

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Castlebrook Homeowner's)
Association, Inc.)
Plaintiff,)
)
vs.)
)
Ardie C. Gary and Primary)
Residential Mortgage, Inc.)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2023-CP-23-05810

Order

RECEIVED
FEB 04 2025
SC Court of Appeals

This matter is before the court upon several motions. Ardie C. Gary filed a Motion to Set Aside Default and a Motion to Stay Ejectment. Brandon Jermaine Nedwards filed a Motion to Intervene and Motion to Set Aside Default. A hearing on the Motions was held on November 21, 2024. Present at the hearing were Ardie C. Gary and Brandon Jermaine Nedwards who both were proceeding pro se. Also present was A. Lyon Bixler representing the Plaintiff and Jayson D. Wyman representing Oriole Properties, LLC.

BRANDON JERMAINE NEDWARDS' MOTION TO INTERVENE AND MOTION TO SET ASIDE DEFAULT JUDGMENT

Mr. Nedwards files his motion to intervene pursuant to Rule 24, SCRCPP. Pursuant to Rule 24(a), SCRCPP upon the timely filing of a motion, anyone shall be allowed to intervene in an action if a statute confers the right to intervene or the applicant claims an interest relating to the property which is such to the action and he is so situated that the disposition of the action would prejudice his interest. Alternatively, Rule 24(b), SCRCPP permits intervention if a statute confers the right or an applicant's claim or defense and the main action has a common question of law or fact.

Mr. Nedwards has provided no legal basis or right to intervene, therefore, his Motion to Intervene is **DENIED**. Because the Motion to Intervene is denied there is no reason for the court to address Mr. Nedwards Motion to Set Aside Default.

ARDIE C. GARY'S MOTION TO SET ASIDE DEFAULT

Ms. Gary filed a Motion to Set Aside Default seeking an Order setting aside the entry of Default and/or Default Judgment pursuant to Rules 55(c) and 60(b), SCRCPC. Her motion is based upon the allegation that she had not received any notice, including but not limited to, the Summons and Complaint.

In an Affidavit attached to Ms. Gary's Motion to Set Aside Default, Ms. Gary stated that she resides at the property located at 323 Skipton Street, Greenville, South Carolina ("Property") with her grandchildren. Florence Burns, the process server, testified that she served Ms. Gary's grandson who was residing with her, Brandon Nedwards. Ms. Burns positively identified Brandon Nedwards as the person whom she served. I find that Plaintiff complied with Rule 4, SCRCPC.

Additionally, Zakyia Glenn, a former employee of law firm representing Plaintiff testified that she had mailed several Notice of Hearings and the Notice of Sale to Ms. Gary to the Property, postage prepaid. Ms. Glenn also testified that she had conversations with Gail Preston, Ms. Gary's daughter and co-resident of the Property, prior to the judicial sale of the Property. It is clear that at least several of the co-residents of Property were aware of the action. It is hard to see what more the Plaintiff could have done to make Ms. Gary aware of the Action.

I find that the Plaintiff complied with Rule 4, SCRCPC and that the co-residents were aware of the action. Therefore, Ms. Gary's Motion to Set Aside Default is DENIED.

ARDIE C. GARY'S MOTION TO STAY WRIT OF EJECTMENT

In light of the Court's ruling on the Motion to Set Aside the Default, the Motion to Stay the Writ of Ejectment is DENIED. The Defendant, Ardie C. Gary, and any tenants or occupants, together with all of their possessions, must vacate the Property on or before January 13, 2025.

IT IS ORDERED that Sheriff shall be authorized to enter upon the afore described premises, by force if necessary, and seize the said premises and to remove therefrom any and all such persons who may be occupying the same **after January 13, 2025**, together with all of their possessions, and to put the Petitioner in full, peaceful and quiet possession of the premises without delay, and thereafter, within ten (10) days, make due Return to the Clerk of Court for Greenville, South Carolina, showing how this Order has been executed.

A copy of this Order shall be served by First Class Mail addressed to the Defendant Ardie C. Gary and Brandon Nedwards, 323 Skipton Street, Greenville, SC 29605. No additional service or notice is needed prior to the Sheriff effectuating a set out on or after January 13, 2025 should it be necessary.

AND IT IS SO ORDERED.

JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2023-CP-23-05810

| | |
|---|--|
| Castlebrook Homeowner's Association, Inc. | Ardie C. Gary and Primary Residential Mortgage, Inc. |
|---|--|

PLAINTIFF(S)

DEFENDANT(S)

| | |
|------------------------------|--|
| Submitted by: A. Lyon Bixler | Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant |
|------------------------------|--|

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 or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):**
 - Rule 43(k), SCRPC (Settled);
 - 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 CIRCUIT 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 JUDGMENT 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) |
|--|--|--|
| Castlebrook Homeowner's Association, Inc. | Ardie C. Gary and Primary Residential Mortgage, Inc. | |
| | | |

If applicable, describe the property, including tax map information and address, referenced in the order:

Tax Map # 05393070101300

Property Address: 323 Skipton Street, Greenville, South Carolina

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.**

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on appropriate attorney's box on [] as follows:

, and a copy mailed first class or placed in the to attorneys of record or to parties (when appearing pro

A. Lyon Bixler

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter:

- Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Greenville Common Pleas

Case Caption: Castlebrook Homeowners Association Inc vs. Ardie C Gary ,
defendant, et al
Case Number: 2023CP2305810
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)