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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Alan D. Clemmons, Master in Equity

Appellate Case No. 2024-001119

Specialized Loan Servicing LLC,

Respondent,

v.

Cindy B. Hunt,

Defendants,

Of whom, Cindy B. Hunt is the Appellant.

MOTION TO DISMISS APPEAL AND MEMORANDUM IN SUPPORT

Chad W. Burgess, Esq.
(S.C. Bar No.: 72520)
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Columbia, South Carolina 29210
(803) 454-3540
Attorney for Respondent

NOW COMES Respondent, Specialized Loan Servicing, LLC (“SLS” or “Respondent”), by and through its undersigned attorney, and pursuant to Rule 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order dismissing the instant appeal filed by Cindy B. Hunt (“Appellant”), averring as follows:

BRIEF PROCEDURAL HISTORY

This subject action is one of foreclosure of a mortgage on real property located in Horry County. On May 18, 2007, Appellant executed and delivered a note in favor of Coastal Federal Bank whereby Appellant promised to repay the principal sum of \$147,200.00 plus interest at the rate of 6.3750% per annum until the loan is fully repaid. The note was secured by a mortgage on real property fully described therein and commonly known as 195 - D Willow Greens Dr., a/k/a 195 Willow Green Dr., Unit D, Conway, SC 29526. The mortgage was recorded in the Horry County Registry on May 23, 2007 in Book 4906 at Page 1953. The note and mortgage were subsequently transferred to Branch Banking and Trust Company (“BB&T”) through corporate merger. BB&T initiated the foreclosure suit on April 16, 2013. Appellant, proceeding as a self-represented litigant, filed an answer and counterclaims on August 2, 2013. Voluminous litigation followed which included Appellant attempting to default BB&T for failing to respond to Appellant’s counterclaims despite their having timely filed a motion to dismiss those counterclaims. The matter was referred to the Horry County Master in Equity on October 15, 2013.

On October 28, 2014, the Master entered an order denying Appellant’s motion for default judgment as to her counterclaims. On January 13, 2015, the Master entered an order granting BB&T’s motion to dismiss Appellant’s counterclaims. On June 3, 2015, the Master entered an order denying Appellant’s motion for attorney’s fees and costs. Appellant sought reconsideration

of these orders and, on June 15, 2016, the Master entered an order denying Appellant's request to alter or amend the aforementioned orders. Appellant appealed the June 15, 2016 order. *See* Appellate Case No. 2016-001550. On December 18, 2019, this Court issued unpublished opinion 2019-UP-389, affirming the Master's June 3, 2015 order. Following denial of Appellant's request for a rehearing, Appellant sought certiorari to the South Carolina Supreme Court. Certiorari was denied and the case remitted to the Circuit Court on October 19, 2020.

Following remittitur, the subject note and mortgage were transferred to Respondent. An assignment of the mortgage into Respondent was recorded in the Horry County Registry on November 18, 2021, in Book 6480 at Page 2673. Respondent was substituted as the Plaintiff in place of BB&T by order filed May 10, 2022.

Appellant filed several motions expressing her objections to, *inter alia*, substitution of the Plaintiff and Plaintiff's counsel, and jurisdictional challenges. A bench trial and hearing on all pending motions was held March 5, 2024, and reconvened on May 8, 2024. On June 6, 2024, the Master entered an order granting Respondent foreclosure and ordering the sale of the property. The Master's order formally addressed, and denied, all of Appellant's pending motions.

This appeal followed on July 3, 2024. Appellant submitted a document purporting to be her initial brief and designation of matter on September 19, 2024. Though Appellant is a South Carolina licensed attorney in good standing, her initial brief and designation of matter are so deficient as to render it impossible for Respondent to brief any issues on appeal. Therefore, this Court should dismiss the appeal.

ARGUMENT AND CITATION OF AUTHORITY

Because Appellant's filings are so deficient as to make it impossible for Respondent to issue its brief, the Court should dismiss her appeal.

“[T]he Appellate Court Rules ‘are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.” *Forner v. Butler*, 319 S.C. 275, 276 n.1, 460 S.E.2d 425, 426 n.1 (1995) (quoting *Henning v. Kaye*, 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992)). “Whenever it appears that an appellant . . . 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.” Rule 260(a), SCACR. All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules of the Court. *See State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014) (“Appellant [who moved to be allowed to proceed pro se] acknowledged he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence.”).

To say that Appellant’s initial brief and designation of matter do not comply with the SCACR is an understatement. Appellant’s September 19, 2024 filing can only be described as a “stream of consciousness monologue” wholly comprised of rambling incoherent statements which are largely indecipherable. What little of Appellant’s initial brief can reasonably be understood appears to argue issues that have already been decided in the prior appeal. To wit, issue number 4 on page vi appears to challenge the Master’s denial of attorney’s fees to Appellant and issues numbered 11(a) through 11(e) on page vii appears to challenge the Master’s denial of Appellant’s motion for default judgment. These issues were resolved with finality with this Court’s December 18, 2019 opinion, denial of Appellant’s motion for a rehearing, and the Supreme Court’s denial of Appellant’s petition of certiorari.

Further, though Appellant's filing is titled as an initial brief and designation of matter, no designation of matter to be included in the record on appeal appears in the filing. The complete omission of the designation of matter fails to comply with Rule 209, SCACR.

Based upon the foregoing, this Court should dismiss the Appeal. *Harkins v. Greenville Cnty.*, 340 S.C. 606, 616, 533 S.E.2d 886, 891 (2000) (affirming trial court decision where appellant failed to satisfy burden of presenting an adequate record on appeal); *Milton v. Richland Cnty.*, No. 2015-MO-046, 2015 S.C. Unpub. LEXIS 45, at 6, 2015 WL 4642832 (S.C. Aug. 5, 2015) (dismissing appeal "[b]ecause [p]etitioner failed to submit a sufficient record, th[e] case present[ed] nothing more than a dispute of a hypothetical character"); *Epps v. Epps*, No. 2012-UP-146, 2012 S.C. App. Unpub. LEXIS 207, at *1 (S.C. Ct. App. Mar. 7, 2012) (dismissing an appeal because procedural defects precluded meaningful review of the appeal).

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this appeal be dismissed and requests such other relief this Court deems just and proper.

Respectfully submitted,

BROCK AND SCOTT, PLLC

s/Chad W. Burgess
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(803) 454-3540
*Attorney for Respondent Specialized Loan
Servicing, LLC*

Dated: October 1, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 1, 2024, she served a copy of Respondent's Motion to Dismiss Appeal and Memorandum in Support, and Certificate of Service by Mail upon the person below by depositing the same in the U.S. Mail with proper postage affixed and addressed as follows:

Cindy B. Hunt
195 Willow Green Dr, Unit D
Conway, SC 29526



Lauren Browder
BROCK & SCOTT, PLLC