

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Mikel R. Scarborough, Master in Equity

Case no. 2013-001576

JP Morgan Chase Bank, National Association, Respondent-----Respondent

V

Clorenda Mae White, John Henry White, Andrea Denise-----Appellant

White, as Legal Heir and Personal Representative

Of the Estate of Anthony Franklin White, Mélanie White

Jason White and Mark White as Legal Heirs of the Estate

Of Anthony Franklin white, and Charleston County Clerk

Of Court, Defendant,

Of whom John Henry White is the Appellant:

BRIEF OF APPELLANT

John H. White, Jr.

1510 Grimball Rd., Ext.

Chas.S.C.29412

(843) 406-5089

Appellant/ Pro se

Dow A. Davidson

P.O. 1806

Chas.S.C.290401-1806

(843) 634-4123

Attorney For Respondent

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SC Court of Appeals

TABLE OF CONTENT AND CASES

TABLE OF CONTENTS

QUESTIONS PRESENTED-----pg, 3-4
STATEMENT OF ISSUES ON APPEAL----pg, 3-4
STATEMENT OF THE CASE-----pg, 3-4
ARGUMENT----pg, 4-4
CONCLUSION pg,----5

TABLE OF CASES AND AUTHORITY

Corrective Deeds----pg, ---4
Last Will and Testament pg---4
Master in Equity Order and Judgement , pg 4
Original Mortgage pg,----4
Patricia Fica V. Karol koon Stacky atal, pg,-----4
Corrective Deeds, pg.5
Last Will and Testament, pg.6
Master in Equity Order and Judgement, pg. 4
Original Mortgage, pg. 4
Patrcicia Fica V. Karol Stacky etal
Respondent's Lis Penden, pg.2-3
Rule 60 (b) SCRP,
Section 32-2-10 of the Souuth Carolina code of Law, pg. 5
Transcrip, pg. 2
United States Constitution,14 th Amendent, pg. 4

Whether the Master in Equity's refusal to allow appellant to be heard on his rule 60(b)

SCRCP violates his right to due process of law and the equal protection of the law as required by the amendment of the U.S. Constitution.

Argument: Appellant verily believe that the Master in Equity violated his fundamental right to due process and equal protection by reason of the mandate of the 14th Amendment of the U.S. Constitution. Especially whereas, while the honorable master scheduled the hearing for the requested Disposition but in the midst of his open declaration he (Transcript see exhibit ("B" line 1-7 record) asserted that appellant could not be heard although the very purpose of the motion was to pursue the privilege conferred upon him by virtue of the rule, supra. The court below gave no explanation whatsoever for placing appellant's right to be heard in the deep freeze. Even if the court of its own accord was transforming the purpose of the urgent matter before the tribunal, no such discretion is embodied in the rule. As such the ruling of the court constitutes an impermissible breach of discretion at the very least. In sum, minimal constraints of due process compels reversal.

II

Whether the failure of appellee Chase bank to timely file and publish Lis Pendens and serve the same upon the appellant as required by the 1976 code of laws of South Carolina as amended renders the proceeding below null and void the appellant saith yes

Argument: While it is true that a lis pendens was filed which excluded this appellant (appellant's name not contained in the initially filed law suit exhibit "K" attached). Therefore the error is blatant. There was no new filing of a lis pendens together with the amended complaint, nor does the filed master report show any. Accordingly the statutory mandate has not been complied with. That omission per se requires reversal.

III

Whether the failure of the Master in Equity nor the appellee Chase Bank to serve notice of the allegedly eventually held foreclosure hearing deprives appellant due process? This, of course require little argument. In the very bosom of protected rights is the right to be heard. No explanation is given except that appellants former attorney informed appellee Chase Bank that he no longer represented appellant, that per se was a warrant for appellee to notify the appellant. We are not aware as to how many times the Master's foreclosure hearing was postponed but what is pertinent is that appellant was not notified and appellee states that it was eventually held there is no record of that proceeding. The 14th amendment is therefore self evident.

IV

Whether appellee, Chase Bank attempts to include appellants home as a part of foreclosure premises although indisputably no building nor improvements are mentioned in the subject mortgaged land implicates a violation of the statute of fraud. See appellants exhibits "C" and "D" attached.

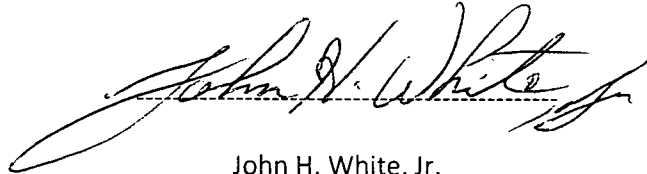
Argument: yes

Briefly stated the statute of fraud provides in part pertinent that any transaction purporting to convey an interest in land must be in writing and subscribed to by the parties involved therein. Here a studied review of the mortgaged real estate mentions nor refer to building nor improvements. Thus under the holding in the matter of Patricia Fica v. Karol Koon Stack, etal the South Carolina Supreme Court held that the documents of the purchaser of land involved in a sale transaction failed to show an adequate descript of property to be sold. Thus under section 32-3-10 of South Carolina Code of law as amended, the flaw in the description of realty or the lack thereof failed to satisfy the statute of fraud as there was , in law to be changed. Hence not enforceable. In the document here that is the referenced above. There is no mortgaged premis signed by the decedent to constitute agreement to convey a valid mortgage to appellee Chase Bank. Appellee Chase apparently recognized the flawed conveyance and sought to correct it following the death of Julia Mae White Bowman. The public record is an undeniable manifest of the unfortunate error as not only was the same prepared by Chase, but in an effort to cure it was delivered back to them as proof of its preparation (see appellants exhibit "L" attached). Appellant does not contend that appelle Chase , predecessor did not present a document to the decedent but while apparently signed by her the same is not legally enforceable under the statute of fraud. Chase's remedy is laid the feet of it's assignor. The history of that transation tends to show that there was a total lack of an informed consent by the decedent to do anything save an excepting mortgaging to Chase Bank a vacant lot as evidenced by her last will and testament to which the appellee Chase Bank voluntarily craves reference in the master proceedings in the matters subjudice. Far more conclusive than that, the masters deed prepared by appellee (Chase Bank) believed to be the understanding of the decedent Julia Mae Bowman whose will spoke at death (a copy of the deceden'st will is included designated matter for appellant review, see exhibit " E" after sale of entire premises. Order contained no official signature nor initials of the 9th circuit clerk of court is affixed as proof of filings. Nor is there any record of the masters foreclosure hearing that was finally held. Whereas Rule 60 (b) manadates a record be kept by Master in Equity.

Conclusion

Appellant pro se verily assert that the foregoing premises support substantial grounds for reversal of the judgement and orders of the Honorable Master in Equity for Charleston County rendered below.

Respectfully Submitted

A handwritten signature in cursive script, reading "John H. White, Jr.", written over a horizontal dashed line.

John H. White, Jr.

Appellant/ Pro se

1510 Grimball Rd., Ext.

Chas. S.C. 29412

Ph. No. (843 406-5089)

October 23, 2013