

STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2022-CP-12-00389

Wilmington Savings Fund Society FSB as  
Trustee of Stanwich Mortgage Loan Trust I,

Plaintiff,

v.

Ebonee D. Brown; Georgia M. Brown; South  
Carolina Department of Motor Vehicles,

Defendants.

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**ORDER GRANTING  
SUMMARY JUDGMENT AND  
FOR REFERENCE**

**RECEIVED**

**Mar 11 2024**

**SC Court of Appeals**

This matter came before the Court for hearing on November 15, 2023, on the Plaintiff's Motion for Summary Judgment and Motion to Strike Jury Demand. Plaintiff Wilmington Savings Fund Society FSB as Trustee of Stanwich Mortgage Loan Trust I, ("Plaintiff"), filed this action against the Defendants, Ebonee D. Brown and Georgia Brown, ("Defendants"), and the South Carolina Department of Motor Vehicles seeking foreclosure. Defendants timely responded to the Complaint, which included counterclaims alleging Conversion, Violation of the Fair Debt Collections Practices Act, and Unfair Trade Practices, as well as affirmative defenses. Appearing at the hearing was counsel for Plaintiff and the Defendants respectively. After considering the pleadings, the affidavit and exhibits attached to the motion, as well as arguments presented at the hearing, this Court finds that Plaintiff is entitled to foreclosure, that there are no genuine issues of material facts, and Plaintiff is entitled to judgment as a matter of law. Further, pursuant to Rule 53(b), SCRCP, because this is a foreclosure action, this Court refers the matter to W.L.D. Marion, acting as special referee for Chester County, South Carolina.

**I. FINDINGS OF FACT**

On or about August 31, 2006, Defendants executed and delivered to Primary Residential Mortgage Inc., a certain Promissory Note (the "Note"), wherein the Defendants promised to pay

to Primary Residential Mortgage Inc., the principal sum of \$103,377.00, together with interest at the rate of 6.5% per annum on the unpaid principal balance; said principal and interest being payable in monthly installments thereafter until the Note is paid in full. In order to better secure the payment of the Note, the Defendants on the same date, delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Primary Residential Mortgage Inc., its successors and assigns, a certain first Mortgage, (the "Mortgage"), covering the Property, which is located in Chester County and is described as follows:

All that certain piece, parcel, or lot of land lying, being, and situate in the State of South Carolina, County of Chester, with all improvements thereon, known as a portion of Tract Seventeen (17), being 2.218 acres, more or less, as shown on a Plat of Survey for Ebonee Dee Brown drawn by Hipp Land Surveying, dated January 24, 2005, and recorded in Plat Cabinet D, Slide 86, Page 8-B, in the Office of the Clerk of Court for Chester County, South Carolina, which plat is hereby incorporated herein as part of this description and made a part hereof for a more accurate depiction of metes, bounds, courses, and distances.

DERIVATION: This being the identical property conveyed to Ebonee. D. Brown by deed from Georgia M. Brown dated June 2, 2006 and recorded June 20, 2006, in Book 918 at Page 230 in the Office of the Clerk of Court for Chester County, South Carolina. Ebonee D. Brown then conveyed a 1/2 interest in this property to Georgia M Brown by deed recorded 09/14/2006 in Book 924, Page 210.

Also, a 2006 Clayton Oxford Mobile Home Serial Number OHCO17718NCAB

Property Address: 1167 Goldmine Road Chester, South Carolina 29706

TMS#: 058-00-00199-000

Said Note and Mortgage were the subject of a prior foreclosure action, *WVMF Funding, LLC, v. Brown, et al.*, CA No. 2009-CP-12-00237. The Order of Judgment in the previous matter, entered on December 31, 2019, provided the Defendants were to make certain payments on a schedule, the last of which in the amount of \$15,631.40, was due on or after August 1, 2020. Thereafter, by an Assignment of Mortgage dated August 25, 2021, WVMF Funding LLC, assigned the Mortgage to Wilmington Savings Fund Society, FSB as Trustee of Stanwich Mortgage Loan

Trust I. Said assignment was recorded in the Office of the Register of Deeds for Chester County on September 7, 2021, in Book MB Volume 1876, Page 11.

