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Apr 19 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Edgefield Holdings, LLC,

Petitioner/Judgment Creditor,

vs.

Christian E. Hamlin,

Respondent/Judgment Debtor.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2014-CP-08-00321

ORDER GRANTING IN PART AND DENYING IN PART PETITIONER'S MOTION TO COMPEL AND FOR SANCTIONS

ELECTRONICALLY FILED - 2024 Feb 09 3:58 PM - BERKELEY - COMMON PLEAS - CASE#2014CP0800321

This matter came before the Court on February 5, 2024, for consideration of the Petitioner/Judgment Creditor Edgefield Holdings, LLC's ("Edgefield") Motion to Compel and Sanctions. For the reasons set forth herein, Edgefield's Motion is granted in part and denied in part.

FINDINGS OF FACT

1. HomeTrust Bank recovered a judgment against Respondent/Judgment Debtor Christian E. Hamlin (the "Respondent") in the State of North Carolina on August 13, 2023. HomeTrust Bank then domesticated the judgment into South Carolina, under the Uniform Enforcement of Foreign Judgments Act, which judgment was filed in the Office of the Clerk of Court for Berkeley County on February 17, 2014. The judgment was subsequently assigned to Edgefield.

2. The Respondent owns four vehicles. One automobile is owned jointly with his wife, Annie Hamlin, a 2003 Chevrolet with VIN 3GNFK16Z73G116335. The vehicles owned outright by Respondent with no other liens of record are: a 2005 Honda CR-V with VIN

JHLRD78925C029195, a 1988 Porsche 944 with VIN WP0AA2959JN150740, and a 2002 Mercedes E Class with VIN WBDJH65J62B409904.

3. The Respondent is the sole member of a limited liability company, Hamlin Family Holdings LLC (the “Company”). The Company owns and operates a Christian Brothers Automotive shop in Goose Creek, South Carolina.

4. The Respondent is an of owner real property located at 140 Royal Assembly Drive, Charleston, South Carolina. The respondent has a 50% interest in the property.

LEGAL CONCLUSIONS

I. The Order for Execution Must Be Entered Prior to Ten Years From the Date of Entry of the Judgment, But the Sale May Take Place After 10 Years

The date of entry of the judgment is February 17, 2014. Therefore, as has been previously held by this Court, the ten-year life of the judgment runs as of February 17, 2024. Pursuant to S.C. Code Ann. § 15-39-30, “Executions may *issue* upon final judgments or decrees at any time within ten years from the date of the original entry thereof.” (emphasis added) This Order serves as issuance of the order of execution, and therefore complies with the statutory requirements. All that is necessary is that the order is entered prior to the ten-year period running, and not that the sale is completed in this time period.

In *Gordon v Lancaster*, 425 S.C. 386, 823 S.E.2d 173 (2018), an order for execution was entered one day after the ten-year period had run; the court held that such an order was not enforceable. As of the date of this order in the case at bar, the judgment has active energy. Based on *Gordon* and the plain reading of the statute, so long as the order of execution is issued before the ten-year deadline, then statutory requirements for execution have been met. That the sale of the property occurs after the deadline does not violate this statutory requirement. The

requirement is that the order is entered by the ten-year deadline, and not that the sale occur before the ten year deadline.

II. Edgefield is Entitled to a Judicial Sale of Two of the Above-Referenced Vehicles.

Respondent testified during the supplementary proceedings as to ownership of the vehicles, and titles to said vehicles were presented to the Court at the February 5th hearing. Pursuant to S.C. Code § 15-41-30(A)(1)(b)(2), Respondent may protect his interest in only one motor vehicle, in an amount up to \$6,325. Respondent testified that each vehicle was worth less than this amount, and that none of the vehicles are subject to any other liens. The vehicle that is co-owned will not be executed upon at this time. At the February 5, 2024 hearing, Respondent's counsel elected to protect the 1988 Porsche. Respondent has no valid reason for withholding the other vehicles from execution. Therefore, the 2005 Honda CR-V and 2002 Mercedes E Class shall be sold by sheriff's sale.

