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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr.
Master in Equity

Appellate Case No. 2025-000193
Circuit Court Case No. 2023-CP-23-05810

Castlebrook Homeowner’s Association, Inc. Respondent,
v.
Ardie C. Gary and Primary Residential Mortgage, Inc. Appellants.

ORIOLE PROPERTIES, LLC’S RETURN TO
MOTION TO STAY ENFORCEMENT OF JUDGMENT

Oriole Properties, LLC (“Oriole Properties”) opposes Appellant Ardie C. Gary’s (“Appellant”) Motion to Stay Enforcement of Judgment (“Motion”).

Oriole Properties purchased the property located at 323 Skipton Street, Greenville, South Carolina (“Property”) at a properly advertised foreclosure sale on September 3, 2024. The Greenville County Master in Equity issued a Deed to the Property on September 18, 2024, which was recorded on September 24, 2024.

Oriole Properties filed a Petition for Writ of Assistance and Ejectment on September 26, 2024. Appellant filed a motion to stay the writ of ejectment on October 18, 2024, and moved to set aside the entry of default, contending she was not properly served in the foreclosure action. Following a hearing, the lower court concluded Appellant was properly served and denied her motion. On December 26, 2024, Appellant moved to reconsider the lower court’s order. The

lower court again allowed her to present testimony and denied her request for relief. The lower court concluded that Appellant was properly served with the Summons and Complaint, the proceedings leading to the foreclosure sale were sufficient, and ordered Appellant to vacate the Property by February 14, 2025. This appeal followed.

Appellant’s Motion is procedurally improper. Appellant was required to seek a stay from the lower court under Rule 62, SCRCP. Furthermore, Appellant must post a bond in accordance with S.C. Code Ann. § 18-9-170 since the order on appeal directs the delivery of land. S.C. Code Ann. § 18-9-170 (stating the amount of the undertaking must be “fixed by a judge of the court by which judgment was rendered”). Because Appellant has failed to do so, this Court cannot entertain her request for a stay. *See Ex parte Andrews*, 152 S.C. 325, 150 S.E. 313, 314 (1929) (clarifying that the rule allowing the South Carolina Supreme Court to issue a stay was not intended to interfere with statutory requirements to seek stay of order with lower court).

Given the procedural impropriety of Appellant’s request, it should be denied.

Respectfully submitted,

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PROOF OF SERVICE

I, the undersigned Attorney of the law offices of Womble Bond Dickinson (US) LLP, attorneys for Appellant, do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specified below via email at the address(es) below:

Pleading(s): Oriole Properties, LLC's Return to Motion to Stay Enforcement of Judgment

Parties Served:

Lyon Bixler, Esq. (lbixler@bbdlawsc.com)
Counsel for Respondent

Ardie C. Gary (beardedgr8ness@gmail.com)
Pro se Appellant

By: /s/ Jason D. Wyman
Attorneys for Oriole Properties, LLC

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