

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
C/A NO.: 2023-CP-43-01162

United States of America, acting through the Rural Housing Service, its successors and assigns, United States Department of Agriculture,

Plaintiff,

vs.

Joseph Lovin, Portfolio Recovery Associates, LLC, and Midland Funding LLC,

Defendants.

**JUDGMENT OF FORECLOSURE
AND ORDER FOR SALE**
(Deficiency Waived)
(Non-Eligible for Loan Modification Under the Home Affordable Modification Program)

RECEIVED
Apr 26 2024
SC Court of Appeals

Pursuant to Rule 53 SCRCPP, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the cause with appeal, if any, directly to the South Carolina Court of Appeals.

Pursuant to the said Order of Reference, a hearing was held on February 23, 2024 at 10:00 A.M. at which the testimony was taken and evidence presented, which is reported herewith. Present at the hearing was Jamie Anna Weller, Esq., as attorney for Plaintiff United States of America, acting through the Rural Housing Service, its successors and assigns, United States Department of Agriculture and Kenneth R. Young, Esq., attorney for Defendant Joseph Lovin (“Defendant”).

FINDINGS OF FACT:

1. The Lis Pendens was filed on July 24, 2023.
2. The Summons and Complaint were filed on July 24, 2023.
3. Service was made upon the Defendants named in this order as is shown by the Affidavits of Service filed herein.

4. Plaintiff has alleged and it appears the Note and Mortgage are not subject to modification under the Home Affordable Modification Program (“HMP”), and the same expired on December 31, 2016.
5. With the issuance of S.C. Supreme Court Administrative Order 2022-09-12-01, Plaintiff is not required to file a Certificate of Compliance with the Coronavirus, Aid, Relief and Economic Security Act.
6. With the issuance of S.C. Supreme Court Administrative Order 2023-05-17-01, Plaintiff is no longer required to serve upon the Defendants above named a Notice of Right to Foreclosure Intervention or file a Certification of Compliance with S.C. Supreme Court Administrative Order 2011-05-02-01.
7. Defendants Portfolio Recovery Associates, LLC and Midland Funding LLC have served no Answer or other responsive pleading upon Plaintiff, and they are now in default pursuant to the Affidavit of Default filed October 2, 2023.
8. Defendant filed an Answer, which is of record, asserting the loan subject of this matter has been paid in full; however, no such records of payment were produced or presented at the hearing.
9. According to the Affidavit filed October 2, 2023, Defendant is not in the Military Services of the United States of America, as contemplated under the Servicemembers Civil Relief Act 108 P.L. 189, 117 Stat. 2835 (50 USC App. §§ 501-597b)(“SCRA”), and any amendments thereto.
10. The Order of Reference was filed October 3, 2023 wherein this matter was referred to the undersigned, as Master in Equity for Sumter County, with authority to enter final judgment in the action.

11. The Defendants were notified of the time, date and place of hearing in this matter, and a copy of said notice is filed in this action.
12. For value received, Defendant made, executed and delivered to Plaintiff a Promissory Note ("Note") dated September 28, 2005, promising thereby to pay Plaintiff the sum of \$107,532.00, upon the terms and conditions set forth therein.
13. Concurrent with the execution of the Note, Defendant also executed a Subsidy Repayment Agreement ("Subsidy") promising to repay the Plaintiff the subsidy granted thereby.
14. To better secure the payment of the Note and Subsidy described above, Defendant made, executed and delivered to Plaintiff, in writing, a Mortgage dated September 28, 2005, ("Mortgage") covering real property in Sumter County commonly referred to as 3115 Tuckaway Drive, Sumter, South Carolina 29154 and more fully described below. The Mortgage was filed September 28, 2005 in the ROD for Sumter County in Mortgage Book 999 at Page 354 and re-recorded on October 24, 2005 in Book 1002 at Page 1319.
15. This Mortgage constitutes a first lien on the subject property.
16. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Defendant who is the original mortgagor.
17. The Court provided Defendant fifteen (15) days after conclusion of the hearing to present testimony or evidence supporting his claim the underlying Note had been paid in full and should be satisfied of record or contesting the calculation of the debt presented at the hearing.