I find that Plaintiff is the holder of the Note and Mortgage, is the real party in interest herein, and is entitled to enforce the terms of the Note and Mortgage. I find that Defendants breached their obligations under the terms of the Order entered December 31, 2019, by failure to make the required payment due on August 1, 2020. Notice of the Default, which provided an opportunity to cure along with a notice of acceleration, was mailed to Defendants on or about October 7, 2021.

The Mortgage included reference to a 2006 Clayton Oxford Mobile Home Serial Number OHCO17718NCAB, which mobile home is located and situate on the Property. A Manufactured Home Rider to Security Instrument affixed to and part of the Mortgage specifically identified said mobile home. I find that the parties intended for the mobile home to be deemed a permanent improvement on the property and subject to the lien of the Mortgage. I further find that Plaintiff is entitled to proceeds from the sale of the mobile home together with the real property by the special referee.

## II. CONCLUSIONS OF LAW

Summary Judgment is appropriate when it is clear from the record that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Silvester v. Spring Valley Country Club, 344 S.C. 280, 285, 543 S.E.2nd 563, 566 (Ct. App. 2001); Hedgepath v. A.T. & T., 348 S.C. 340, 559 S.E.2nd 327 (Ct. App. 2001).

Under Rule 56 (c), SCRCF, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman v. American Tel. and Tel. Co., 410 S.E.2d 537 (S.C. 1991). With respect to an issue upon which the nonmoving party

has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an absence of evidence to support the nonmoving party's case. Id. (citing Celotex Corp. v. Catrett, 477 U.S. 317 (1986)). Once the moving party carries its initial burden, the "opposing party must, under Rule 56(e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with specific facts showing that there is a genuine issue for trial.'" Id. (quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986)). The party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings. George v. Empire Fire & Marine Ins. Co., 545 S.E.2d 500 (S.C. 2001). Unsupported allegations or assertions will not withstand a motion for summary judgment. Defendants hold the obligation of setting forth specific facts showing that there is a genuine issue for trial. Main v. Corley, 182 S.C. 525, 316 S.E.2d. 406 (S.C. 1984).

Defendants did not provide the Court with any opposing affidavit to show that an issue of fact exists. Defendant is prevented from resting on general denials; therefore, the Court is entitled to treat the allegations set forth in Plaintiff's affidavit as uncontested facts. Defendants further failed to provide any colorable basis for the affirmative defenses set forth in the Answer.

I therefore find that Plaintiff is entitled to judgment of foreclosure of the aforesaid Mortgage as a matter of law, in an amount to be determined by hearing of the special referee. I further find that the mobile home identified as 2006 Clayton Oxford Mobile Home Serial Number OHCO17718NCAB, which mobile home is located and situate on the Property, is a permanent improvement to the Property, to be sold at foreclosure sale.

I further find that Plaintiff is entitled to judgment as a matter of law as to Defendants' counterclaims. Therefore, Plaintiff's Motion to Strike Jury Demand is moot.

I further find that this is a proper matter to refer to W.L.D. Marion, as Special Referee for Chester County, South Carolina, pursuant to Rule 53(b).

IT IS THEREFORE ORDERED that the Plaintiff's Motion for Summary Judgment is GRANTED, and it is further

ORDERED the above entitled cause be, and the same is hereby, referred to W.L.D. Marion, as Special Referee for Chester County to make appropriate findings of fact and conclusions of law with authority to dispose of any and all issues and enter a final judgment in the cause, without further order of the court, to order a judicial sale on any day, not just a regular judicial sales day and to hear any issues and make any orders after sale or judgment, including but not limited to, issues involving surplus funds pursuant to Rule 71(c), SCRCF, Petitions or Motions relating to Writ of Assistance or any other actions as to possession, and/or removal of property, and issues pursuant to appraisal proceedings under S.C. Code Ann. Section 29-3-680, et seq. (1976 SC Code of Laws, as amended). Any appeal from the final judgment in this cause shall be to the Supreme Court of South Carolina or the South Carolina Court of Appeals.

*Signature page to follow.*



Chester Common Pleas

**Case Caption:** Wilmington Savings Fund Society, Fsb, As Trustee Of Stanwich ,  
plaintiff, et al VS Ebonee D. Brown , defendant, et al  
**Case Number:** 2022CP1200389  
**Type:** Order/Summary Judgment

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132