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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James B. Jackson, Jr., Master in Equity

Case No. 2024-CP-38-01428
Appellate Case No. 2025-001201

Landvest Holdings I, LLC, Respondent,

v.

Fernelephe Ancrum, Appellant.

RESPONDENT’S RETURN TO APPELLANT’S MOTION TO STAY/PREVENT SALE

Respondent Landvest Holdings I, LLC (“Landvest”), through undersigned counsel, submits this Return in opposition to Appellant Fernelephe Ancrum’s “Motion to Stay/Prevent Sale,” filed October 19, 2026 (the “Motion”).^{1, 2} For the reasons discussed below, Landvest respectfully asks the Court to deny the Motion in its entirety because: (1) no stay of the sale was

¹ Ancrum’s Motion contains the date October 15, 2026, but was not filed with this Court until October 19, 2026. (C-Track entry dated 10/19/2026).

² Ancrum’s Motion caption includes “the U.S. Small Business Administration, an agency of the Government of the United States of America” as a defendant.

imposed due to Ancrum’s failure to post bond; (2) the Motion is moot; and (3) Ancrum has no title or possessory interest in the Property at this time.

RELEVANT BACKGROUND

This appeal challenges the Master in Equity Order and Judgment of Foreclosure and Sale (the “Order”) in the foreclosure action brought by Landvest against Ancrum for commercial property located at 1168 John C. Calhoun Drive, Orangeburg, South Carolina 29115 (the “Property”), based on Ancrum’s failure to pay the amount due under a Note secured by the Property. (R. pp. 1-13, 17-22).

On June 19, 2025, Landvest filed a Motion for an Appeal Bond pursuant to section 18-9-170 of the South Carolina Code and Rule 241, SCACR. (R. pp. 51-52). The Master in Equity issued an order on July 30, 2025 (the “Bond Order”), requiring Ancrum to deposit \$25,000 with the Orangeburg County Clerk of Court by noon on September 5, 2025. (R. pp. 14-15). Ancrum failed to pay the bond and a judicial sale and deficiency sale was held. (R. pp. 104, 107-09). The Master in Equity then executed a “Master in Equity’s Title” conveying the Property to Landvest; the deed was recorded in the Orangeburg County Register of Deeds on February 6, 2026. (R. pp. 109).

On July 18, 2025—after Landvest filed its Motion for an Appeal Bond—Ancrum filed a Motion to Stay with this Court, requesting the Court to “VOID the Appeal Bond hearing.” (C-Track entry dated 07/18/2025). On July 21, 2025, this Court issued an order, denying Ancrum’s: (1) “request to void or cancel” the bond hearing and (2) “request for a motion to stay because a request for a stay should first be made to the lower court that entered the order on appeal.” (C-Track entry dated 07/21/2025).

On October 19, 2026, Ancrum filed the Motion, requesting this Court “prohibit” sale of the Property and that Landvest make “no permanent decisions to sell” the Property pending this appeal (the “Motion”). (C-Track entry dated 10/19/2026).

Argument

I. No Stay was Imposed Because Ancrum Failed to Execute the section 18-9-170 Undertaking and the Sale Proceeded Lawfully.

Generally, the service of a notice of appeal in a civil matter stays the matters decided in the order on appeal. Rule 241(a), SCACR. However, our South Carolina Appellate Court Rules explicitly carve out “Judgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170” from this general rule. Rule 241(b), SCACR. Section 18-9-170 provides, in relevant part:

If the judgment appealed from direct the sale or delivery of possession of real property, *the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant . . .* When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency.

(emphasis added). A party subject to such an exception does not obtain a stay automatically; she “may move for an order imposing a supersedeas,” which the lower court may grant and which “may be conditioned upon . . . the filing of a bond or undertaking.” Rule 241(c), SCACR. The party seeking a stay of such judgment must first file a petition for a writ of supersedeas with the lower court. Rule 241(d), SCACR.

