

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2012CP2303686

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2012 FEB 28 PM 3:59

Townes At Pelham Owners Association Inc vs. Donna Boyd

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Rule 12(b), SCRPC; Rule 41(a),
 Other: _____
- ACTION STRICKEN (CHECK REASON):**
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
 Rule 40(j) SCRPC; Bankruptcy:
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

NOTICE

This is a notice to you that an Order of Foreclosure in this case has been filed in the Clerk of Court's Office. To obtain a certified copy, you may contact our office by phone (864) 467-8551 or email a request to cnoblitt@greenvillecounty.org. If you would like a copy via email, please provide a valid email address.

Dated at Greenville, South Carolina, this 28th day of February, 2014.

Court Reporter:

PRESIDING JUDGE -

J. Chris Brown Babb & Brown, P.C. 505 W. Butler Road Greenville, SC 29607

Genevieve Speese Johnson Butler and Hosch, P.A.
1201 Main Street, Ste. 1110 Columbia, SC 29201
Michael F. Talley Sr. 206 Green Avenue
Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer - Greenville County Clerk Of Court
- Clerk of Court

RECEIVED

APR 02 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
 COUNTY OF
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012- CP-23-3686

Townes at Pelhan Owners' Association, Inc.

Donna Boyd

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: J. Chris Brown	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 19 FEB 28 PM 3 59

- DISPOSITION TYPE (CHECK ONE)**
- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
 - DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
 - ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol Nonsuit); Rule 43(k), SCRPC (Settled); Other
 - ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
 - DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow); Statement of Judgment by the Court:

ORDER INFORMATION

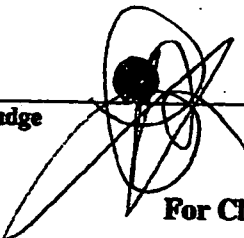
This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order.		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge



3025
Judge Code

2/11/14
Date

For Clerk of Court Office Use Only

This judgment was entered on the 26 day of Feb, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 28 day of Feb 2014 to attorneys of record or to parties (when appearing pro se) as follows:

J. Chris Brown

Michael F. Talley

505 W. Butler Road
Greenville, SC 29601

206 Green Avenue
Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS)
FOR THE THIRTEENTH JUDICIAL CIRCUIT)
CASE NO.: 2012-CP-23-3686 ✓

Townes at Pelham Owners')
Association, Inc.,)
Plaintiff,)
vs.)
Donna Boyd, Bank of America, N.A.,)
By Assignment from Mortgage)
Electronic Registration Systems, ✓)
Defendants,)

**MASTER'S ORDER AND JUDGMENT
OF FORECLOSURE AND SALE**

AND

Donna Boyd, ✓)
Third Party Plaintiff,)
Vs.)
Eric Hedrick, in his Individual and)
Official Capacity as Owner or President)
Of Cornerstone Realty, Inc. and ✓)
Cornerstone Realty, Inc.,)
Third Party Defendants.)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2014 FEB 28 5 PM 3:59

MASTER IN EQUITY'S ORDER AND JUDGMENT OF FORECLOSURE AND SALE

TO: J. Chris Brown
BABB & BROWN, P.C.
Attorneys for the Plaintiff and Third Party Defendants

INTRODUCTION

This action was originally filed by Plaintiff as a foreclosure of a Notice of Lien for non-payment of homeowners' assessments. The Defendant subsequently responded by filing an Answer and Counterclaim against the named Third Party Defendants. Pursuant to Rule 53, SCRPC, the matter was referred to the Master-in-Equity to make appropriate findings of fact and conclusions of law with authority to enter final judgment in the case.