18. The Defendant has failed and/or refused to present any testimony or evidence on or before March 13, 2024 supporting his contention the underlying Note was paid in full and/or contesting any calculations of the debt set forth herein.
19. Upon failure of Defendant to present any testimony, objection or mount any defense to the allegations and presentations of Plaintiff at the final hearing, the Court must conclude Plaintiff is entitled to the requested relief set forth herein.
20. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note, Subsidy and Mortgage in the hands of the attorney herein for collection.
21. The sum of \$2,500.00 is a reasonable fee to allow as attorney fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the Note, Subsidy and Mortgage.
22. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.
23. The amount due and owing on the Note, with interest at the rate provided in the Note, Subsidy and other costs and expenses of collection, including attorney's fee, secured by the Mortgage is as follows:
 - a. Principal due as of December 27, 2023 \$98,353.30
 - b. Interest from February 28, 2018 through February 27, 2024
at 5.375% \$31,719.06
 - c. Late Charges before being sent to attorney for collection \$133.25
 - d. Escrow/Impound required \$850.25
 - e. Subsidy granted \$21,212.28

f.	Fees required with payoff:		
	o Escrow fees	=	\$21,928.24
	o Caretaking fees	=	\$1,442.10
	o Interest on fees	=	\$3,173.53
g.	Attorney's fee		\$2,500.00
h.	Costs of collection prior to hearing		\$830.56

Total Debt due under the Note and Subsidy secured by the Mortgage including interest to date shown \$182,142.57

The amount due (shown above) shall accrue interest at the rate of 5.375% per annum and together with such interest shall constitute the total debt due the Plaintiff, pursuant to S.C. Code §29-3-630.

- 24. That the Plaintiff is seeking foreclosure of the Mortgage against all Defendants, and its right to a deficiency judgment against Defendant is expressly waived.
- 25. Defendant Portfolio Recovery Associates, LLC is named a party herein by virtue of any right, title, claim or interest it may have in the Property subject of this action arising from that certain judgment against Joseph Lovin, Sr. (i) in the amount of \$3,356.94 bearing judgment roll no. 2014-CP-43-00633; and (ii) in the amount of \$1,413.39 bearing judgment roll no. 2014-CP-43-01091. Plaintiff is informed and believes any such interest is subsequent and junior to Plaintiff's Mortgage.
- 26. Defendant Midland Funding LLC is named a party herein by virtue of any right, title, claim or interest it may have in the Property subject of this action arising from that certain judgment against Joseph Lovin, Sr. in the amount of \$2,131.11 bearing judgment roll no. 2014-CP-43-00990. Plaintiff is informed and believes any such interest is subsequent and junior to Plaintiff's Mortgage.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

The Plaintiff should have judgment of foreclosure of the Mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Defendant(s) named herein and all persons whosoever claiming under him, them or it be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold, or any part thereof.

2. Plaintiff's Mortgage constitutes a first lien on the subject property.

3. There is due to the Plaintiff on the obligation and Mortgage set forth in the Complaint the sum of \$182,142.57 representing the total debt due Plaintiff as set out in the Findings of Fact *supra*.

4. The attorney fees included herein are fair and reasonable given (1) the nature of these proceedings, (2) the time actually devoted to the matter; (3) the professional standing of attorney who regularly represents clients in matters of this type as a partner in an AV rated firm; and (4) for the beneficial results that client has received.

5. The amount due in the preceding paragraph (the "Total Debt" as set forth hereinabove) shall accrue interest at the rate of 5.375% per annum and together with such interest shall constitute the total debt due the Plaintiff.

6. The amount due shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

7. That on or before the date of sale of the property hereinafter described, Plaintiff or Plaintiff's attorney, is to be paid the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

8. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the undersigned Master in Equity for Sumter County at public auction, at the Sumter County Courthouse, 215 N. Harvin St., Sumter, County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on some other day appointed by the Court), on the following terms, that is to say:

A. FOR CASH: The undersigned Master in Equity for Sumter County will require, at the time of the bid, a deposit of five (5%) percent on the amount of the bid (in cash or equivalent) same to be applied on the purchase price if compliance is made; but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at the time of bid or comply with the other terms of the bid within twenty (20) days, then the property may be re-sold on the same terms and conditions on some subsequent sales day, but at the risk of the defaulting bidder(s).

B. Interest on the bid shall be paid through the day of compliance at the rate of 5.375%.

C. The sale shall be subject to taxes and assessments, existing easements and restrictions and easements and restrictions of record, and any other senior encumbrances.

D. Plaintiff to pay for any statutory commission on sale from the proceeds of sale, and Purchaser to pay for deed preparation, costs of recording the deed and deed stamps.

