

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 Melanie 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:

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SC Court of Appeals

M1416

Motion to Dismiss and objection to Respondent motion to extend the time

Respondent's motion pending before this court to extend the time to file responsive brief fails to delineate any substantial reason that would justify a late filing and would prejudice the rights of the appellant right before this court as set out below.

1.

Respondent's motion recites no reason except undocumented assertion that parties agreed to suspend all deadlines for timely filing mandated by the rule of this court namely Rule 240 SCRAP.

2.

While Respondent refers to J.P. Morgan's one sided unconsummated efforts with appellant to terminate the pending appeal, contingent upon a letter of December 20, 2013 to the clerk of court that letter itself was one that never was consented to, nor authorized by this appellant.

3.

Respondent J.P. Morgan chase Bank conveniently refers to the fact that the time of the foreclosure hearing allegedly held by the Charleston County Master In Equity on Oct. 9, 2012, Appellant Pro se was represented by counsel Edward M. Brown. At the same time Respondent's papers submitted to this court show that at the time of hearing the same Edward M. Brown had withdrawn his representation. Thus there was compelling reason to personally notify appellant. This clearly was not done.

4.

Respondent next seeks to excuse its reason for failure to file predicated on the notion that an unconsummated proposal to settle the pending appeal unilaterally ended the dispute. Therefore there was no case in controversy nor any justiciable cause before this Honorable Court. On the other hand Appellant Pro se diligently informed this court that there was no agreement to suspend any filing deadline required by this court and the Rule of Appellate Procedure.

5.

Appellant also complains that Respondent is taking "unfair advantage" of its (Chase Bank) neglect to perfect a timely filing of its required Responsive Brief. That is sheer mock hallow rehetoric and little more than an untimely effort to shift the responsibility for its "non filing" to this appellant. Not any cogent nor timely reason(s) supportive of excuseable neglect has been offered by respondent JP Morgan-Chase Bank.

6.

Respondent seeks to have this pending dispute a one sided affair wherein this court is mandated to accept respondent J. P. Morgan Chase bank account of its neglect as the responsibility of Appellant and not its own burden. Nothing more hallowed in the law as the right to be heard (a timeless guarantee of the U.S. Constitution secured by the 1st, 5th, and 14th Amendment embodiment). Its denial presents a justiciable controversy. Moreover the 13th Amendment guarantee to own, have, hold, and possess and not be deprived thereof without due process. Hence the taking thereof in breach of those right presents a justiciable controversy such as which is the claim as is made by the yet to be addressed claim of Appellant before this court.

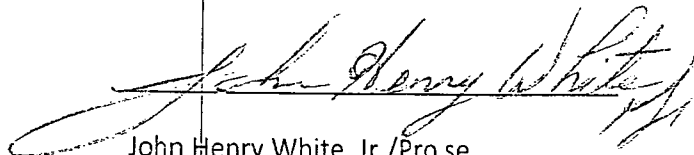
7.

Finally, and prospectively equally controlling is Appellants well presented fraud (See Exhibit "A" of final brief). Undeniably respondent JP Morgan Chase Bank recognized that the original pledge of the mortgage from Julia White Bowman (deceased) was devoid on its face of any building or improvement and sought conveniently to cure this crucial omission through the pretext of a latent survey. This initiative however is prohibited by the statute of fraud. Notice that the document offered for the change was returnable to respondent JP Morgan Chase's legal representative. This upper most presnts a case in controversy and a justiciable case.

For all of the forgoing reasons respondent J.P. Morgan Chase Bank's motion to file its Responsive Brief out of time and its claim of want of a justiciable controversy ought to be denied and judgement on Appellants timely brief be granted.

Cc: Dow A. Davidson

Respectfully Yours,



John Henry White, Jr./Pro se

1510 Grimball Road, Ext.

Charleston, S.C. 29412

(843) 406 5089

Exhibit A

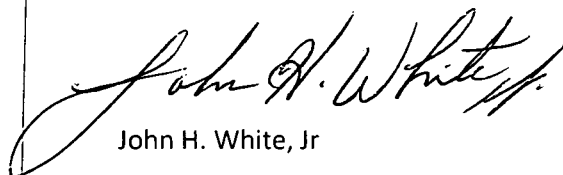
Whether appellee, Chase Bank attempts to include appellants home as a part of foreclosure premises although indisputably no building nor improvements are mentioned in the subject mortgaged land implicates a violation of the statute of fraud. See appellants R.pg. 12.

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 R. pg. 42-45). 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 R. pg. 36-39 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.

Certificate of Service

I certify that I have served a copy of the motion to dismiss and objection to respondent motion to extend the time on J. P. Morgan Chase Bank National Association by depositing a copy of it in the United States Mail, postage prepaid on Feb. 26, 2014 addressed to his attorney of record, Dow A. Davidson, Post Office Box 1806, Charleston, S. C. 29402-1806.



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Appellant/ Pro se.

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Feb. 26.2014

The Honorable Jenny Abbot Kitchings

S.C. Clerk of Court of Appeals

1015 Sumter St.-5th Floor

Columbia, S. C. 29201

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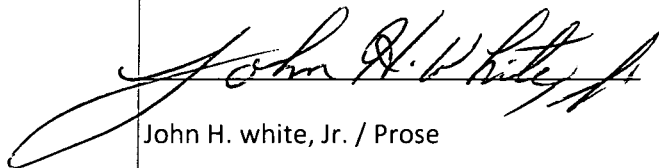
Appellate Case No 2013-001576

Feb. 26, 2014

Dear Ms. Kitchings:

Enclosed and presented for filing are Appellant objection and response to Respondent's motion to file Responsive Brief and Appellants return to Respondents motion to dismiss Appellants Brief on Appeal for lack of a justiciable controversy. The required filing fee of \$25.00 is herewith tendered. Certificate of Pro se/ Appellant Counsel is attached.

Yours Truly



John H. white, Jr. / Prose

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