

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	FOR THE NINTH JUDICIAL CIRCUIT
AURORA LOAN,)
Plaintiff,)
VS.)
CARMEN SHEPPARD,)
Defendants.)

CASE NO.:2011-CP-10-4201

Hearing before the
Honorable Mikell R. Scarborough, reported by Bernadette A.
Cali, CSR and Notary Public, at 10:00 a.m. on September 6,
2013 at 100 Broad Street, Charleston, South Carolina.

A P P E A R A N C E S

For the Plaintiff: Dean A. Hayes, Esq.
Korn Law Firm
PO Box 11264
Columbia, S.C. 29211

For the Defendant: Alan Sheppard, Pro se'

Also appearing: David K. Haller, Esq.
115 River Landing Dr., Suite 102
Daniel Island, S.C. 29492

Bernadette A. Cali, CSR
Notary Public

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1 (Hearing commenced.)

2 THE COURT: All right. Mr. Hayes, this is Aurora
3 versus Sheppard?

4 MR. HAYES: Yes, sir.

Transcript 9-6-13Sheppard

5 THE COURT: It's your motion for summary judgment.

6 MR. HAYES: Yes, it is, Your Honor. And
7 Mr. Sheppard and I have discussed this matter in the
8 conference room.

9 This has recently been transferred from Aurora to
10 Nationstar. And he's working with Nationstar to try to
11 get a modification. I think he's had some problems
12 getting jobs, so that's slowed it down.

13 He's still trying to get the modification. I've
14 informed him that even if you decide in my favor today
15 it's not the end of the road. Modifications are --
16 still result from date of judgment and date of the
17 foreclosure sale -- the planned foreclosure sale.

18 THE COURT: When was the transfer and how long has
19 Nationstar been in this? And I'm assuming you're
20 telling me they're reviewing him anew, is what I'm
21 hearing you say.

22 MR. HAYES: Yes, sir. I do not know. I know
23 there were several cases, and I do not know if this was
24 one of them. I didn't see the transfer date in here.

25 MR. SHEPPARD: About two months.

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1 MR. HAYES: Most of these it was back during the
2 summer that were transferred from Nationstar or from
3 Aurora to Nationstar.

4 MR. SHEPPARD: Aurora had a lot of history with
5 regulators and regulations and stuff that they've
6 breached, and we tried to work with them. We were at
7 eight and three quarters percent; \$880,000 loan. Kept
8 telling we're going to run out of money. They went
9 through three modifications with us, took all our cash
10 except for 500 bucks, told us to redo it. On the third

11 time is when I approached Mr. Haller.

12 I have some other complex stuff going on. And it
13 just got to the point where we just -- we were just --

14 THE COURT: All right. Mr. Sheppard, you're here
15 today without benefit of counsel. There is a motion of
16 Mr. Haller to be relieved. I do know that. Came post,
17 I think, their motion for summary judgment. You-all
18 are seeking summary judgment as to liability only or as
19 to damages, the whole shebang?

20 MR. HAYES: Your Honor, we're seeking summary
21 judgment as to the default, the numbers, but we still
22 would want to update the numbers between now and --
23 because the Affidavit of Debt is from May of 2013. I
24 would like to update the numbers. It's probably not
25 that big of a deal because we are not seeking a

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1 deficiency.

2 THE COURT: You're not seeking a deficiency. All
3 right.

4 MR. HAYES: We are not seeking a deficiency. But I
5 would like the opportunity to provide the numbers.
6 After today, if Your Honor decides in my favor to
7 update the interest and that may be the only thing we
8 have to update. I would send something to
9 Mr. Sheppard.

10 Are you living with Ms. Sheppard?

11 MR. SHEPPARD: Yes.

12 MR. HAYES: Just wanted to make sure.

13 THE COURT: I kept seeing Carmen on the --

14 MR. SHEPPARD: Carmen is a school teacher; 35,000
15 a year; put the loan in her name.

16 THE COURT: Tell me about your employment

17 situation. Where are you today?

18 MR. SHEPPARD: Not employed. I've had -- I
19 actually broke my back in January of this year in four
20 places and I had a miraculous recovery.

21 I've had some fraud in my life. It's extrinsic
22 fraud. I have a lawyer, Mr. Hardy out of Columbia
23 taking the case; a complex case with extraordinary
24 circumstances, hard to explain. I took a stab at it
25 with Mr. -- the lawyer -- Mr. lawyer here.

