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Aug 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Judge

Appellate Case No. 2024-000372

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

v.

Ebonee D. Brown, Georgia M. Brown,
and South Carolina Department of
Motor Vehicles, Defendant(s)

Of whom Ebonee D. Brown, Georgia M. Brown are

Appellants

RESPONDENT’S MOTION TO DISMISS

Comes now Respondent, Wilmington Savings Fund Society FSB as Trustee of Stanwich Mortgage Loan Trust I, by and through undersigned counsel, and hereby moves for the dismissal of the above-captioned appeal, pursuant to Rules 240, 208(a)(4), and 260(a) of the South Carolina Appellate Court Rules, (“SCACR”), and the laws and jurisprudence of the State of South Carolina. In support of this Motion, Respondent states as follows:

This appeal arises from a foreclosure action. At the time of the filing of the Notice of Appeal, the matter was pending an Order of Reference to a Special Referee for purposes of a final hearing for the adjudication of the foreclosure and sale of the subject property pursuant to

the Order of the trial court. The Notice of Appeal was filed with this Court on March 11, 2024. Upon Motion of Appellant, this Court allowed additional time to request the Transcript by Order entered April 2, 2024. Thereafter, Appellant sought and was granted additional time to file Appellant's Initial Brief and Designation of Record by Order dated July 9, 2024. Upon subsequent Motion of Appellant, this Court granted an extension of time to file Appellant's Initial Brief and Designation of Record by Order entered August 7, 2024. Said Order granted leave to file on or before August 21, 2024. As of this date, the Appellant's Initial Brief and Designation of Record have not been filed, and no further Motions for Extension of Time have been filed.

Rule 208(a)(4), SCACR, states, in relevant part:

Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260.

S.C. App. Ct. R. 208. Rule 260(a), SCACR, states, in relevant part:

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221

S.C. App. Ct. R. 260. The applicable requirements of Rule 208, SCACR, do not provide for discretionary application of said Rule, and as such the pending appeal must be dismissed by Order of the Clerk of Court. *Id.* (“[T]he clerk . . . shall sign an order dismissing the appeal . . .”). Respondent is entitled to the entry of the Clerk of Court dismissing the appeal and remitting to the trial court for further proceedings.

Due to the procedural nature of this Motion, Respondent contends that the filing of a Memorandum in Support would serve no additional useful purpose.

WHEREFORE, for the reasons set forth hereinabove, Respondent respectfully requests that the

above-captioned pending appeal be dismissed, and that said matter be remitted to the trial court for further proceedings.

Respectfully submitted this 23rd day of August , 2024.

s/ Meredith L. Coker

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Mortgage Loan Trust I

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Appellants

PROOF OF SERVICE

I certify that I have served Respondent's Motion to Dismiss by service through electronic mail to Appellants' counsel of record as set forth below

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August 23, 2024 s/ Meredith L. Coker
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