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**SC Court of Appeals**

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FEB 11 2014

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA**

**COUNTY OF ANDERSON**

**IN THE COURT OF COMMON PLEAS**

**PYTHON CAPITAL, LLC, a South  
Carolina limited liability company,**

**Plaintiff(s),**

**-vs-**

**HEINZ A. KOCH and ISOLDE KOCH,**

**Defendant(s).**

**-and-**

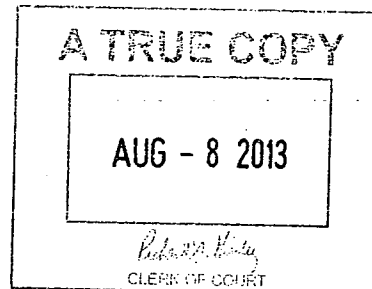
**HEINZ A. KOCH and ISOLDE KOCH,**

**Third-Party Plaintiffs,**

**-vs-**

**SUNTRUST BANK, a Georgia Banking  
Corporation, CHRISTOPHER G. OLSON,  
ESQ., and SMITH, JORDAN, LAVERY &  
LEE, P.A. f/k/a OLSON, SMITH, JORDAN  
& COX, P.A.,**

**Third-Party Defendants.**



**ORDER**

C/A No.: 2013-CP-04-00151

FILED-CLERK'S OFFICE  
ANDERSON SC  
JUL 25 A 9:48  
GENERAL SESSIONS

This matter came on for hearing before me on the 7<sup>th</sup> day of May, 2013 pursuant to Plaintiff's Motion to Dismiss and for Summary Judgment and Defendants Counter-Motion for Summary Judgment. The Plaintiff was represented by Harold P. Threlkeld, Esq., The Defendants were represented by Daniel L. Draisen, Esq., and Third-Party Defendant SunTrust Bank was represented by Robert C. Byrd, Esq. Third-Party Defendants Christopher G. Olson, Esq. and Smith,

Jordan, Lavery & Lee, P.A. were not present at the hearing. All parties were properly notified of the date, time and location of the hearing. Plaintiff's Motion is hereby **DENIED** in part, Defendants' Motion is hereby **GRANTED** in part, and the remaining issues are taken under advisement.

Having heard fully the arguments of counsel, as well as having reviewed the memoranda submitted and the pleadings, this Court finds as follows:

1. On March 14, 2008, Defendants Heinz and Eisolde Koch purchased Unit 609 from Watermarke Luxury Condominiums, LLC for a purchase price of \$420,000.00 and paid cash at closing.

2. On March 14, 2008, Watermarke sold and conveyed Unit 609 to Mr. and Mrs. Koch by deed dated March 14, 2008 and recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Book 8577 at Page 301.

3. Unit 609 was subject to a blanket mortgage of record in Book 7606 at Page 1 (as modified), an Assignment of Leases and Rents of record in Book 7606 at Page 28, and a UCC-1 financing statement Watermarke gave to SunTrust Bank, and as a result the sum of Three Hundred Twenty Five Thousand Four Hundred Eighty-Eight and 02/100 Dollars (\$325,488.02) was paid to SunTrust Bank in exchange for a release of Unit 609 from the mortgage, assignment, and UCC-1.

4. The parties do not dispute that on March 19, 2008 the sum of Three Hundred Twenty Five Thousand Four Hundred Eighty-Eight and 02/100 Dollars (\$325,488.02) was tendered to SunTrust Bank from the Trust Account of Olson, Smith, Jordan & Cox, P.A., check number 044173, for the purpose of obtaining a release of Unit 609 from the mortgage, assignment and UCC-1.

5. Unit 609 was not however released of record from the blanket mortgage of record in Book 7606 at Page 1 (as modified), the Assignment of Leases and Rents of record in Book 7606 at Page 28, or the UCC-1 financing statement Watermarke gave to SunTrust Bank.

6. On June 21, 2012, Python Capital, LLC, Plaintiff, purchased the loan on Watermarke from SunTrust by assignment dated June 21, 2013 and recorded of record in Book 10492 at Page 157.

7. As assignee of the blanket mortgage of record in Book 7606 at Page 1 (as modified), the Assignment of Leases and Rents of record in Book 7606 at Page 28, or the UCC-1 financing statement Watermarke gave to SunTrust Bank, Plaintiff, Python Capital, LLC, stands in the shoes of the assignor, SunTrust Bank. *Moore v. Weinberg*, 373 S.C. 209, 220, 644 S.E.2d 740, 745 (Ct. App. 2007). At common law, an assignee's rights can be no greater than those of his assignor. *Rosemond v. Campbell*, 288 S.C. 516, 522-23, 343 S.E.2d 641, 645 (Ct. App. 1986). Consequently, the assignee of a debt takes the obligation subject to all claims and defenses the obligor may have against the assignor. *Id.*

8. Defendants Heinz and Isolde Koch are entitled to the release of Unit 609 from the blanket mortgage of record in Book 7606 at Page 1 (as modified), the Assignment of Leases and Rents of record in Book 7606 at Page 28, and the UCC-1 financing statement Watermarke gave to SunTrust Bank subsequently assigned to the Plaintiff.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:**

1. The following property is hereby released from that certain Mortgage from Watermarke Luxury Condominiums, LLC to SunTrust Bank (and subsequently assigned to Python Capital, LLC) dated September 13, 2006, filed of record in **Book 7606 at Page 0001**, securing the principal

sum of \$20,300,000.00 (modified to (\$20,830,000.00), in the Office of the Register of Deeds for Anderson County, South Carolina:

All that certain piece, parcel or Condominium Unit(s) lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Unit 609 of the Watermarke Horizontal Property Regime, being more particularly described by reference to the "Master Deed of Watermarke Horizontal Property Regime" establishing the aforementioned REGIME, dated January 7, 2008 and recorded January 8, 2008 in the Office of the Register of Deeds for Anderson County, South Carolina in Deed Book 8444 at Page 100; and as may be amended from time to time.

