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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE PICKENS COUNTY

Court of Common Pleas

The Honorable Charles B. Simmons, Jr.

Special Referee

Appellate Case No. 2025-002153

Circuit Court Case No. 2023-CP-39-01178

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,

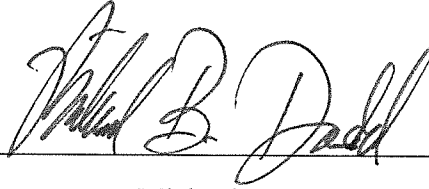
of which

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

BRIEF OF THE APPELLANT

(signature page to follow)

THE DODD LAW FIRM, LLC

A handwritten signature in black ink, appearing to read "Michael B. Dodd", is positioned above a horizontal line.

Michael B. Dodd

SC Bar No.: 100599

The Dodd Law Firm, LLC

13 Sevier Street

Greenville, SC 29605

864-747-5607

michael@thedoddlawfirm.com

Attorney for the Appellant, Teresa Lynne Waldrop a/k/a Teresa L.S. Waldrop

March 27, 2026

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STATEMENT OF ISSUES ON APPEAL

1. Did the Special Referee commit error and abuse of discretion by denying Appellant's motion for relief under Rule 60(b) SCRPC despite the motion being brought within a reasonable time?
2. Did the Special Referee commit error and abuse of discretion by refusing to use its equitable powers and discretion to make the successful foreclosure sale purchaser a party to the case and allowing the record to be established concerning his knowledge of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC prior to the sale?
3. Did the Special Referee commit error and abuse of discretion by refusing to consider evidence that directly questions the integrity of the foreclosure sale, that the successful purchaser at the foreclosure sale was not bona fide purchaser for value due to having actual knowledge of the prior deed and title defect affecting the purchase of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC thereby making the judgment of August 12, 2024, foreclosure sale on November 4, 2024 and subsequent deed of November 6, 2024 void as a matter of law?

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 the foreclosure sale and deed under Rule 60(b)(3), (4), and (5) of the South Carolina Rules of Civil Procedure ("SCRCP"). (R. pp.1).

The Special Referee entered an Order and Judgment of Foreclosure and Sale on or about August 12, 2024. (R. pp.4). A public foreclosure sale occurred on November 4, 2024. The successful bidder was Appellee/purchaser Wayne E. Wheeler, who purchased the property for \$120,000. A Master's Deed thereafter issued. (R. pp.25).

Within one year of the foreclosure judgment, on May 16, 2025, Appellant moved for relief under Rule 60(b). (R. pp.25). The motion was supported by sworn affidavit testimony and attached documents reflecting, among other things, that Wheeler had previously contracted with Appellant to purchase the same property for \$270,000 and possessed actual knowledge of competing claims and defects before purchasing at foreclosure. (R. pp.31). Additionally, Appellant's affidavit included a deed showing the property had been conveyed to Logan Williams and Evan Williams on October 22, 2021. That deed was recorded on September 23, 2024 in the Pickens County Register of Deeds in Book 2724 at Page 308. Appellant sought relief from the August 12, 2024 order and judgment based on Rule 60(b)(3), (4), and (5) SCRCP.

On September 23, 2025, the Special Referee denied the Appellant's Rule 60(b) motion. Appellant timely served and filed her Notice of Appeal on October 27, 2025.

STANDARD OF REVIEW

A decision to deny a motion under Rule 60 SCRPC and to affirm or set aside a foreclosure sale are decisions within the trial court's discretion. However, the trial court abuses discretion when the conclusions of the court "are either controlled by an error of law or are based on unsupported factual conclusions." *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 66, 762 S.E.2d 729, 731 (Ct. App. 2014) (quoting *Carson v. CSX Transp., Inc.*, 400 S.C. 221, 229, 734 S.E.2d 148, 152 (2012)). This Court reviews questions of law de novo. *Ex parte TLC Laser Eye Ctrs. (Piedmont/Atlanta), LLC*, 404 S.C. 385, 392, 745 S.E.2d 105, 109 (2013). "In an action at law tried without a jury, an appellate court's scope of review extends merely to the correction of errors of law." *Miller Constr. Co. v. PC Constr. of Greenwood, Inc.*, 418 S.C. 186, 195, 791 S.E.2d 321, 326 (Ct. App. 2016) (quoting *Temple v. Tec-Fab, Inc.*, 381 S.C. 597, 599-600, 675 S.E.2d 414, 415 (2009) (per curiam)). *Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC*, 431 S.C. 593, 848 S.E.2d 597 (S.C. App. 2020). A court that does not use discretion—or recognize it has discretion—when discretion exists commits an error of law." *Richardson v. \$21,000.00 U.S. Currency & Various Jewelry*, 430 S.C. 594, 846 S.E.2d 14 (S.C. App. 2020).

