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**Oct 21 2024**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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**APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas**

**Honorable Shannon M. Phillips  
Master In Equity for Spartanburg County**

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**Case No. 2023-CP-42-03390**

**Appellate Case No. 2024-000747**

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Federal Home Loan Mortgage Corporation, as trustee for Freddie Mac Seasoned Credit Risk Transfer Trust, Series 2017-2, as owner of the Related Mortgage Loan..... Respondent

v.

Charles Norris, Individually, as Legal Heir or Devisee of the Estate of Mary Frances Norris a/k/a Mary Norris a/ka Mary Frances Greer Norris, Deceased; Carnie Norris, III, Individually, as Legal Heir or Devisee of the Estate of Mary Frances Norris a/k/a Mary Norris a/k/a Mary Frances Greer Norris, Deceased; Clyde Norris, Individually, as Legal Heir or Devisee of the Estate of Mary Frances Norris a/k/a Mary Norris a/k/a Mary Frances Greer Norris, Deceased, their heirs or devisees, successors and assigns, and any other Heirs-at-Law or Devisees of the Estate of Mary Frances a/k/a Mary Norris a/k/a Mary Frances Greer Norris, Deceased; all unknown persons with any right, title or interest in the real estate described herein; also any persons who may be in the military service of the United States of America, being a class designated as John Doe; any unknown minors or persons under a disability being a class designated as Richard Roe; and Douglas Miller, Sr. ....Defendants.

Of whom Carnie Norris, III is the Appellant.

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**RESPONDENT'S INITIAL BRIEF**

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Risk Transfer Trust, Series 2017-2, as owner  
of the Related Mortgage Loan.*

Date: October 21, 2024

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## STATEMENT OF THE CASE

Mary Francis Norris made, executed and delivered a Note dated November 8, 2005, promising thereby to pay to the order of Bank of America, N.A. the sum of \$106,500.00 with interest. MIE Order, March 1, 2024, ¶ 9. The Note was secured by a Mortgage, also dated November 8, 2005, covering real property in Spartanburg County. MIE Order, March 1, 2024, ¶ 10. Ms. Norris died intestate on July 20, 2020. MIE Order, March 1, 2024, ¶ 13. Appellant is an heir of Ms. Norris. MIE Order, March 1, 2024, ¶ 10.

On September 7, 2023, Respondent commenced a foreclosure action in the court of common pleas for Spartanburg County, which was subsequently referred to a Master-in-Equity. *See* Complaint. On February 12, 2024, Respondent filed a motion for summary judgment. Pl.’s Mot. for SJ, Feb. 12, 2024. Respondent’s motion was heard by the trial court and judgment was entered in Respondent’s favor. MIE Order, Mar. 1, 2024, ¶ 13.

Subsequently, Appellant filed a Motion to Alter or Amend Rule under Rule 59 (“Motion”). On April 22, 2024, the trial court denied Appellant’s Motion in an Order entered April 22, 2024. Order, Apr. 22, 2024.

## SUMMARY OF THE ARGUMENT

Appellant fails to argue that the trial court erred in granting summary judgment below. Appellant contests only the timeliness of his Motion to Alter or Amend, the format of the trial court’s Order and the trial court’s subsequent decision to hold a foreclosure sale. These arguments, even if they were fully supported, would not supply an adequate basis to find that the trial court erred in granting Respondent summary judgment. The trial court must be affirmed.

## STANDARD OF REVIEW

When reviewing an appeal of a motion for reconsideration of an Order granting summary judgment, this Court uses the same standard of review applied to summary judgments. *See Froneberger v. Smith*, 406 S.C. 37, 46, 748 S.E.2d 625, 629 (Ct. App. 2013). Similarly, when reviewing the grant of a summary judgment motion, appellate courts apply the same standard that governs the trial court under Rule 56(c), which provides that “summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.” *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008).

## ARGUMENT

### **I. Appellant’s Arguments as to the Timeliness of His Motion and Completeness of the Trial Court’s Order of April 22, 2024 Are Erroneous and Insufficient to Justify Reversal Because Appellant Does Not Address the Trial Court’s Alternative Grounds for Granting Summary Judgment.**

Appellant’s First, Third and Fourth Issues on Appeal challenge the trial court’s rejection of his Motion on timeliness grounds and on the grounds that the trial court erred by failing to specifically state its findings of fact and conclusions of law. Appellant’s Second Issue on Appeal relates to the entirely separate question of a foreclosure sale. Appellant’s Initial Brief does little to support these allegations and the assertions set forth therein are erroneous.