5

1 MR. HAYES: Hayes.

2 MR. SHEPPARD: Excuse me. So I've had -- my
3 credit's been crushed. I had my own business. I had
4 an order for 486 lines at \$250,000 a piece. One of my
5 contractors contacted Pepsi, said you know what, this
6 guy is involved in fraud and we would like you to pay
7 us direct. I'm trying to take a bigger bite of the
8 apple and it back fired because they said -- Pepsi --
9 send me the check back out, get you another contract,
10 move forward. I had just paid -- as soon as I got the
11 down payment, paid Aurora their large sum to stay in my
12 house again, and two days later I'm asked to send that
13 money back. So it did put me in this tailspin.

14 THE COURT: That was how long ago?

15 MR. SHEPPARD: A year and half ago. It's just --

16 THE COURT: You were a distributor?

17 MR. SHEPPARD: No, I actually developed this piece
18 of equipment. When you make a Coke Cola it's measured
19 down to a hundred of a percentage point, water-syrup
20 ratio. Until it's inspect they dump all that product
21 to drain. Waste treatment and stuff like that. I send
22 it to a recovery vessel. When it's inspected and start

23 putting it in the can I micrometer that back into the
24 process and it just saves a bunch of money. \$250,000
25 pays for itself.

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1 THE COURT: Recycle.

2 MR. SHEPPARD: Yes, sir. Resource conservation.
3 Actually, I was the first person recognized as a
4 waste-wise endorser by, I think, the last
5 administration. When Obama became president. It was a
6 big honor.

7 But all my business -- so I'm stuck owing Pepsi
8 \$40,000 and, of course, they said -- I've tried to work
9 this out -- said let me work it out on this project.
10 But they said, you know what, let's pay that up first.
11 And it's like a chicken and egg thing with the money.

12 I got two 14 year olds. They just started at
13 Wando. My wife and I been struggling with all this and
14 really want to -- it's our home. My case is being
15 heard.

16 One of the reasons Mr. Haller asked to be relieved
17 of counsel is all this stuff I've gone on relates to a
18 lot of local, some local fraud that happened in my
19 life. If I thought I was just sort of coming out of
20 nowhere with my accusation and stuff, and right behind
21 me this other group did it. They did it to the family.
22 And it just left me turned upside down.

23 THE COURT: All right. Mr. Sheppard, I don't know
24 what these numbers are going to be, but if you've
25 got -- here's Mr. Haller right here.

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1 MR. HALLER: Your Honor, I'm very embarrassed.

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2 (Discussion off the record.)

3 THE COURT: welcome to the frey.

4 This is what I was just about to tell you. You
5 have 880,000 in principle debt and I don't know when
6 the last payment was made, but you said it was at 8% or
7 6%?

8 MR. SHEPPARD: Eight and three quarters is what it
9 was originally.

10 THE COURT: The numbers are going to be
11 tremendous.

12 MR. SHEPPARD: 300 something thousand dollars they
13 want to add.

14 THE COURT: when is the last payment?

15 MR. SHEPPARD: The last one I made, some over two
16 years.

17 THE COURT: All right. There is no governmental
18 program that's going to help you stay in that home.
19 Your loan's too big, your debt's too high.

20 MR. SHEPPARD: I can't go nowhere neither. I
21 cashed in everything, stuff my father left. Cashed
22 everything just to feed my kids.

23 I had another house that was foreclosed on and
24 that I paid cash for. It was foreclosed on. They put
25 two mortgages on it; foreclosed, repossessed it while I

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1 was sick in the hospital. Never was involved in any
2 closing or anything.

3 THE COURT: You paid cash for it and they put a
4 mortgage on it. Who is they?

5 MR. SHEPPARD: The local bank did it.

6 THE COURT: Did you go to that bank and ask --

7 MR. SHEPPARD: I've been fighting with this fraud.

8 It's a complex case. Mr. Haller doesn't want to be
9 involved in it. Nobody wants to be involved in it.
10 Finally found an attorney in Columbia for the first
11 time in a while that has stepped up.

