

# The South Carolina Court of Appeals

HSBC Bank USA, National Association, as Trustee of  
MLCC 2007-2, Respondent,

v.

S. Russell Fielden, Deborah M. Fielden, CoastalStates  
Bank, Defendants,

CoastalStates Bank, Cross-Claim Plaintiff,

v.

S. Russell Fielden and Deborah M. Fielden, Cross-Claim  
Defendants,

Of whom S. Russell Fielden and Deborah M. Fielden are  
the Appellants.

Appellate Case No. 2013-001412

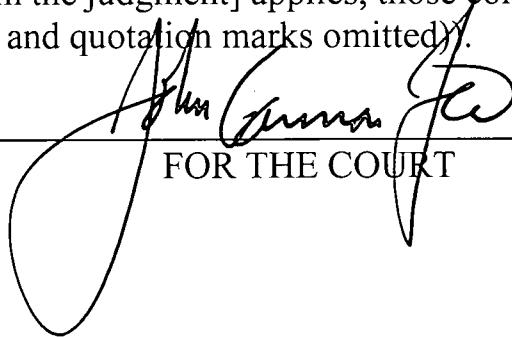
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## ORDER

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Respondent has filed a motion to dismiss this appeal as moot, arguing that because the subject property has been sold, this appeal is moot. After careful consideration, the motion to dismiss is denied. Because the subject property is currently titled in the name of Respondent, this court could effectuate the relief requested by Appellant; therefore, this appeal is not 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 [the] existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.").

Appellant's motion to stay the sale of the subject property to a third party is denied. See *Ex parte Andrews*, 152 S.C. 325, 150 S.E. 313 (1929) (holding that the appellate court rule permitting the appellate court to stay proceedings from which an appeal is taken is not intended to interfere in any way with statutory provisions governing the stay of judgments from the sale or delivery of land); S.C. Code Ann. § 18-9-170 (1976) (providing when the judgment appealed from directs the sale of real property, the execution of the judgment shall not be stayed unless the appellant obtains a bond with two sureties guaranteeing the property will not be wasted during the pendency of the appeal); Rule 241, SCACR ("Where specific conditions must be met before the exception [to the general rule that a notice of appeal acts to automatically stay matters decided in the judgment] applies, those conditions must be strictly complied with." (citation and quotation marks omitted)).

  
FOR THE COURT

Columbia, South Carolina

cc:

Charles Stuart Gwynne, Jr.  
Robert Paul Davis  
Samuel C. Waters  
S. Russell Fielden  
Deborah M. Fielden

**FILED**  
12/9/13