

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Foxwood Hills Property Owners
Association,

Plaintiff,

vs.

Michael D. Jewell, Lori L. Marcengill and
South Carolina Department of Motor
Vehicles,

Defendant.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

C.A. No.: 2023-CP-37-00620

ORDER GRANTING SUPERSEDEAS

RECEIVED

Mar 19 2025

SC Court of Appeals

This matter is an action for foreclosure of homeowner association liens. The action was commenced by filing and service of a Summons and Complaint on or about August 17, 2023, and then subsequently an Amended Summons and Complaint and Lis Pendens on September 5, 2023. After several hearings and a number of delays for various reasons, a hearing was held on December 5, 2024, to deal with several motions including a Motion for Joinder by Christopher Pierce which was denied, a Motion for a Jury Trial by Defendant Jewell which was denied and a Motion for Summary Judgment by Plaintiff which was granted. The disposition of all three (3) motions was included in an Order filed on January 2, 2025. That Order granted the summary judgment of the Plaintiff, ordered that the HOA liens be foreclosed and the subject property sold, however, the sale was held in abeyance for sixty (60) days to allow the Defendant Jewell to pursue claims or request for assistance from FEMA in the aftermath of Hurricane Helene which occurred during September 2024. After the passage of the sixty (60) day time period, the Plaintiff published its advertisement for sale of the subject property at the April 7, 2025 foreclosure sale in Oconee County. Previously a Notice of Appeal by both Pierce and Jewell was filed on February 3, 2025. On March 12, 2025, Jewell filed a Motion for Stay pending the appeal including a stay of the sale of the subject property. On March 17, 2025, the Plaintiff filed its objection to such a stay.

The Plaintiff is correct that Rule 241, SCACR provides that although as a general rule an appeal will stay proceedings in the lower court there are a number of exceptions set forth in (b) including (4) which states “judgments directing the sale or delivery of possession of real property as provided in SC Code Ann. §18-9-170.” That statutory section provides that “if the judgment appealed from direct the sale or delivery or 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...” The Plaintiff has relied on the language of §18-9-170 to support its objection to a supersedeas and argues that until the appellant posts a bond the sale of the property can not be stayed. However, it must be noted that Rule 241(c)(3) provides that “the granting of supersedeas under this Rule may be conditioned upon such terms, including but not limited to the filing of a bond or undertaking as the lower court...may deem appropriate.” Thus it appears that the appellate rule provides that the requirement of a bond in order to grant a supersedeas is discretionary as opposed to mandatory. This Court takes the view that the requirement of such a bond is discretionary in this instance and that the reference to §18-9-170 in the exception relied upon to an automatic stay is descriptive of the type of judgment which is excepted from the automatic stay but does not necessarily over ride the discretion of the court to require a bond in order to grant supersedeas.

After reviewing the arguments presented and the record of this case, it does not appear that the Plaintiff will suffer any irreparable harm by a stay of the sale of the subject property and additional proceedings in the lower court while the appeal is pending. On the other hand, although the issues to be raised on the appeal are not known at this time, it is fairly evident that once a sale of the property takes place the issues involved, whatever their merit may be, are effectively rendered moot.

Accordingly, in order to proceed in the most cautious manner, this Court has determined that a supersedeas shall be granted in this case and that a bond shall not be required at this time. The sale of the subject property shall be stayed until the appeal is determined or until further Order of this Court or the Appellate Court to the contrary.

It is so ordered this _____ day of March, 2025.

Steven C. Kirven, Master-in-Equity
Anderson and Oconee Counties



Oconee Common Pleas

Case Caption: Foxwood Hills Property Owners Association VS Michael D Jewell ,
defendant, et al
Case Number: 2023CP3700620
Type: Master/Order/Other

And it is so ordered

s/ Steven C. Kirven, Master in Equity, #3081