

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Oriole Properties, LLC,)
)
Petitioner.)
)
IN RE:)
)
Castlebrook Homeowner’s Association, Inc.,)
)
Plaintiff,)
)
v.)
)
Ardie C. Gary and Primary Residential)
Mortgage, Inc.,)
)
Defendants.)
_____)

Case No. 2023-CP-23-05810

ORDER

RECEIVED
Feb 26 2025
SC Court of Appeals

On February 25, 2025, a hearing was held in accordance with the South Carolina Court of Appeal’s February 13, 2025 Order remanding this case for an expedited hearing to determine the amount of the undertaking required to stay the judgment of ejectment. Jason D. Wyman, Esq., appeared on behalf of Petitioner Oriole Properties, LLC. Lyon Bixler, Esq. appeared on behalf of Plaintiff Castlebrook Homeowner’s Association, Inc. Ardie C. Gary and Brandon Nedwards also appeared and participated.

S.C. Code Ann. §18-9-170 (1976) provides, in part:

If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of

possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking.

S.C. Code Ann. § 18-9-170

After thoroughly reviewing the pleadings, the arguments presented by both parties, and all submitted materials, including the Affidavit of Clayton M. Custer regarding the fair market rental value of the property at 323 Skipton Street, Greenville, SC 29605, and considering the applicable law, the Court hereby determines that the amount of the undertaking to stay the judgment of ejectment during the pending appeal shall be set at \$25,000.00. This amount is less than what Custer opines the fair market rental rate is and is consistent with the \$1000 a month fair market rental rate opined by Gary. Gary does not reside in the property but Nedwards does. It is further based upon an expected appeal period of 24 months and takes into consideration that there is a first mortgage on the property with Gary as mortgagor and that Oriole Properties has held title to the property since September of 2024.

IT IS THEREFORE ORDERED that Defendant Ardie C. Gary shall post an undertaking with the Clerk of Court for Greenville County in the sum of \$25,000.00, with two sureties thereon pursuant to S.C. Code Ann. § 18-9-170 no later than March 11, 2025, at 5:00 P.M.

IT IS FURTHER ORDERED that should Defendant Ardie C. Gary fail to post the undertaking required by this Order, then Defendant, Ardie C. Gary, and any tenants or occupants, must vacate the property commonly known as 323 Skipton Street, Greenville, SC 29605 on or before March 21, 2025, together with all of their possessions.

IT IS FURTHER ORDERED that, in the event Defendant Ardie C. Gary fails to post the undertaking required by this Order, then the Sheriff shall be authorized to enter upon the aforescribed 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 March 24, 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.

While the above was announced from the bench in the presence of the parties on February 25, 2025, a copy of this Order shall be immediately served by the attorney for Oriole and via First Class Mail addressed to the Defendant Ardie C. Gary, Brandon Nedwards, and any occupant of 323 Skipton Street, Greenville, SC 29605. No additional service or notice is needed prior to the Sheriff effectuating a set out on or after March 24, 2025, should it be necessary.

AND IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



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)