

The South Carolina Court of Appeals

Deutsche Bank National Trust Company, as Trustee for
Residential Asset Securitization Trust 2005-A8CB
Mortgage Pass-Through Certificates Series 2005-H,
Respondent,

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SC Court of Appeals

v.

John C. Nelums, Delmarshi Nelums, and Woodlake
Homeowners' Association, Inc., Defendants,

of which John C. Nelums and Delmarshi Nelums are the
Appellants.

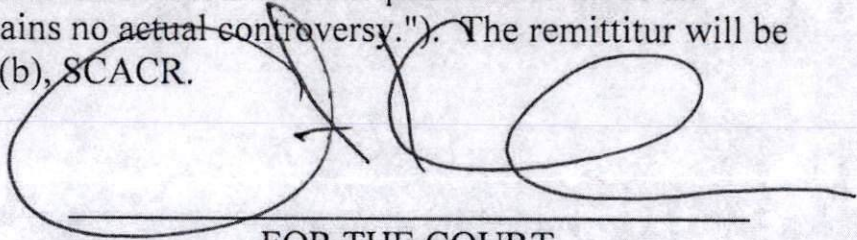
Appellate Case No. 2025-000382

ORDER

This appeal arises out of the issuance of a writ of assistance following a judgment of foreclosure and sale of 315 Bentwood Lane, Columbia, South Carolina 29229. Appellants did not appeal from the foreclosure. Following the sale of the property on December 5, 2022, Appellants filed a motion to vacate the judgment in the circuit court, which was denied by the master-in-equity on February 24, 2023. Appellants initiated an appeal from that order, but the appeal was dismissed for failure to file the appellant's initial brief. That appeal, proceeding under appellate case number 2023-000491, was remitted on February 15, 2024.

As a result of Appellants' failure to perfect an appeal from the foreclosure and sale, any judgment by this Court in the current appeal would not offer Appellants practical relief, thus rendering this appeal moot. *See Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief."); *Bartles v. Livingston*, 282 S.C. 448, 461-62, 319 S.E.2d 707, 715 (Ct. App. 1984) (noting once a foreclosure decree has

been entered and no appeal is taken, the effect of the foreclosure is binding in all subsequent proceedings); *Antrum v. Hartsville Prod. Credit Ass'n*, 228 S.C. 201, 210, 89 S.E.2d 376, 380 (1955) ("The judgment of foreclosure and order directing the issuance of the writ of assistance constitute an insuperable bar to the present proceeding."). Accordingly, the appeal is dismissed. See *Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996) ("Before any action can be maintained, there must exist a justiciable controversy."); *id.* at 431, 468 S.E.2d at 864 ("This Court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy."). The remittitur will be sent as provided by Rule 221(b), SCACR.

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FOR THE COURT

Columbia, South Carolina

cc:

Delmarshi Nelums

John C. Nelums

John Sanford Kay, Esquire

John Brian Kelchner, Esquire

Sarah Oliver Leonard, Esquire

Ashley Zarrett Stanley, Esquire

Alan Martin Stewart, Esquire

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South Carolina Court of Appeals

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SC Court of Appeals

JOHN C. NELUMS
315 BENTWOOD LN
COLUMBIA SC 29229

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