As preliminary matter, Appellant labors under a categorical misunderstanding that the central issue is the trial court’s handling of his Motion, rather than the Order and Judgment entered on March 1, 2024. This is incorrect. When a motion is filed under Rule 59, “the time for appeal from the judgment begins to run from the time of the order granting or denying the motion.” *Otten v. Otten*, 287 S.C. 166, 167, 337 S.E.2d 207, 208 (1985). However, it is the “judgment” the appellant must appeal, and not the trial court’s refusal grant a request for

Respondents’ Initial Brief

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reconsideration. See *Froneberger v. Smith*, 406 S.C. 37, 46, 748 S.E.2d 625, 629 (Ct. App. 2013). “An issue may not be raised for the first time in a motion to reconsider.” *Johnson v. Sonoco Prod. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009). Therefore, the only issues Appellant can appeal are those raised in opposition to the grant of summary judgment.

Notably, Appellant fails to contest the merits of the trial court’s decision to grant summary judgment. “[A]s expressed in Rule 220(c), SCACR, [] an appellate court may affirm the lower court’s judgment for any reason appearing in the record on appeal.” *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 420–21, 526 S.E.2d 716, 723 (2000). Appellant’s failure to argue any reason why Respondent was not entitled to Summary Judgment in his Initial Brief means that question has been abandoned and his appeal must be denied. *First Savings Bank v. McLean*, 314 S.C. 361, 444 S.E.2d 513 (1994) (issues not argued in the brief are deemed abandoned and will not be considered on appeal); *Fields v. Fields*, 342 S.C. 182, 536 S.E.2d 684 (Ct. App. 2000) (same).

With respect to the arguments advanced by Appellant, Appellant is correct that under Rule 59 of the South Carolina Rules of Civil Procedure, he had “10 days after the receipt of written notice of the entry of judgment” in which to place a motion to alter or amend judgment in the mail for service on opposing counsel. *Curtis v. Blake*, 381 S.C. 189, 191, 672 S.E.2d 576, 577 (2009). Consequently, it may well be the case that Appellant’s Motion was timely. However, the filing of a timely motion under Rule 59 is not a basis for reversing the trial court’s underlying judgment. The trial court also expressly noted that it had reviewed the Motion and was denying it because it failed to demonstrate any factual or legal errors. Order, Apr. 22, 2024.

Appellant’s assertion that the trial court erred by failing to set forth findings of fact or conclusions of law in response to Appellant’s motion is clearly wrong. Rule 52 of the South

Carolina Rules of Civil Procedure expressly contradicts Appellant’s contention stating that “[f]indings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b).” SCRCP 52(a). Therefore, findings of fact and conclusions of law were not required for the trial court’s order granting summary judgment or the Order of April 22, 2024. *See Collins Music Co. v. IGT*, 353 S.C. 559, 565, 579 S.E.2d 524, 527 (Ct. App. 2002) (rejecting assertion that requirement of Rule 52(a) is applicable to order denying motion to alter or amend judgment under Rule 59).

Consequently, the trial court’s decision to grant summary judgment in favor of the Respondent has not been challenged and cannot be reversed. The issues raised by Appellant here are erroneous and immaterial and the trial court must be affirmed.

**II. Appellant’s Challenge to the Sale is Not Properly Before this Court and Erroneous.**

Lastly, Appellant’s statement of the issues also asks, but does not attempt to answer, whether the trial court “abused her discretion in setting a quick sale date while case was on appeal?” Appellant makes no argument in support of any error arising from this issue. In fact, Appellant’s Initial Brief does not describe the circumstances of the sale and his Designation of Matters to Be Included on Appeal includes no information about the sale. It is also apparent that whatever order or decision Appellant was not, itself, appealed and/or is not covered by Appellant’s notice of appeal. Therefore, there is no record of the issue and no argument for Respondent to respond to in its Initial Brief.

It is, however, worth mentioning that Appellant also does not include any record of his having complied with S.C. Code § 18-9-170, which stipulates that “the execution of the judgment shall not be stayed” without a written bond in favor of the lender. Appellant’s

argument, such as it is, conflicts with the purpose of this Section by suggesting that a trial court may not proceed with a sale during an appeal even when the appellant fails to procure a bond. There is no legal support for this position.

### CONCLUSION

For the reasons and authorities stated above, this Court should affirm the Trial Court's Orders.

This the 21st day of October, 2024.



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*Transfer Trust, Series 2017-2, as owner of the*

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**CERTIFICATE OF COMPLIANCE**

The undersigned certifies that this brief complies with Rule 211(b), SCACR.



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T. Richmond McPherson, III  
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Of whom Carnie Norris, III is the Appellant.

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**PROOF OF SERVICE**

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I HEREBY CERTIFY that I have served the Respondents Federal Home Loan Mortgage Corporation, as trustee for Freddie Mac Seasoned Credit Risk Transfer Trust, Series 2017-2, as owner of the Related Mortgage Loan’s **RESPONDENT’S INITIAL BRIEF** on Appellants and all parties of interest via electronic mail and via U.S. Mail, on October 21, 2024 as follows:

Respondents’ Initial Brief  
*Federal Home Loan Mortgage Corporation v. Charles Norris as Legal Heir or Devisee of the Estate of Mary Frances Noris Deceased; Carnie Norris, III, Clyde Norris et al.*  
Case No. 2024-000747; South Carolina Court of Appeals

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