ALSO, all the rights, privileges and common elements appertaining to the above described Unit, as set forth in the Master Deed and By-Laws of Watermarke, a Horizontal Property Regime.

The Mortgage shall remain in full force and effect as to all other lands included therein not already released.

2. The above-described property is also hereby released from that certain Assignment of Leases and Rents from Watermarke Luxury Condominiums, LLC to SunTrust Bank (and subsequently assigned to Python Capital, LLC) dated September 13, 2006, filed of record in **Book 7606 at Page 0028**, securing the principal sum of \$20,300,000.00 (modified to (\$20,830,000.00), in the Office of the Register of Deeds for Anderson County, South Carolina.

3. Furthermore, the above-described property is hereby released from any UCC-1 financing statement(s) that are or may have been filed or given by Watermarke Luxury Condominiums, LLC to SunTrust Bank (and subsequently assigned to Python Capital, LLC) securing the principal sum of \$20,300,000.00 (modified to (\$20,830,000.00).

4. All other issues with regard to the awarding of penalties, attorney's fees, costs, and actual damages raised by Plaintiff's Motion and Defendants' Counter-Motion are hereby taken under advisement.

**IT IS SO ORDERED.**



J. Cordell Maddox, Judge  
10<sup>th</sup> Judicial Circuit

7/19, 2013  
Anderson, South Carolina

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GENERAL SESSIONS AND  
GENERAL SESSIONS



STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

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ANDERSON IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-04-00151

2014 JAN 10 A 11: 57

Python Capital, L.L.C., a South Carolina  
limited liability company,

COMMON PLEAS AND  
GENERAL SESSIONS

Plaintiff,

vs.

Heinz A. Koch and Isolde Koch,

Defendants.

and

Heinz A. Koch and Isolde Koch,  
Third-Party Plaintiffs,

vs.

SunTrust Bank, a Georgia Banking  
Corporation, Christopher G. Olson, Esq.,  
and Smith, Jordan, Lavery & Lee P.A.  
f/k/a Olson, Smith, Jordan & Cox, P.A.,

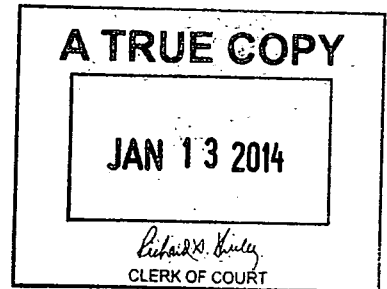
Defendant.

**ORDER DENYING PLAINTIFF'S  
MOTION TO RECONSIDER**

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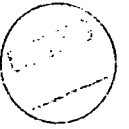
FEB 11 2014

**SC Court of Appeals**



On January 7, 2014, this matter came before me on Plaintiff's Motion to Reconsider, Alter, or Amend Order dated July 19, 2013. The Plaintiff was represented by Harold P. Threlkeld, Esq. The Defendants were represented by Daniel L. Draisen, Esq. The Third-Party Defendant SunTrust Bank was represented by Robert C. Byrd, and the Third-Party Defendants Christopher G. Olson and Smith, Jordan, Lavery & Lee were represented by Ross B. Plyler.

After careful consideration and review of the record and arguments, the Court finds that Plaintiff's Rule 59(e) Motion for Reconsideration should be denied.



THEREFORE, the Court denies Plaintiff's Motion to Reconsider, Alter, or Amend Order granting Plaintiff's Request for Partition and Plaintiff's Request for title to the mobile home.

IT IS SO ORDERED.

The Honorable J. Cordell Maddox, Jr.  
Tenth Circuit Court Judge

Anderson, South Carolina

1/9, 2014

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COMMCH PLEAS AND  
GENERAL SESSIONS

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JAN 23 2014

*Richard D. Byrd*  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2013-CP-04-00151

Python Capital, L.L.C., a South Carolina  
limited liability company,

Plaintiff,

vs.

Heinz A. Koch and Isolde Koch,

Defendants.

and

Heinz A. Koch and Isolde Koch,  
Third-Party Plaintiffs,

vs.

SunTrust Bank, a Georgia Banking  
Corporation, Christopher G. Olson, Esq.,  
and Smith, Jordan, Lavery & Lee P.A.  
f/k/a Olson, Smith, Jordan & Cox, P.A.,

Defendant.

**AMENDED ORDER DENYING PLAINTIFF'S  
MOTION TO RECONSIDER**

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**SC Court of Appeals**

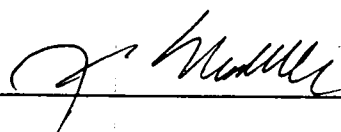
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After careful consideration and review of the record and arguments, the Court finds that Plaintiff's Rule 59(e) Motion for Reconsideration should be denied.

THEREFORE, the Court denies Plaintiff's Motion to Reconsider, Alter, or Amend the July 19, 2013 Order.

IT IS SO ORDERED.



The Honorable J. Cordell Maddox, Jr.  
Tenth Circuit Court Judge

Anderson, South Carolina

Jan. 17, 2014

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GENERAL PLEAS AND  
GENERAL SESSIONS