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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Hon. Charles B. Simmons, Jr., Special Referee

Appellate Case No.: 2025-002153

Kenneth E. Brown and Renee
B. Brown,

Respondents,

v.

Teresa Lynne Waldrop a/k/a
Teresa L.S. Waldrop; US
Bank National Association;
El Shammah Ranch, LLC;
and Wells Fargo Bank, N.A.

Defendants,

Teresa Lynne Waldrop a/k/a
Teresa L.S. Waldrop is

Appellant.

INITIAL BRIEF OF RESPONDENTS



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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....2

STATEMENT OF THE CASE.....3

ARGUMENT.....4

CONCLUSION.....6

TABLE OF AUTHORITIES

Cases

Carr v. Guerrard, 365 S.C. 151, 616 S.E.2d 429 (2005).....4

Creech v. South Carolian Wildlife and Marine Resources Dep't, 328 S.C. 24, 491 S.E.2d 571 (1997).....6

Emery v. Smith, 361 S.C. 207, 603 S.E.2d 598 (Ct. App. 2004).....7

Statutes

S.C. Code Ann § 27-23-10.....4

STATEMENT OF THE CASE

This appeal arises from the Special Referee's September 23, 2025 Order denying Appellant Teresa Lynne Waldrop's motion for relief from judgment and for relief from foreclosure sale and deed under Rule 60(b)(3), (4), and (5) of the South Carolina Rules of Civil Procedure ("SCRCP").

The Respondents initiated the underlying foreclosure action on October 19, 2023 by the filing of a Summons, Complaint and Lis Pendens. The foreclosure action sought foreclosure of the subject property as the result of a Judgment in a Civil Action against the instant Appellant, such Judgment being entered on June 16, 2021 in Case Number 2017-CP-39-01536.

The Special Referee entered an Order and Judgment of Foreclosure and Sale on or about August 12, 2024. A public foreclosure sale occurred on November 4, 2024. The successful bidder was Wayne E. Wheeler, who purchased the property for \$120,000.00 with a Special Referee's Deed being issued on November 8, 2024 and recorded at the Pickens County Register of Deeds Office on November 18, 2024.

After entry of the Order and Judgment of Foreclosure and Sale on August 12, 2024, Appellant recorded a deed purporting to convey the subject property to Evan Williams and Logan Williams, which deed was recorded in the Register of Deeds Office for Pickens County on September 23, 2024 in Book 2724 at Page 308. The conveyance was voluntary on the part of the Appellant, unsupported by consideration, and in defiance of the Special Referee's Order of August 12, 2024.

On May 16, 2025, Appellant moved for relief under Rule 60(b) of the SCRCP. The motion was supported by affidavits and attached documents reflecting, among other things, that Wheeler had previously contracted with Appellant to purchase the same property for \$270,000.00.

Further, on May 16, 2025, Appellant filed a motion to intervene pursuant to Rule 24(a) SCRCP asserting that Logan Williams and Evan Williams should be given leave to intervene in this action alleging that Logan Williams and Evan Williams claim “a real legal and an equitable and beneficial interest in the real property.”

On July 16, 2025, the Special Referee denied the Appellant’s motion to intervene and that Order was not appealed.

On September 23, 2025, the Special Referee denied the Appellant’s Rule 60(b) motion.

ARGUMENT

I. THE SPECIAL REFEREE DID NOT COMMIT ERROR OR ABUSE OF DISCRETION BY DENYING APPELLANT’S MOTION FOR RELIEF UNDER RULE 60(b) DESPITE THE MOTION BEING FILED WITHIN ONE YEAR OF THE FINAL ORDER OF FORECLOSURE

The Appellant argues that the Court had the discretion to open the record to establish whether Wayne Wheeler, the subsequent purchaser, had knowledge of a defect in title created September 23, 2024.

It is apparent that the Special Referee recognized this attempt to cloud title of the subject property by the Appellant. The Appellant now claims that the underlying foreclosure and subsequent sale are defective and void. This position ignores the fact that it is Appellant’s conduct that created the “cloud” on title to the subject property. It is clear that said attempted conveyance to Logan Williams and Evan Williams is void pursuant to South Carolina Code § 27-23-10, *et seq.* “The Statute of Elizabeth may be employed by any creditor, including a judgment creditor, to void any transfer of property made with intent or purpose to delay, hinder, or defraud creditors and others” Carr v. Guerrard, 365 S.C. 151, 616 S.E. 2d 429 (2005).