This statutory mechanism has been consistently applied by South Carolina courts for nearly a century. *See Ex parte Andrews*, 152 S.C. 325, 150 S.E. 313, 314 (1929) (holding when an appellant failed to execute the undertaking fixed by the trial court to stay the sale of a mortgaged premises, “it was the duty of the master to proceed with the sale,” and the purchaser “was entitled to possession of the premises” pending appeal). As explained in *Ex parte Andrews*, applications to an appellate court, “to stay proceedings of sale and delivery of possession of real property under decrees in foreclosure, appealed from,” should “be refused on the ground that proper relief may be had under the section of the Code to which we have referred”—i.e., the statutory undertaking. 152 S.C. 325, 150 S.E. at 314 (referencing section 653 of the 1922 Code of Civil Procedure, the predecessor statute to section 18-9-170). As the Supreme Court recognized in *Carsten v. Wilson*, 241 S.C. 516, 129 S.E.2d 431 (1963), “where there is a decree ordering property to be sold to satisfy a mortgage, a notice of appeal from such decree does not stay the sale unless an undertaking is given by the appellant as required by Section 7–417 of the Code,” the predecessor statute of section 18-9-170.³ A point reaffirmed in 2015, explaining, “An appellant's failure to post the statutory bond required by § 18–9–170 . . . permits the foreclosure sale to proceed during the appeal,” leaving the mortgagor’s remedy “limited to the recalculation of the debt owed.” *Wachesaw Plantation E. Cmty. Servs. Ass’n, Inc. v. Alexander*, 414 S.C. 355, 362 n.6, 778 S.E.2d 898, 902 n.6 (2015) (Pleicones, J., concurring in a separate opinion) (citing *Ex parte Andrews* and *Nichols v. Andrews*, 157 S.C. 334, 154 S.E. 305 (1930)).

³ The relevant portion of section 7-417 of the Code—which is nearly identical to section 18-9-170—provided: “If the judgment appealed from directs the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant.”

Here, Landvest filed a Motion for an Appeal Bond and the Master in Equity issued the Bond Order, requiring Ancrum to post a \$25,000 bond to prevent the judicial and deficiency sale of the Property. (R. pp. 51-52, 14-15). Ancrum did not post the bond, and the Property was deeded to Landvest. (R. pp. 109). As the lawful owner of the Property, Landvest sees no cognizable reason that it should be prevented from managing the Property as it wishes, including any potential sale of the Property.⁴

Further, Ancrum was presented with the precise mechanism outlined in section 18-9-170 to prevent the sale of the Property. Ancrum’s July 18, 2025 motion to this Court requested the Court “VOID” the hearing that provided the relief she now seeks. (C-Track entry dated 07/18/2025). This Court previously rejected Ancrum’s request and informed Ancrum “request for a motion to stay because a request for a stay should first be made to the lower court that entered the order on appeal.” (C-Track entry dated 07/21/2025).

The Motion is a second attempt at the same relief, made to the improper court, after Ancrum declined to post bond, and made after the sale she sought to prevent and declined to participate in, has already occurred.

II. The Motion is Moot Because the Sale has Already Occurred and Title has Passed to Landvest.

Ancrum requests the Court “prevent” or “suspend” the sale of the Property. (C-Track entry dated 10/19/2026). However, the sale has already occurred, and the deed conveying title to Landvest has been executed, delivered, and properly recorded. (R. pp. 109).

⁴ Ancrum’s Motion also addresses “the need to rent the usage of the property,” “so that no such income is lost” during this appeal. (C-Track entry dated 10/19/2026). Landvest—as the lawful owner of the Property—may manage the Property in any lawful means it sees fit to ensure profit is not lost.

“A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.” *Wachesaw*, 414 S.C. at 359, 778 S.E.2d at 900 (quotation omitted). “Where only injunctive relief is sought and the need for that relief has ceased to be a justiciable issue, an appellate court should not review the merits.” *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 597 (2001).

