Appellant to serve and file an amended initial brief and designation of matter that complies with Rules 208 and 209 of the South Carolina Appellate Court Rules within ten days of the date of this order.


FOR THE COURT

Columbia, South Carolina

FILED
Feb 09 2024

cc:

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