ARGUMENT

- 1. Did the Special Referee commit error and abuse of discretion by denying Appellant's motion for relief under Rule 60(b) SCRPC despite the motion being brought within a reasonable time?**

The Special Referee, in the order dated September 23, 2025, specifically discusses the issue of timing as being one of the reasons for denying Appellant's motion under Rule 60(b)(3), (4), and (5) SCRPC. (R. pp.1). "Rule 60(b) provides the motion shall be made within a reasonable time and for subsections (1), (2) and (3) of the rule, not more than one year after the judgment was

entered. Subsection (5) is notably not limited by the one year provision, but only that of a reasonable time.” *Evans v. Gunter*, 294 S.C. 525, 528, 366 S.E.2d 44, 46 (Ct. App. 1988). “Under Rule 60(b)(4) and (5), the court may grant a party relief from judgment if the party makes a motion seeking relief within a reasonable time.” *The Smith Companies of Greenville, Inc. v. Hayes*, 311 S.C. 358, 428 S.E.2d 900, 902 (Ct. App. 1993). In this case, the Appellant made the motion within one year, and within a reasonable time. The court had the discretion to open the record again to establish whether or not Wayne Wheeler, the successful purchaser at the foreclosure sale, had knowledge of the defect, and whether or not the defect in title, that being the quitclaim deed recorded on September 23, 2024 in the Pickens County Register of Deeds in Book 2724 at Page 308, made underlying foreclosure judgment and subsequent sale defective and void. “Rule 60(b)(5) is based on the historical power of a court in equity to modify its decree “in light of subsequent conditions.” *Perry v. heirs at Law of Gadsden*, 357 S.C. 42, 590 S.E.2d 502 (Ct. App. 2003). In the instant case, it was error to find the timing of the Appellant’s motion as a reason for not granting the motion, especially given the seriousness of the resulting application of the judgment, that being to deprive the Appellant of property. The court should find that abuse of discretion occurred, and the judgment should be overturned.

2. Did the Special Referee commit error and abuse of discretion by refusing to use its equitable powers and discretion to make the successful foreclosure sale purchaser a party to the case and allowing the record to be established concerning his knowledge of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC prior to the sale?

A court that does not use discretion—or recognize it has discretion—when discretion exists commits an error of law.” *Richardson v. \$21,000.00 U.S. Currency & Various Jewelry*, 430 S.C. 594, 846 S.E.2d 14 (S.C. App. 2020). Appellant brought a motion pursuant to Rule 60(b)(3), (4), and (5) SCRCP, seeking relief from the court’s order dated September 23, 2025 order. (R. pp.1). Among the relief sought, the Appellant argued that Wayne Wheeler, the successful purchaser at the November 4, 2024 foreclosure sale, had direct knowledge of the quitclaim deed recorded on September 23, 2024 in the Pickens County Register of Deeds in Book 2724 at Page 308 transferring the property subject to this action, 348 Big Rock Lake Road in Pickens, SC to Logan and Evan Williams. The court declined to include any of those third parties in this action and to allow the record to be established concerning the involvement of those parties. The evidence presented by Appellant at the hearing on September 22, 2025, clearly established a known title defect in the property. (R. pp.31). The knowledge of the title defect was known by third party Wayne Wheeler, and presumably the Respondents Browns. The court chose not to exercise discretion in this case and entered a short order denying Appellant’s motion without analyzing the impact of the third party foreclosure sale purchaser’s direct knowledge of title to the property having changed hands, making the foreclosure judgment of August 12, 2024 ordering 348 Big Rock Lake Road in Pickens, SC to be sold subject to analysis as to whether or not that judgment and subsequent foreclosure sale were valid.