Landvest acknowledges conveyance of the deed does not moot Ancrum’s underlying appeal of the Order. *See Wachesaw*, 414 S.C. at 360, 778 S.E.2d at 901 (“[T]he issuance of a deed does not moot the appeal of a foreclosure sale and an appellate court may reach the merits.”). But that is precisely the point: Ancrum’s appeal of the Order remains pending and will be decided on its merits, so no exception to the mootness doctrine is implicated by denying the discrete, injunctive relief she now requests. *See Curtis*, 345 S.C. at 568, 549 S.E.2d at 596. Ancrum’s own action—or inaction—renders the current relief she seeks in her Motion moot. Because Ancrum failed to post bond and the Property was sold and deeded to Landvest, the sale is complete. There is no prospective sale that Ancrum has any right to enjoin, and the Court cannot “prevent” or “suspend” a sale that has already closed. Thus, the relief Ancrum requests is impossible to grant.

III. Ancrum Holds no Interest in the Property and Provides no Legal Basis to Retrain Landvest’s Management or Disposition of the Property

To the extent Ancrum now asks this Court to dictate how Landvest “handles” the Property—by directing that Landvest make “no permanent decisions to sell” it, (C-Track entry dated 10/19/2026), or otherwise restraining how Landvest manages the Property during the appeal—Ancrum identifies no legal basis for that relief, and none exists. Landvest holds title to the Property, not Ancrum. A mortgagor’s equitable right of redemption—and with it any

remaining interest in the mortgaged property—is extinguished upon the judicial sale. *Wachesaw Plantation E. Cmty. Servs. Ass'n, Inc. v. Alexander*, 420 S.C. 251, 264, 802 S.E.2d 635, 642 (Ct. App. 2017) (holding “the period in which Homeowner was allowed to exercise his right of redemption expired upon the acceptance of the highest bid at the judicial sale”). Because Ancrum failed to execute the section 18-9-170 undertaking, the sale proceeded and the Property was deeded to Landvest, who—“upon complying with the terms” of the sale—was “entitled to possession of the premises, even though the appeal from the decree was pending.” *Ex parte Andrews*, 152 S.C. 325, 150 S.E. at 314. Thus, Ancrum holds no title or possessory interest in the Property, while Landvest—the titleholder in lawful possession—does. Ancrum therefore has no right to enjoin Landvest from renting, managing, or selling its own Property. Should Ancrum ultimately prevail on the merits of her appeal, her remedy would not be control over the Property, but, at most, a recalculation of the debt owed. *See Wachesaw*, 414 S.C. at 362 n.6, 778 S.E.2d at 902 n.6.

Conclusion

For the reasons set forth above, Landvest respectfully requests the Court deny Ancrum’s Motion in its entirety. The sale Ancrum asks the Court to prevent is complete, title has passed to Landvest, and no stay ever arose because Ancrum failed to post the undertaking section 18-9-170 required and that the Master in Equity afforded her the opportunity to post. Ancrum holds no interest in the Property and identifies no legal ground for the relief she seeks, and she is not entitled to a second opportunity, in this Court, to stay a sale that is now final or prevent a hypothetical future sale.

Respectfully submitted,

s/ Mary M. Caskey
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PROOF OF SERVICE

I, Mary M. Caskey, an attorney with Haynsworth Sinkler Boyd, P.A., counsel for Respondent Landvest Holdings I, LLC, hereby certify that on October 30, 2026, I served Respondent's *Return to Appellant's Motion to Stay/Prevent Sale* in the above referenced matter on the Appellant, Fernelephe Ancrum by email and mailing a copy of the same, by United States Mail, postage prepaid, and addressed as follows:

Fernelephe Ancrum
10 Hewitt Lane
St. Matthews, SC 29135
fancrum@gmail.com

Respectfully submitted,

s/Mary M. Caskey

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