9. A personal deficiency judgment being waived, bidding will not remain open after the date of sale.

10. That the undersigned Master in Equity for Sumter County, will by advertisement according to law, give notice of the time, and place of sale, and the terms thereof; and will execute

to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within thirty (30) days after date of sale, then the undersigned Master in Equity for Sumter County may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

11. That the undersigned Master in Equity for Sumter County will apply the proceeds of sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus will be held pending further Order of this Court.

12. That Plaintiff shall have judgment of foreclosure.

13. If the Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses, and the indebtedness of Plaintiff in full, Plaintiff may pay to the undersigned Master in Equity for Sumter County only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

14. Should the Plaintiff, Plaintiff's attorney or agent fail to appear on sales day, the property shall not be sold, but shall be re-advertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney or agent is present.

15. In the event the successful bidder is other than the Defendant, upon the presentation of a Writ of Assistance, the Sheriff of Sumter County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in such peaceable possession. Pursuant to

Rule 70, SCRC~~P~~, the Clerk, upon application of the successful bidder is hereby directed to execute a Writ of Assistance. All valid tenant rights pursuant to Protecting Tenants at Foreclosure Act of 2009 shall be protected.

16. That the deed of conveyance made pursuant to this sale shall be indexed in the grantor index by the Clerk of Court or Register of Deeds in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the undersigned Master in Equity for Sumter County, who executes such deed as grantor.

17. The Master in Equity for Sumter County, shall direct the Clerk of Court/Register of Deeds to release of record the mortgage lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which mortgage lien is described as follows:

That certain Mortgage given by Joseph Lovin to United States of America acting through the Rural Housing Service and its successors dated September 28, 2005, and recorded in the Office of the Clerk of Court/Register of Deeds for Sumter County on September 28, 2005, in Book 999 at Page 354.

18. The undersigned Master in Equity for Sumter County will retain jurisdiction to do all the necessary acts incident to this foreclosure including, but not limited to, the issuance of a Supplemental Order to evidence additional debt incurred if the sale of the property is delayed by the filing of a bankruptcy petition, transfer of service of the Note, Subsidy, and Mortgage by the Plaintiff, or an attempt of the parties to reach a settlement, the issuance of a Supplemental Order to correct a harmless error in the action that does not substantially affect the rights of the parties, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRC~~P~~, and hearing any issues involving appraisal proceedings under §29-3-680 et seq of the South Carolina Code of Laws (1976) as amended.

19. Mortgaged property to be sold by Master in Equity for Sumter County:

All that certain piece, parcel and lot of land with improvements thereon, if any, situate, lying and being in the County of Sumter, State of South Carolina identified as Lot No. 42 of Hideaway Village Subdivision and being more fully shown on a plat prepared by Michael C. Turbeville, III, P.L.S. dated August 2, 2005 and recorded in plat book 2005 at page 484, records of Sumter County.

Aforesaid plat is specifically incorporated herein and reference craved thereto for a more complete and accurate description of the metes, bounds, courses and distances of the property concerned herein. This description is in lieu of metes and bounds, as permitted by law under Section 30-5-250 of the 1976 Code of Laws of South Carolina, as amended. Be all measurements a little more or a little less and according to said plat.

This being the same property conveyed to Joseph Lovin by deed of J. D. Gainey Construction Co., Inc. dated September 28, 2005 and recorded September 28, 2005 in the Office of the Clerk of Court for Sumter County in Book 999 at Page 351.

TMS No.: 180-13-02-022

Address: 3115 Tuckaway Drive, Sumter, South Carolina 29154

[MASTER IN EQUITY ELECTRONIC SIGNATURE PAGE TO FOLLOW]

March 19, 2024.

Sumter County, South Carolina

NOTICE OF SALE
CIVIL ACTION NO. 2023-CP-43-01162

BY VIRTUE of a decree heretofore granted in the case of: United States of America, acting through the Rural Housing Service, its successors and assigns, United States Department of Agriculture v. Joseph Lovin, Portfolio Recovery Associates, LLC, and Midland Funding LLC, I, **the undersigned Master in Equity for Sumter County, will sell on May 6, 2024 at 12:00 p.m. at the Sumter County Courthouse, 215 N. Harvin St., Sumter, South Carolina** to the highest bidder:

All that certain piece, parcel and lot of land with improvements thereon, if any, situate, lying and being in the County of Sumter, State of South Carolina identified as Lot No. 42 of Hideaway Village Subdivision and being more fully shown on a plat prepared by Michael C. Turbeville, III, P.L.S. dated August 2, 2005 and recorded in plat book 2005 at page 484, records of Sumter County.