Where a trial court denies Rule 60(b) relief without addressing the governing legal standards or without making findings needed to resolve material disputes, reversal or remand is warranted. See *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 70, 762 S.E.2d 729, 734 (Ct. App. 2014). Relief from a judgment under Rule 60, SCRCF, rests within the sound discretion of the trial judge. *May v. May*, 428 S.C. 131, 136, 833 S.E.2d 78, 80 (Ct. App. 2019). A trial court abuses discretion when the conclusions of the court “are either controlled by an error of law or are based on unsupported factual conclusions.” *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 66, 762 S.E.2d 729, 731 (Ct. App. 2014) (quoting *Carson v. CSX Transp., Inc.*, 400 S.C. 221, 229, 734 S.E.2d 148, 152 (2012)). Here, the court chose not to use its equitable powers and discretion to make the successful foreclosure sale purchaser a party to the case and allowing the record to be established concerning his knowledge of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC prior to the sale, thus leaving equitable and just legal determinations out of the record, depriving the Appellant relief when relief is demanded by law. “A void judgment is one that, from its inception, is a complete nullity and is without legal effect.” *Universal Benefits*, 349 S.C. at 183, 561 S.E.2d at 661 (quoting *Thomas & Howard Co. v. T.W. Graham & Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995)). Whether to grant or deny a motion under Rule 60 “lies within the sound discretion of the judge. *Tobias v. Rice*, 379 S.C. 357, 665 S.E.2d 216, 219 (Ct. App. 2008). “The determination of whether to set aside a foreclosure sale is a matter within the discretion of the trial court.” *Bloody Point Property Owner's Ass'n, v. Ashton*, 410 S.C. 62, 762 S.E.2d 729 (Ct. App. 2014). Relief from judgment under Rule 60, SCRCF, rests within the sound discretion of the trial court, and the court’s findings will not be disturbed on appeal absent an abuse of discretion. *Diedun v. Diedun*, 362 S.C. 47, 606 S.E.2d 489 (Ct. App. 2004).

In this case, because the purchaser knew of the previous deed at the time of the sale, and the title to the property actually was held by another third party, the underlying judgment was void at the time it was ordered, and the subsequent sale should be declared void as well. The decision to not use discretion where warranted, amounts to an abuse of discretion and error by the Special Referee and a reversal of the September 23, 2025 order is warranted and is just and equitable.

- 3. Did the Special Referee commit error and abuse of discretion by refusing to consider evidence that directly questions the integrity of the foreclosure sale, that the successful purchaser at the foreclosure sale was not bona fide purchaser for value due to having actual knowledge of the prior deed and title defect affecting the purchase of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC thereby making the judgment of August 12, 2024, foreclosure sale on November 4, 2024 and subsequent deed of November 6, 2024 void as a matter of law?**

In South Carolina, it is well settled that being a bona fide purchaser for value requires “(1) actual payment of the purchase price of the property, (2) acquisition of legal title to the property, or the best right to it, and (3) a bona fide purchase, 'i.e., in good faith and with integrity of dealing, without notice of a lien or defect.’” *Robinson v. Estate of Harris*, 378 S.C. at 146, 662 S.E.2d at 423 (quoting *Spence v. Spence*, 368 S.C. 106, 117, 628 S.E.2d 869, 874-75 (2006)). The rationale behind the bona fide purchaser statute, S.C. Code Ann. §15–39–870 (2005) “is the well established public policy of protecting good faith purchasers and upholding the finality of the judicial sale.” The Supreme Court of South Carolina has held that the bona fide purchaser determination for a real estate transaction must include an analysis of both the actual and constructive knowledge of the purchaser. “There are two basic forms of notice by which a purchaser may be charged with knowledge of the rights of another in real property: actual notice and constructive/inquiry notice.

