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Apr 17 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BERKELEY COUNTY
COURT OF COMMON PLEAS

The Honorable Dale E. Van Slambrook
Master-In-Equity

Appellate Case No. 2023-001863
Civil Action No. 2022-CP-08-02386

VAK M250 FUND, LLC, RESPONDENT,

v.

RONALD D. PRINGLE AND CLEO R. PRINGLE, APPELLANTS.

RESPONDENT’S MOTION TO DISMISS APPEAL

This Appeal involves an action brought by VAK M250 Fund, LLC (“VAK”) against Ronald and Cleo Pringle (“the Pringles”) to foreclose on a mortgage secured by property located at 1298 Old Gilliard Road, in Ridgeville, South Carolina (“Property”). *VAK M250 Fund, LLC v. Ronald D. Pringle, CLEO R. Pringle, and SERVHL Underlying Trust 2019-1*, 2022-CP-08-02386 (9th Cir., Ct. of Common Pleas, filed Oct. 4, 2022). On August 9, 2023, a hearing was held on VAK’s motion for summary judgment, after which the Honorable Master-In-Equity Dale E. Van Slambrook entered an Order of Summary Judgment of Foreclosure and Sale Decree (“Order”) on August 24, 2023, and ordered the Property to be sold at public auction on October 4, 2023. On September 20, 2023, the Pringles filed a Motion to Set Aside this Order on the ground that VAK allegedly lacked

to bring the foreclosure action against them. On September 27, 2023, the Pringles filed what was described as a Verified Petition for an Ex Parte Temporary Restraining Order to Set Aside Foreclosure Sale, which restated their claims raised within its September 20th Motion. On September 28, 2023, the Master-In-Equity entered a temporary restraining order to stay the foreclosure sale pending a hearing on the Pringles' Motion. Following a hearing held on October 12, 2023, the Master-In-Equity entered an order on October 23, 2023 denying the Pringle's Motion to Set Aside the Order. The Property was scheduled to be sold on December 6, 2023 at 11:00 a.m. On November 22, 2023, the Pringles filed a Motion to Reconsider and a Motion to Dismiss VAK's foreclosure action and the Notice of Sale, which were denied without a hearing on November 29, 2023. On November 30, 2023, the Pringles noticed an appeal of the Master-In-Equity's Orders filed October 23 and 24, 2023 (Order Denying Motion to Set Aside Order of Summary Judgment of Foreclosure and accompanying Form 4); and Form 4 Order dated November 29, 2023 (Order denying the Pringles Motion to Dismiss and Motion to Reconsider) (the "Appeal"). On December 5, 2023, this Court denied the Pringles' Motion to Stay the foreclosure sale.

On the morning of the date of sale of the Property, the Pringles wired \$55,847.12 to VAK's mortgage servicer to pay off the mortgage loan. *See* EXH 1 (Wire Confirmation). Consequently, the Master-In-Equity entered an Order on December 13, 2023 dismissing the foreclosure action and vacating the Judgment of Foreclosure. *See* EXH 2 (Order to Dismiss Case and Vacate Judgment).

ARGUMENT

Generally, this Court only considers cases presenting a justiciable controversy, where there is a real and substantial dispute for judicial determination. *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 25–26, 630 S.E.2d 474, 477 (2006). “A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court.” *Id.* If there is no actual controversy, this Court will not decide moot questions. *Id.* Here, the Pringles redeemed their Property, and the Order of Foreclosure was then vacated. These intervening events moot the Pringle’s Appeal.

There are three exceptions to the mootness doctrine. “First, if the issue raised is capable of repetition but generally will evade review, the appellate court can take jurisdiction. *Sloan v. Greenville County.*, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct. App. 2009). “Second, an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest.” *Id.* “Third, “if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case.” *Id.*

None of the exceptions to the mootness doctrine apply in this case. The issues raised by the Pringles are not capable of repetition and do not evade review because standing is not an issue that is typically mooted before appellate review occurs. *Compare S.C. Pub. Int. Found. v. S.C. Dep't of Transportation*, 421 S.C. 110, 121, 804 S.E.2d 854, 860 (2017) (stating that inspection of bridges is typically completed long before a court can review the propriety of the action). Well-settled law establishes that a note holder is entitled to enforce the note and mortgage; therefore,

there is no question of imperative and manifest urgency to provide future guidance. See S.C. Code Ann. § 36-3-301 (defining a “person entitled to enforce a note” to include the holder of the note); *Union Nat. Bank of Columbia v. Cook*, 110 S.C. 99, 96 S.E. 484, 486 (1918) (holding that the “assignment and delivery of the note carries with it the mortgage securing the same”); *Bank of Am., N.A. v. Draper*, 405 S.C. 214, 220, 221, 746 S.E.2d 478, 481 (Ct. App. 2013) (same). Finally, the Pringles paid what they owed to VAK and the foreclosure action against the Pringles was vacated, so there is no decision by the court below that could affect future events or have collateral consequences for the parties.

CONCLUSION

For the reasons stated above, Respondent respectfully requests that this Appeal be dismissed.

s// M. McMullen Taylor

M. McMullen Taylor, Esquire

RILEY POPE & LANEY, LLC

2838 Devine Street

Columbia, South Carolina 29205

(803) 799-9993

MTaylor@rplfirm.com

Counsel for Respondent

EXHIBIT 1

Mullen Taylor

From: Mpigania Uhuru <shujaanation@gmail.com>
Sent: Wednesday, December 6, 2023 10:56 AM
To: Mullen Taylor
Subject: MYCU Outgoing Wire
Attachments: MYCU Outgoing Wire.pdf

Selene Finance accepted the payoff! And told us to contact you and let you know you should be hearing from Selene.

