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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

ORDER VACATING SALE AND FORFEITURE OF DEPOSIT

Bank of America, N.A.

(NON-JURY MORTGAGE FORECLOSURE)

PLAINTIFF,

C/A NO: 2011-CP-40-8074

vs.

DEFICIENCY WAIVED

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners Association,

DEFENDANT(S).

F11-06934

RICHLAND COUNTY
FILED
2013 DEC 17 AM 9:24
JEANETTE W. McBRIDE
C.C.P. & G.S.

In this case, on September 21, 2012, I issued a Master in Equity's Report and Judgment of Foreclosure and Sale. The property subject to the Plaintiff's mortgage was sold at public auction on September 3, 2013. Willie Zimmerman was the successful bidder at that sale and deposited 5% of his bid with the Court. Thereafter, Mr. Zimmermann failed to comply with his bid and this Court held a status conference on November 21, 2013 at which time this Court ordered that Mr. Zimmerman had until December 16, 2013 to close the loan necessary to provide the funds to comply with the bid regarding the September 3, 2013 sale. Furthermore, Mr. Zimmerman was required, through his counsel representing him at the closing, to notify this Court and counsel for the Plaintiff by 5:00 p.m., December 16, 2013 as to whether said closing was completed and confirm that the funds would be available to submit to the Court upon receipt from the lender from which he obtained said funds.

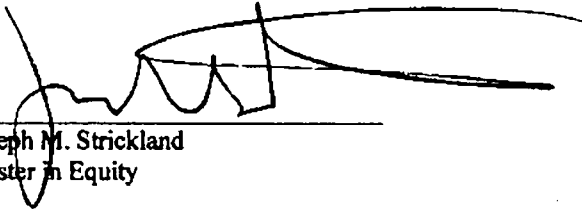
It was further ordered that should the closing have failed to have been completed by the date and time proscribed, the foreclosure sale of the subject property that took place on September 3, 2013 would be declared void and of no force and effect, said sale would be set aside, the deposit of Mr. Zimmerman would be forfeited unto Plaintiff, less costs of sale, the next public sale of the subject property would be advertised for January 6, 2014, Mr. Zimmerman would be required to submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale, and Mr. Zimmerman, or anyone on his behalf, would be barred from bidding at the next foreclosure sale of the subject property.

It now appears that the closing in which Mr. Zimmerman was to have obtained the funds necessary to comply with his bid at the September 3, 2013 sale was not completed by the date and time proscribed and Mr. Zimmerman has not complied with his bid. Therefore,

IT IS ORDERED:

1. The foreclosure sale of the subject property that took place on September 3, 2013 is void and of no force and effect and the sale is set aside;

2. The deposit of Mr. Zimmerman is hereby forfeited unto Plaintiff, less costs of sale;
3. The next public sale of the subject property shall be advertised for January 6, 2014;
4. Mr. Zimmerman shall submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale immediately; AND
5. Mr. Zimmerman, or anyone on his behalf, is barred from bidding at the next foreclosure sale of the subject property.



Joseph M. Strickland
Master in Equity

Columbia, South Carolina

Dec. 17, 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bank of America, N.A.

PLAINTIFF,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

ORDER EXTENDING PERIOD TO COMPLY WITH BID

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-40-8074

DEFICIENCY WAIVED

RICHLAND COUNTY
FILED
RECEIVED 11 MAR 20 2013
JEANETTE M. McBRIDE
C. C. P. & G. S.

F11-06934

In this case, on September 21, 2012, I issued a Master in Equity's Report and Judgment of Foreclosure and Sale. The property subject to the Plaintiff's mortgage was sold at public auction on April 1, 2013. Willie Zimmerman was the successful bidder at this sale and tendered 5% of his bid with the Court in the amount of \$17,600.00. Thereafter, Mr. Zimmermann failed to comply with his bid and this Court issued an Order Vacating the Sale on July 30, 2013. Said Order declared the sale to be void and of no force and effect, vacated said sale, and returned the deposit to Mr. Zimmerman.

Thereafter, Plaintiff resumed its foreclosure action and the subject property was sold at public auction on September 3, 2013. Again, Mr. Zimmerman was the successful bidder at that sale and deposited 5% of his bid with the Court. More than 30 days passed since the sale date and Mr. Zimmerman had not yet complied with his bid. On October 17, 2013, Mr. Zimmerman requested through his counsel, S.R. Anderson, Esq., for an extension of time until November 4, 2013 to comply with his bid. Plaintiff did not consent to the request for an extension but did not object to it. This Court granted Mr. Zimmerman's request and provided Mr. Zimmerman until November 4, 2013 to comply. Mr. Zimmerman has not tendered the remaining amount owed to complete his bid as required by this Court. This Court scheduled a Status Conference regarding this matter for November 21, 2013.

At the hearing, Counsel for Plaintiff, John B. Kelchner, Mr. Zimmerman, and Mr. Anderson appeared. Also appearing was Beth Bernstein, counsel for Mr. Zimmerman who represented that she would perform the loan closing which would provide the funds allowing Mr. Zimmerman to comply with his bid. Mr. Zimmerman stated that his reason for not complying was that his loan application for the funding for the bid was still under review by his lender and requested that he be allowed additional time to comply. He proposed that he have a period of time up and to the date by which the first advertisement


of a Notice of Sale would have to be published in order for the property to be sold at the January 6, 2014 public sale.

Plaintiff opposed Mr. Zimmerman's request and moved before this Court to vacate the sale and require the forfeiture of Mr. Zimmerman's deposit tendered on September 3, 2013 unto Plaintiff. Plaintiff also sought for this Court to forever bar Mr. Zimmerman, or anyone on his behalf, from bidding at any future foreclosure sale of the subject property on the basis that Plaintiff has been unduly prejudiced by Mr. Zimmerman's failure to comply with his bids in the two prior foreclosure sales and, should Mr. Zimmerman be the successful bidder at any future foreclosure sale, Plaintiff would be subject to additional irreparable harm and prejudice.

Upon review of Mr. Zimmerman's request and Plaintiff's motion at the hearing,

IT IS HEREBY ORDERED THAT:

1. Mr. Zimmerman has until December 16, 2013 to close the loan necessary to provide the funds to comply with the bid regarding the September 3, 2013 sale. Mr. Zimmerman, through his counsel representing him at the closing, shall notify this Court and counsel for the Plaintiff by 5:00 p.m., December 16, 2013 as to whether said closing was completed and confirming that the funds will be available to submit to the Court upon receipt from the lender.
2. Should the closing fail to be completed by the date and time proscribed in Paragraph One (1) herein:
 - a. The foreclosure sale of the subject property that took place on September 3, 2013 shall be void and of no force and effect and the sale shall be set aside;
 - b. The deposit of Mr. Zimmerman shall be forfeited unto Plaintiff, less costs of sale;
 - c. The next public sale of the subject property shall be advertised for January 6, 2014;
 - d. Mr. Zimmerman shall submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale; AND
 - e. Mr. Zimmerman, or anyone on his behalf, is barred from bidding at the next foreclosure sale of the subject property.



Joseph M. Strickland
Master in Equity

Columbia, South Carolina

Dec. 17, 2013