12 THE COURT: I know Mr. Hardy. He's a good lawyer.

13 MR. SHEPPARD: He wrote the case. I actually
14 quoted the Chewining(phonetic) versus Ford Motor in my
15 appeal and stuff, and everybody's giving me hell so --
16 excuse me, a hard time. They told me to -- I talked to
17 several people. They said, you know what? You need to
18 throw out everything you've written here. Keep that
19 one statement about extrinsic fraud and they sent me to
20 the next guy. So --

21 THE COURT: All right. Mr. Haller, you're here,
22 you're of counsel at present. You filed -- I just
23 reviewed the Answer. The Answer -- I can't remember if
24 it was counterclaims in there or not.

25 MR. HALLER: I think we filed affirmative

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1 defenses.

2 THE COURT: There was a beaucoups of them. Aurora
3 Loan. July of '11. You're seeking -- you've been
4 representing him. You were seeking -- you have a
5 motion to be relieved, I do know that.

6 MR. HALLER: Yes, sir.

7 THE COURT: Let me go into the hearing. Let me
8 hear from Mr. Hayes, and then I'll get to hear from you
9 and I'll deal with this.

10 MR. HAYES: Yes, Your Honor.

11 we filed a motion for summary judgment on
12 June 15th of this year. Attached to the motion is an
13 Affidavit that was executed by Nationstar Mortgage,

14 LLC. It states that Nationstar Mortgage, LLC is now
15 the holder of the Note and Mortgage that was executed
16 by Carmen B. Sheppard. A copy of the Note and the
17 Mortgage are attached to the Affidavit. It states that
18 the borrower has defaulted. The borrower, Carmen
19 Sheppard, defaulted on her payments under the terms of
20 the Note and that the principle balance due and owing
21 as of May the 22nd, 2013 is \$879,790.27. Accrued
22 interest is due in the amount of \$230,246.49. Hazard
23 insurance, there is a deficit of \$23,559 even. Flood
24 insurance is \$379. Taxes \$9,094.61. Escrow deposit,
25 there is a credit for \$4,087.44. Property inspections

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1 \$351. Broker's price opinion, \$190. Attorneys fees of
2 600 -- excuse me, \$6,663.37. There is a credit for
3 forbearance funds in the amount of \$5,408.55 for a
4 total amount due, exclusive of the cost of this action,
5 of \$1,140,777.75, Your Honor.

6 THE COURT: All right. Mr. Haller?

7 MR. HALLER: Your Honor, as to the motion, I filed
8 my motion to be relieved as counsel.

9 I'm going to be careful with my words so that as
10 not to get into any privilege issues. However, when
11 the hearing was noticed I did contact Mr. Sheppard, and
12 at that point it was clear to me that I was not able to
13 assist him in coming up with an adequate defense, and
14 he's here, and I'm sure he's quite competent to do
15 that.

16 THE COURT: All right. Very good. Thank you.
17 Mr. Sheppard.

18 MR. SHEPPARD: I'm not trying to be -- I'm sort of
19 stuck in this situation.

20 THE COURT: You're not in a good situation.
21 There's no doubt about it. Okay? You may have a claim
22 and you may have a lawsuit. It may -- you might be
23 able to ring a bell but it's not going get us past the
24 point we're at. That's the problem we've got.
25 Mr. Sheppard, I feel for you and I'm sorry you're in

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1 this boat, but it's just one of those things that with
2 a \$35,000 income in your household, it's just not
3 something that's going to be maintainable.

4 MR. SHEPPARD: We're working on -- we're trying to
5 find -- I mean, we tried a bunch.

6 THE COURT: I'm sure you're out there knocking --

7 MR. SHEPPARD: Like I said, first of this year --
8 in 2009 and 2010 I came down with cancer. Cancer of
9 the kidneys then found something in my chest. Been
10 through all that. Because of my credit I've been
11 building these chairs getting close to a thousand bucks
12 a piece; chairs made out of cedar. In January a big
13 old tree fell on me when I broke my back, and I've had
14 some circumstances that are tough to deal with.

15 I've always said we could make money and make a
16 payment, and I think speaking with Mr. Hayes that
17 Nationstar has said they could work with me. That's
18 what I plan on doing. I've worked through hard things
19 before.

20 THE COURT: Here's what I'm going to do. You said
21 you wanted to update the figures. Do you need to
22 update these figures or not? You-all aren't seeking a
23 deficiency?

24 we're not seeking a deficiency. Probably the only
25 thing that would need updating would be the interest.