 **MYCU Outgoing Wire.pdf** [Download](#)



Basic Information

Business Function {3600}	CTR - Customer Transfer	Amount {2000}	\$55,847.12
Wire Type {1510}	1000	Sender ABA {3100}	231387550
Sender Name {3100}	Vizo Fin Corp CU	Receiver ABA {3400}	026013576
Receiver Name {3400}	FLAGSTAR BANK, NA	IMAD {1520}	
OMAD {1120}		Business Date	Wednesday, December 6, 2023
Account Number	D25327949710100	Core Account Number	25327949710100
Created By	elvbrisbon@berkcofcu.com 253279497 @ 12/6/2023 10:25 AM	Released By	mjohnson@berkcofcu.com_253279497 @ 12/6/2023 10:35 AM

Originator Information

Originator {5000}	Originator FI {5100}
ID Code D - Demand Deposit Account (DDA) Number	ID Code D - Demand Deposit Account (DDA) Number
Identifier 7230-00	Identifier 25327949710100
Name CLEO PRINGLE	Name BERKELEY COMMUNITY FCU
Address 1298 OLD GILLIARD RD RIDGEVILLE, SC 29472	Address P. O. BOX 206 600 MAIN ST EXT MONCKS CORNER, SC 29461

Beneficiary Information

Beneficiary {4200}	Beneficiary FI {4100}
ID Code D - Demand Deposit Account (DDA) Number	ID Code F - Fed Routing Number
Identifier 1501907533	Identifier 026013576
Name SELENE FINANCE LP	Name FLAGSTAR BANK
Address P. O. BOX 71243 PHILADELPHIA, PA 19176	Address 565 5TH AVE, NEW YORK, NY 10017

ReferenceForBeneficiary {4320} 0000575613

OFAC Results

There were no OFAC hits on this wire.

EXHIBIT 2

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

VAK M250 Fund, LLC,

Plaintiff,

vs.

Ronald D. Pringle, Cleo R. Pringle, and
SERVHL Underlying Trust 2019-1,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO.: 2022-CP-08-02386

**ORDER TO DISMISS CASE
AND VACATE JUDGMENT**

Lis Pendens No. 2022-LP-08-00464

(File No. 4044.11322)

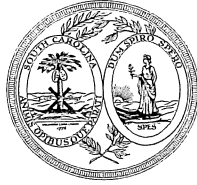
Upon motion of Riley Pope & Laney, LLC, Attorney for Plaintiff, and it appearing that the above-referenced action should be dismissed and judgment vacated,

NOW THEREFORE, for good cause shown,

IT IS ORDERED, ADJUDGED, AND DECREED that the within action be and the same is hereby dismissed and ended of record without prejudice, that the Lis Pendens pertaining thereto be marked canceled on the records of the Clerk of Court for Berkeley County, South Carolina, and that the Judgment of Foreclosure previously entered on August 24, 2023 in this matter shall be vacated, and

IT IS SO ORDERED.

SIGNATURE PAGE TO FOLLOW



Berkeley Common Pleas

Case Caption: Vak M250 Fund, Llc , plaintiff, et al VS Ronald D Pringle , defendant,
et al
Case Number: 2022CP0802386
Type: Order/Dismissal

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079

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Appellate Case No. 2023-001863
Civil Action No. 2022-CP-08-02386

VAK M250 FUND, LLC..... RESPONDENT,

v.

RONALD D. PRINGLE AND CLEO R. PRINGLE APPELLANTS.

PROOF OF SERVICE

I certify that I have served Respondent's *Motion to Dismiss Appeal* on the parties below by electronic mail and by depositing a copy in the United States Mail; postage prepaid to the address below, on April 17, 2024.

VIA U.S. MAIL

Ronald & Leo Pringle
1298 Old Gilliard Road
Ridgeville, South Carolina 29472

VIA ELECTRONIC MAIL

Mpigania Uhuru, Agent
shujaanation@gmail.com

s/ M. McMullen Taylor

M. McMullen Taylor, SC Bar No.: 72848
RILEY POPE & LANEY, LLC
2838 Devine Street
Columbia, South Carolina 29205
(803) 799-9993

Attorney for Respondent

Mullen Taylor

From: Mullen Taylor
Sent: Wednesday, April 17, 2024 11:49 AM
To: Mpigania Uhuru
Subject: 2023-001863: VAK M250 Fund, LLC, Respondent v. Ronald & Cleo Pringle, Appellants: Respondent's Motion to Dismiss
Attachments: Respondent's Motion to Dismiss Appeal 4-17-24.pdf

Ms. Uhuru,

Attached please find Respondent's Motion to Dismiss Appeal, which is hereby serviced upon you.

I will be filing this Motion by email shortly and will copy you on the email.

**RILEY
POPE &
LANEY**
LAW

M. McMullen Taylor | Attorney
Riley Pope & Laney, LLC – South Carolina | North Carolina | Georgia
2838 Devine Street | Columbia, SC 29205
803.799.9993 | [RPL Website](#) | [LinkedIn](#) | [BIO](#)
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