Judge Charles B. Simmons, Jr, the Special Referee, made clear that Ms. Waldrop had knowledge of her deliberate attempt to circumvent the foreclosure sale by her subsequent attempt

to cloud the title. The Special Referee noted: “Ms. Waldrop has been intimately involved in this from – from the the time she filed a pro se action. She’s been in Court multiple times. She knew what was happening, even if she did not have personal expressed knowledge.”¹

It follows that the Special Referee did not commit error and abuse of discretion by denying Appellant’s motion for relief under Rule 60(b).

II. THE SPECIAL REFEREE DID NOT COMMIT ERROR OR ABUSE OF DISCRETION BY REFUSING TO MAKE THE SUCCESSFUL FORECLOSURE SALE A PURCHASER A PARTY TO THIS CASE

The Appellant’s argument again overlooks the fact that Appellant, through her conduct and her actions, attempted to evade a lawful creditor.

The Appellant presented a Purchase Agreement dated September 18, 2024 between Wayne E. Wheeler and Teresa Waldrop for the purchase and sale of the subject property. On September 23, 2024, the Appellant recorded a deed conveying the subject property to Logan Williams and Evan Williams. The Appellant herself created the cloud on the title after the inception of the Purchase Agreement and obviously the contract could not be fulfilled.

More importantly, the Appellant’s Motion for Relief from Judgment and Order of Sale which she herein appeals, did not pray for Wayne E. Wheeler, the purchaser at the foreclosure sale, to be added as a party. The hearing on her motion was further silent as to adding Wayne E. Wheeler as a party.

The Appellant cannot now request relief she did not seek at any time before this appeal. As stated by the Supreme Court of South Carolina: “It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be

¹ Transcript, Page 12, Lines 17-21.

preserved for appellate review.” Creech v. South Carolina Wildlife and Marine Resources Dep’t, 328 S.C. 24, 491 S.E.2d 571 (1997).

III. THE SPECIAL REFEREE DID NOT COMMIT ERROR OR ABUSE OF DISCRETION BY REFUSING TO CONSIDER EVIDENCE THAT QUESTIONS THE INTEGRITY OF THE FORECLOSURE SALE

The Appellant asserts there is evidence raising questions about the integrity of the foreclosure sale. Specifically, Appellant alleges that the purchaser had knowledge of the defect in title.

This argument ignores two important points:

1. Title to the property was clouded after the contract was formed.
2. It was the voluntary action of the Appellant which caused the so called cloud by recordation of a deed attempting to convey the subject property to Logan Williams and Evan Williams in defiance of the Statute of Elizabeth, rendering the attempted conveyance void.

The Special Referee was aware of the Appellant’s attempt and specified, “She was at the hearing in July -- on July 30th and was told that the property would be proceeding to sale.”² The Appellant personally appeared at that hearing on the merits on July 30, 2024 and did not assert or raise that she did not own the property. As a result of that hearing an Order was filed on August 12, 2024 directing the sale of the property.

It follows that the Special Referee did not commit error and abuse of discretion in denying Appellant’s motion.

² Transcript, Page 7, Lines 24-25, and Page 8, Line 1.

CONCLUSION

Judge Charles B. Simmons presided in the original litigation which led to judgment in favor of the Respondents against the Appellant on June 16, 2021. His Honor also presided over the foreclosure action as Special Referee and the subsequent motions. It is only after the subject property was ordered sold that the Appellant complains and requests equitable relief.

The transcript is clear that Judge Simmons recognized the Appellant's last ditch effort to undermine the lawful sale process. The Appellant has now attempted to cry foul when in effect it is her effort and conduct which has created the so called defect in the title. The reality is that her attempted conveyance of the subject property after the sale was ordered was created by the Appellant. She now claims fraud or misconduct on the part of the purchaser and asks that the sale proceeding be declared invalid. The clean hands doctrine operates to prohibit her request. "He who comes into equity must come with clean hands. It is far more than a mere banality. It is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequity or bad faith relative to the matter in which he seeks relief." *Emery v. Smith*, 361 S.C. 207, 220, 603 S.E.2d 598, 605 (Ct.App.2004)

It is merely the act of the Appellant in attempting to procure a deed conveying the subject property after the creation of a valid judgment and ultimately recording said deed after an order of sale was issued that has given rise to Appellant's complaints.

For these reasons, the Respondents request that Appellant's appeal be dismissed and that the Order of September 23, 2025 be affirmed.