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Jan 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Benjamin H. Culbertson, Presiding Circuit Judge

Case No. 2015-CP-26-01729
Appellate Case No. 2025-000091

Summit Shores Lender, LLC,Respondent,

vs.

Palmetto Interstate Development II, Inc. and
Leonard Ray Watts, Appellants.

**RESPONDENT’S MEMORANDUM ADDRESSING
THE ISSUE OF APPEALABILITY**

Per the Court’s letter dated January 17, 2025, Respondent Summit Shores Lender, LLC (“Respondent”) submits this memorandum addressing the issue of appealability.

Appellants filed their Notice of Appeal on January 14, 2025, appealing the trial court’s October 14, 2024 order denying Appellants’ motion to bar enforcement of Respondent’s mortgage (“the Order”). The Order rules only on Appellants’ motion, holding “[Appellants’] motion to bar enforcement is denied” and “[Appellants’] motion to order the entry of a satisfaction of the Mortgage by [Respondent] is denied.” *See* Order, p. 9. As the Order states, “[t]he Court construes [Appellants’] motion as a motion for summary judgment in this action because the relief sought by [Appellants] would effectively end this action and result in judgment as a matter of law for [Appellants].” Therefore, this appeal is from the denial of summary judgment.

Our Supreme Court “has repeatedly held that the denial of summary judgment is not directly

appealable.” *Ballenger v. Bowen*, 313 S.C. 476, 476, 443 S.E.2d 379, 380 (1994); *see also Bank of New York v. Sumter Cnty.*, 387 S.C. 147, 154, 691 S.E.2d 473, 477 (2010) (“it is well-settled that an order denying summary judgment is never reviewable on appeal”); *Morris v. Anderson Cnty.*, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002) (“The denial of a motion for summary judgment is not directly appealable.”); *Silverman v. Campbell*, 326 S.C. 208, 211, 486 S.E.2d 1, 2 (1997) (“[I]t is well-settled that the denial of summary judgment is not directly appealable, nor is it appealable after final judgment.”).

As the Supreme Court stated in *Ballenger*:

A denial of a motion for summary judgment decides nothing about the merits of the case, but simply decides the case should proceed to trial. The denial of summary judgment does not establish the law of the case, and the issues raised in the motion may be raised again later in the proceedings by a motion to reconsider the summary judgment motion or by a motion for a directed verdict. In short, the denial of summary judgment does not finally determine anything about the merits of the case and does not have the effect of striking any defense since that defense may be raised again later in the proceedings. Therefore, an order denying a motion for summary judgment is not appealable.

Ballenger, 313 S.C. at 477–78, 443 S.E.2d at 380 (citations omitted).

This Court has similarly held that a denial of a motion for summary judgment is not appealable. *See, e.g., Coastal Fed. Credit Union v. Brown*, 417 S.C. 544, 553, 790 S.E.2d 417, 422 (Ct. App. 2016) (finding the denial of summary judgment was not appealable even when accompanied by an appealable grant of summary judgment); *Deutsche Bank Nat’l Tr. Co. as Trustee v. Estate of Houck*, 434 S.C. 500, 510, 863 S.E.2d 829, 834 (Ct. App. 2021) (“as to Deutsche Bank’s argument the master erred in denying its motion for summary judgment, we find this issue is not appealable.”) *aff’d as modified*, 440 S.C. 409, 892 S.E.2d 280 (2023); *Fay v. Total Quality Logistics, LLC*, 419 S.C. 622, 634, 799 S.E.2d 318, 325 (Ct. App. 2017) (“The denial of summary judgment is not appealable even when accompanied by a proper appeal of the grant of summary judgment on a separate issue.”).

For these reasons, the Order is not appealable, and the appeal should be dismissed.

Respectfully submitted,

CALLISON TIGHE & ROBINSON, LLC

s/ Demetri K. Koutrakos

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January 27, 2025

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Leonard Ray Watts, Appellants.

PROOF OF SERVICE

I hereby certify that, on this date, the foregoing **Respondent’s Memorandum Addressing the Issue of Appealability** was served on counsel of record via AIS email, pursuant to Supreme Court Order dated August 25, 2021, as follows:

James Marshall Biddle, Esquire
Biddle Law Firm, LLC
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I further certify that all parties required by Rule to be served have been served.

CALLISON TIGHE & ROBINSON, LLC

s/ Demetri K. Koutrakos

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January 27, 2025

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January 27, 2025

VIA EMAIL: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings

Clerk of Court

South Carolina Court of Appeals

P. O. Box 11629

Columbia, SC 29211

RE: Summit Shores Lender, LLC vs. Palmetto Interstate
Development II, Inc., *et al.*
Appellate Case No. 2025-000091

Dear Ms. Kitchings:

Please be advised that I represent the Respondent Summit Shores Lender, LLC in the above-referenced matter. In response to your letter dated January 17, 2025, enclosed herewith please find Respondent's Memorandum Addressing the Issue of Appealability, together with a Proof of Service. Kindly file the same and return a clocked-in copy of each to the undersigned via return email.

The enclosed Memorandum has been served upon counsel of record today via email as indicated in the Proof of Service.

Please feel free to contact me with any questions. Thank you.

With kind regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC

s/ Demetri “Jim” K. Koutrakos

Demetri “Jim” K. Koutrakos

DKK:ksr

cc (via email only): James Marshall Biddle, Esquire
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