III. Edgefield is Granted a Charging Order as to Respondent's Distributional Interest in the Company.

Pursuant to S.C. Code Ann. § 33-44-504, this Court has the ability to award Edgefield, as a judgment creditor, to "charge the distributional interest of [Respondent] to satisfy the judgment," to "make all other orders, directions, accounts, and inquiries [Respondent] might have made or which the circumstances may require to give effect to the charging order," and to "order a foreclosure of a lien on a distributional interest subject to the charging order **at any time.**" (emphasis added). Accordingly, this Court issues a charging order to Edgefield as to Respondent's distributional interests in the Company. *Id.* at cmt. ("A charging order is the only remedy by which a judgment creditor of a member or a member's transferee may reach the

distributional interest of a member or member's transferee.”). Thus, it is hereby ordered that a charging order be issued as to Respondent’s distributional interest in the Company.

IV. Edgefield is Entitled to an Order for Foreclosure as to the Above-Ordered Charging Liens.

Furthermore, Respondent is entitled to foreclose on the liens imposed by the aforementioned charging orders. Indeed, the “exclusive remedy” for a judgment creditor under the statute with respect to a judgment debtor’s interest in a limited liability company is foreclosure of that interest. *Kriti Ripley*, 404 S.C. at 380-81, 746 S.E.2d at 33.

The decision whether to grant foreclosure under Section 33–44–504 requires consideration of the totality of the circumstances in each individual case. *Id.* at 382-83, 746 S.E.2d at 34 (citing *Carroll v. Page*, 264 S.C. 345, 349, 215 S.E.2d 203, 205 (1975) (holding that in “an action in equity ... ‘the equities of both sides are to be considered, and each case must be decided on its own particular facts.’” (quoting 30 C.J.S. *Equity* § 89)). “However, the primary, and usually determinative, factor for a circuit court to consider is whether the judgment will be paid within a reasonable amount of time through distributions.” *Id.* In this case, Respondent has clearly indicated an unwillingness to make payments towards the judgment balance. Therefore, Edgefield is entitled to foreclose the liens imposed by the charging orders, not only as to the Respondent’s distributional interest in the Company, but also Respondent’s membership interest in the Company.

V. The Court Will Not Order the Sale of the Real Property

As of the date of the hearing, a second action is pending for the foreclosure of Edgefield’s judgment lien, in Case No. 2023-CP-08-00783. Therefore, this Court will not consider the sale of the real property. However, Respondent did elect to protect his homestead

interest in the real property under the Code; therefore, no wild card protection may be applied to the assets above.

VI. No Sanctions Shall Be Issued

The Respondent was late in providing documents to Edgefield as required by previous orders. The Court finds that the requirements for sanctions under Rule 37, SCRPC, and South Carolina law have not been met, and therefore no sanctions shall be issued.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. Edgefield is entitled to the sale of two of the aforementioned motor vehicles, the 2005 Honda CR-V and 2002 Mercedes E Class.
2. A charging order is hereby granted to Edgefield against the distributional interest of Respondent in the Company, in accordance with S.C. Code Ann. § 33-44-501, and any distributions made to Respondent by reason of his ownership interest in the Company shall be, and the same hereby are, transferred to Edgefield. Respondent is hereby required to transfer any pay any distributional interests to Edgefield as they occur in the normal course, and to properly account for all payments and expenditures of the Company.
3. Edgefield is entitled to foreclose its charging lien against the Respondent's distributional and membership interest in the Company.
4. Each of the items of property set forth above shall be sold at the next available Berkeley County Sheriff's sale, after due advertisement as required by South Carolina law. Respondent shall voluntarily relinquish possession of this property, including all keys to the vehicles, as well as all keys, books, records, and any other items necessary for operating the Company, to the Sheriff so that the sale can be timely conducted.

5. Edgefield shall be entitled to apply any such distributions that it receives from the Company toward payment of its outstanding judgment.

6. Edgefield shall also be entitled to apply any such sale proceeds from the sale of the aforementioned vehicles and the Company toward payment of its outstanding judgment.

AND IT IS SO ORDERED.



Berkeley Common Pleas

Case Caption: Home Trust Bank VS Christian E Hamlin

Case Number: 2014CP0800321

Type: Master/Order/Other

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079