S.C. Tax Commn. v. Belk, 266 S.C. at 544-43, 225 S.E.2d at 179; *Jones v. Eichholz*, 212 S.C. 411, 48 S.E.2d 21 (S.C. 1948); *Epps v. McCallum Realty Co.*, 139 S.C. 481, 498-99, 138 S.E. 297, 302 (1927).” *Spence v. Spence*, 368 S.C. 106, 118, 628 S.E.2d 869, 875 (2006).

The South Carolina Supreme Court has explained that "actual notice means all the facts are disclosed and there is nothing left to investigate. Notice is regarded as actual where the person sought to be charged therewith either knows of the existence of the particular facts in question or is conscious of having the means of knowing it, even though such means may not be employed by him. Generally, actual notice is synonymous with knowledge." *Id.* (quoting *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, n.6, 504 S.E.2d 117, 122 n.6 (1998) (citations omitted)). “Moreover, ‘actual notice may be shown by direct evidence or inferred from factual circumstances." *Id.* (quoting *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 65, 504 S.E.2d 117, 123 (1998) (citations omitted)).

In this case, the Appellant’s affidavit and supporting documents presented at the September 22, 2025 hearing clearly show evidence of actual knowledge on the part of Wayne Wheeler, the successful purchaser at the foreclosure sale. (R. pp.31, 50). His actual knowledge brings into question the validity of the sale, and the evidence of the deed from 2021 brings into question the August 12, 2024 order. Thus it was error and abuse of discretion by refusing to consider evidence that directly questions the integrity of the foreclosure sale, that the successful purchaser at the foreclosure sale was not bona fide purchaser for value due to having actual knowledge of the prior deed and title defect affecting the purchase of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC thereby making the judgment of August 12, 2024, foreclosure sale on November 4, 2024 and subsequent deed of November 6, 2024 void as a matter of law. A court that does not use discretion—or recognize it has discretion—when discretion exists commits an error

of law.” *Richardson v. \$21,000.00 U.S. Currency & Various Jewelry*, 430 S.C. 594, 846 S.E.2d 14 (S.C. App. 2020). This error of law gives just cause and demands that this court reverse the Special Referee’s ruling of September 23, 2025, and order that the case be reopened to establish a record.

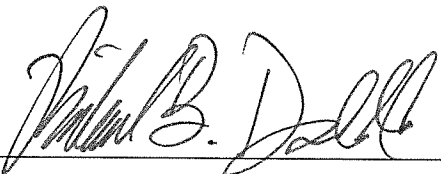
CONCLUSION

In the instant case, it was error to find the timing of the Appellant’s motion as a reason for not granting the motion, especially given the seriousness of the resulting application of the judgment, that being to deprive the Appellant of property. The court should find that abuse of discretion occurred, and the judgment should be overturned. In this case, because the purchaser knew of the previous deed at the time of the sale, and the title to the property actually was held by another third party, the underlying judgment was void at the time it was ordered, and the subsequent sale should be declared void as well. The decision to not use discretion where warranted, amounts to an abuse of discretion and error by the Special Referee and a reversal of the September 23, 2025 order is warranted and is just and equitable.

It was error and abuse of discretion by refusing to consider evidence that directly questions the integrity of the foreclosure sale, that the successful purchaser at the foreclosure sale was not bona fide purchaser for value due to having actual knowledge of the prior deed and title defect affecting the purchase of the property subject to the sale, 348 Big Rock Lake Road in Pickens, SC thereby making the judgment of August 12, 2024, foreclosure sale on November 4, 2024 and subsequent deed of November 6, 2024 void as a matter of law. A court that does not use discretion—or recognize it has discretion—when discretion exists commits an error of law.” *Richardson v. \$21,000.00 U.S. Currency & Various Jewelry*, 430 S.C. 594, 846 S.E.2d 14 (S.C.

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Respectfully submitted,

By: 

Michael B. Dodd

SC Bar No.: 100599

The Dodd Law Firm, LLC

13 Sevier Street

Greenville, SC 29605

864-747-5607

michael@thedoddlawfirm.com

Attorney for the Appellant, Teresa Lynne Waldrop a/k/a Teresa L.S. Waldrop

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