1 I don't need to update the figures, Your Honor.

2 THE COURT: I don't think so.

3 Mr. Sheppard, let me tell you, I just don't see
4 any way out of this thing for you-all. I think you-all
5 need to be making some plans about moving.

6 what I'm going to do, I've been setting sales for
7 the first Tuesday in November this week. what I'm
8 going to do is -- you do have two kids? I guess
9 they're twins if they're both 14, they're at wando,
10 they're in 9th grade.

11 what I'll do, I'm going to go ahead and I'm going
12 to set your sale out into next year. That's going to
13 give you the rest of this year to try and get your
14 family together, get situated, see if you can't find
15 some place to go.

16 MR. SHEPPARD: Or be able to work out my mortgage.

17 THE COURT: Or you can work it out with
18 Nationstar. If you can work it out with Nationstar
19 more power to you. I'm telling you it's going to be a
20 hard road to hoe.

21 MR. HAYES: Your Honor, I'm not disputing you the
22 setting the sale out, but I did want to mention the
23 1099 issue possibility. It's set to expire at the end
24 of this year.

25 THE COURT: It would be a non-taxable event?

1 MR. HAYES: Yes, sir.

2 THE COURT: That's a good point.

3 MR. HAYES: If the sale is set the last sale in
4 December I don't see any way that he would be -- the

5 mortgage companies don't normally put people out during
6 Christmas, so unless it went third party he would
7 probably be able to stay there until the middle of
8 January. I can't make any promises but --

9 THE COURT: That's a good point. You've got --
10 let me tell you, Mr. Sheppard, what's good here. The
11 bad news is you're going to have to get out of there.
12 The good news is they're not seeking a deficiency
13 judgment. They've got 1.15 million dollars of debt
14 coming on here. This is in Daryl Creek?

15 MR. SHEPPARD: House, it's sold --

16 THE COURT: It might sell at auction for 650. The
17 last thing you need is a half million dollar judgment
18 hanging over your head for the next ten years. They've
19 waived the deficiency. That's the good news. I was
20 trying get you through the holidays, but I think if we
21 set the sale into December I think you'll be able to
22 stay there through the holidays.

23 If somebody buys that house and wants to move in
24 there for Christmas they'll come let you know that they
25 want you out of there, but I think the reality of the

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1 situation is they won't put you out before Christmas.
2 Okay? That gives you some time. I think -- let me
3 tell you, the last thing you need there is a million
4 dollars of taxable income that you've got no income on.
5 I think that's -- Mr. Hayes is pointing that out to my
6 benefit and I appreciate that. It's the end of '13;
7 isn't it?

8 MR. HAYES: Yes, sir.

9 THE COURT: Originally I think it was through '11
10 and they did extend it two years. All right. We'll

11 see where that goes. So that would be December 3.
12 I'll grant that.

13 If you wish to update the figures, you want to
14 supplemental them you can. I don't see any need for
15 it.

16 MR. HAYES: I probably -- I'll ask the client,
17 Your Honor. Probably not. But if I could get
18 Mr. Sheppard's email address, because if Mr. Haller is
19 relieved I will need to communicate directly with
20 Mr. Sheppard.

21 THE COURT: All right. I'll grant the order to
22 relieve. I'll get Mr. Haller out of here.

23 And then, Mr. Sheppard, you can -- if he's not
24 going to be representing you, which I've just granted
25 his request to be relieved, you can communicate

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1 directly with Mr. Hayes or his office. Then you can
2 continue to communicate with Nationstar. Nothing says
3 you can't do that. Okay? I just want you to know
4 that.

5 MR. SHEPPARD: I appreciate it.
6 Very good. Thank you, gentlemen. All right. I'll do a
7 Form 4 on that one.
8 (Hearing concluded.)

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2 STATE OF SOUTH CAROLINA)
3 COUNTY OF CHARLESTON) C E R T I F I C A T E

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5 I, Bernadette A. Cali, Notary Public, do
6 hereby certify that the within hearing was taken and
7 transcribed by me; and that the foregoing pages are
8 a true and accurate transcript of the within proceedings. I
9 further certify that the persons were present as stated.

10 I further certify that I am not of counsel
11 or kin to any of the parties to this action, nor am I
12 interested in the result of the said action.

13 IN WITNESS WHEREOF, I have hereunto
14 subscribed my name, this January 14, 2014.

15

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Bernadette A. Cali, CSR
Notary Public
My Commission Expires
April 5, 2020

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