

IN THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master in Equity

Case No. 2012-CP-10-04981

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DEC 30 2013
SC COURT OF APPEALS

Reverse Mortgage Solutions, Inc., Respondent,

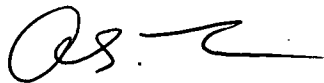
v.

Elvenia Bowens, Appellant.

RETURN IN OPPOSITION TO APPELLANT'S MOTION TO REINSTATE

Reverse Mortgage Solutions, Inc., responds to Elvenia Bowen's Motion to Reinstatement Appeal as dismissed on November, 22, 2013.

December 30, 2013



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Attorney for Respondent

Other Parties of Record:

Elvenia Bowens
5381 Hwy. 174
Adams Run, SC 29426
(843) 889-0526
Appellant

Marvin Lamar Bowens
6059 Roper Run Rd. Lot 58
Ravenel, SC 29470
(704) 492-3390
Representative

THE RESPONDENT HEREBY PROVIDES ITS RETURN IN OPPOSITION TO APPELLANTS MOTION TO REINSTATE APPEAL PURSUANT TO RULE 231 SCACR (RESERVED) OR IN THE ALTERNATIVE 260(a), SCACR.

1. Respondent filed its Summons and Complaint, 2012-CP-10-04981, seeking foreclosure against the secured property owned by Appellant on July 31, 2012 alleging Appellant breached the terms of the Note and Mortgage in failing to maintain fire and hazard insurance coverage on the secured property.

2. On August 20, 2013, the Master in Equity executed an order finding for the Respondent and entitling it to have the secured property sold at foreclosure sale.

6. Petitioner, along with Mr. Bowens, filed her Motion for Reconsideration and Amended Motion for Reconsideration on August 19, 2013 and September 9, 2013; respectively.

7. On September 27, 2013 Petitioner filed her Notice of Appeal in the Charleston County Court of Common Pleas. Respondent received Petitioner's Notice of Appeal by Certified Mail on October 2, 2013 as served on September 27, 2013.

8. On October 3, 2013 the Master in Equity issued a Form 4 order denying Petitioner's Motion for Reconsideration as lacking in merit and further denied Petitioner's request that the foreclosure sale be stayed pending appeal for failing to post the requisite bond securing the property.

9. On November 22, 2013, this Court filed its dismissal of this matter, designated Appellate Case No. 2013-002122, for Appellant's failure to "provide proof of ordering the transcript" and/or for failing "to serve and file the appellant's initial brief and designation of matter, as required by Rules 207, 208, and 209 of the South Carolina Appellate Court Rules."

10. Respondent received a copy of the dismissal on November 25, 2013 as copied to the Appellant, The Charleston County Clerk of Court and The Honorable Mikell R. Scarborough.

11. Respondent received a copy of Appellant's Motion to Reinstate on December 26, 2013, despite Appellant's Certificate of Service dated December 20, 2013.

12. Rule 260(a), SCACR provides, "a case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court . . . unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded)." Rule 260(a), SCACR.

12. Similarly, as provided in *State v. Wise*, "the effect of the remittitur [is] . . . , this court loses its jurisdiction, and the same is restored to the circuit court." *State v. Wise*, 33 S.C. 582, 12 S.E. 556, 557, (1891).

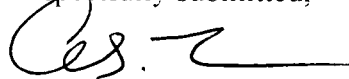
13. Respondent now respectfully submits, pursuant to Rule 260(a), SCACR, that Appellants Motion to Reinstate Appeal should be denied where she has failed to file her motion "within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded)" and jurisdiction has been remitted to the circuit court. Rule 260(a), SCACR.

For the reasons stated, Respondent respectfully requests that this Court DENY Appellant's Motion to Reinstate Appeal where she has failed to timely seek reinstatement pursuant to Rule 260(a), SCACR.

[Signature page to follow]

December 30, 2013

Respectfully submitted,



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Reverse Mortgage Solutions, Inc., Respondent,

v.

Elvenia Bowens, Petitioner.

PROOF OF SERVICE

I certify that I have served Respondent's Return in Opposition to Appellate's Motion to Reinstate Appeal on Elvenia Bowens by depositing a copy of it in the United States Mail, postage prepaid, on October 10, 2013 addressed to Appellant Elvenia Bowens at 5381 Hwy. 174, Adams Run, SC 29426 and Marvin Lamar Bowens by depositing a copy of it in the United States Mail, postage prepaid, on October 10, 2013 addressed to Representative Marvin Lamar Bowens at 6059 Roper Run Rd., Lot 58, Ravenel, SC 29470.


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