Aforesaid plat is specifically incorporated herein and reference craved thereto for a more complete and accurate description of the metes, bounds, courses and distances of the property concerned herein. This description is in lieu of metes and bounds, as permitted by law under Section 30-5-250 of the 1976 Code of Laws of South Carolina, as amended. Be all measurements a little more or a little less and according to said plat.

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TMS No.: 180-13-02-022
Property Address: 3115 Tuckaway Drive, Sumter, South Carolina 29154

SUBJECT TO ASSESSMENTS, SUMTER COUNTY AD VALOREM TAXES, EXISTING EASEMENTS, EASEMENTS AND RESTRICTIONS OF RECORD, AND OTHER SENIOR ENCUMBRANCES.

TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Master in Equity for Sumter County at conclusion of the bidding, five percent (5%) of his bid, in cash or equivalent as evidence of good faith, same to be applied to purchase price in case of compliance, but to be forfeited and applied first to cost and then to Plaintiff's debt in the case of non-compliance. Should the last and highest bidder fail or refuse to make the required deposit at time of bid or comply with the other terms of the bid within thirty (30) days, then the Master in

Equity for Sumter County may resell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder).

For complete terms of sale, attention is drawn to the Judgment of Foreclosure and Order for Sale on file with the Clerk of Court for Sumter County.

A personal deficiency judgment being waived, bidding will not remain open. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of 5.375% per annum.

Should the Plaintiff, Plaintiff's attorney or agent fail to appear on sales day, the property shall not be sold, but shall be readvertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney or agent is present.

Plaintiff does not warrant its title search to purchasers at foreclosure sale or other third parties, who should have their own title search performed on the subject property. Purchaser is responsible for the preparation and filing of their deed.

[MASTER IN EQUITY ELECTRONIC SIGNATURE PAGE TO FOLLOW]

March 19, 2024.
Sumter County, South Carolina

HARRELL, MARTIN & PEACE, P.A.
Taylor A. Peace, Esq., SC Bar #100206
Jamie A. Weller, Esq., SC Bar #105548
135 Columbia Avenue
Post Office Box 1000
Chapin, South Carolina 29036
(803) 345-3353
ATTORNEYS FOR PLAINTIFF



Sumter Common Pleas

Case Caption: United States Of America, Acting Through The Rural Housing ,
plaintiff, et al VS Joseph Lovin , defendant, et al
Case Number: 2023CP4301162
Type: Master/Order/Notice of Foreclosure Sale

And It Is So Ordered

S/ Michael M. Jordan - 3085

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF SUMTER
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NO.: 2023-CP-43-01162

United States of America, acting through the Rural Housing Service, its successors and assigns, United States Department of Agriculture,

Joseph Lovin, Portfolio Recovery Associates, LLC, and Midland Funding LLC,

DEFENDANTS.

PLAINTIFF,

Submitted by: HARRELL, MARTIN & PEACE, P.A. Taylor A. Peace, Esq., SC Bar #100206 Jamie A. Weller, Esq., SC Bar #105548 135 Columbia Avenue (Physical Address) Post Office Box 1000 (Mailing Address) Chapin, South Carolina 29036	Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE):

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial/hearing before the court. The issues have been tried or heard and decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____.
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding Arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____.
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order. (Formal order to follow)
 Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
United States of America, acting through the Rural Housing Service, its successors and assigns, United States Department of Agriculture	Joseph Lovin	THE PROPERTY WHICH IS THE SUBJECT OF THIS ACTION BE SOLD AT PUBLIC SALE PURSUANT TO THE JUDGMENT OF FORECLOSURE AND ORDER FOR SALE. \$n/a
If applicable, describe the property, including tax map information and address, referenced in the order: TMS No.: 180-13-02-022 Address: 3115 Tuckaway Drive, Sumter, South Carolina 29154		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.

_____, 20____.
 Michael M. Jordan



Sumter Common Pleas

Case Caption: United States Of America, Acting Through The Rural Housing ,
plaintiff, et al VS Joseph Lovin , defendant, et al
Case Number: 2023CP4301162
Type: Master/Order/Foreclosure & Sale and Form 4

And It Is So Ordered

S/ Michael M. Jordan - 3085