ENTERED COMPUTER

Pursuant to the Order of Reference, a hearing was held on January 10, 2014. The Plaintiff was represented by its counsel, J. Chris Brown. Property Manager, Eric Hedrick of Cornerstone Realty, Inc. appeared on behalf of Townes at Pelham Owners' Association, Inc. The Defendant was present at the hearing and represented by her attorneys, Michael Talley and Michanna Talley. The Third Party Defendants, Eric Hedrick and Cornerstone Realty, Inc. were present and represented by their counsel, J. Chris Brown. At the hearing, testimony was taken on all the issues contained in the foreclosure action and Counterclaim. From the testimony and evidence presented at the hearing, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT AS TO FORECLOSURE ACTION

1. This Court has jurisdiction and venue over this matter. The real property which is the subject of this litigation is located in Greenville County, South Carolina. The issue before the Court is the foreclosure of a lien against real property, a matter which is a matter of equity.
2. The Declaration of Covenants, Conditions and Restrictions for The Townes at Pelham allow for the foreclosure of liens for unpaid monthly assessments. The evidence clearly showed that assessments have not been paid by Defendant, Donna Boyd, allowing for the foreclosure.
3. The lien was filed on November 11, 2009.
4. The Summons and Complaint and Lis Pendens were filed on June 5, 2012.
5. Service was made upon the Defendants named in this report, as shown by the Affidavits of Service filed herein.
6. The Defendant, Bank of America, N.A., filed an Answer on December 6, 2012 but did not attend the hearing.
7. The Defendant, Donna Boyd, filed an Answer and Counterclaim and Third Party Complaint against Defendants, Eric Hedrick and Cornerstone Realty, Inc. on December 31, 2012.

8. The Third Party Defendants, Eric Hedrick, Individually and as President of Cornerstone Realty, Inc. filed an Answer to the Third Party Claims and Counterclaim on March 15, 2013.
9. All parties herein and/or all attorneys of record were notified of the time, date, and place of the hearing in this matter.
10. According to the Affidavits filed herein, the Defendants are not in the military service of the United States of America, as contemplated under the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.
11. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Donna Boyd.
12. Based upon the testimony of Eric Hedrick as Manager of the Townes at Pelham Owners' Association, Inc., I find that payments due to the Townes at Pelham Owners' Association, Inc. have not been made since 2009 and the Defendant, Donna Boyd, is delinquent in the payments of her homeowners' dues in the amount of \$4,070.00.
13. I find from the Declaration of Covenants, Conditions, and Restrictions for The Townes at Pelham which were admitted as evidence without objection that every owner is required to pay monthly dues and there are no provisions contained therein which allow an owner to unilaterally withhold payment.
14. I find based upon the testimony presented and the evidence submitted that Defendant, Donna Boyd, is delinquent in the payment of her monthly assessments and the Plaintiff has the right to foreclose its lien.
15. I find that since the inception of this action, Plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property to the date of the filing of the Lis Pendens. He has been responsible for the preparation of the following pleadings in this contested matter:
 - a. Lis Pendens;
 - b. Summons and Complaint for Foreclosure of Lien;
 - c. Affidavit of Non-Military Service;
 - d. Responsive pleadings;
 - e. Discovery;

18. Since a personal deficiency judgment is being waived, the bidding will not remain open but compliance with the bid may be made immediately.

19. Defendant, Bank of America, N.A., by assignment from Mortgage Electronic Registration Systems holds a valid first mortgage on the property and the Plaintiff's lien is second and subsequent to the mortgage of Bank of America, N.A.

**FINDINGS OF FACT AS TO THIRD PARTY COMPLAINT AND
COUNTERCLAIM**

1. I find in regards to the Third Party Claims and Counterclaim filed against Plaintiff and Third Party Defendants the following:
 - a. There is a lack of sufficient evidence to prove the drainage issue was located on Defendant Boyd's property; thereby giving her standing to file the legal action against the property owners' association or either Third Party Defendant.
 - b. There is a lack of sufficient evidence to prove any amount of water consistently stood on her property for more than 48 hours.
 - c. There is a lack of sufficient evidence as to the proximate cause of drainage issues or to reasoning why the property owners' association and/or either Third Party Defendant would be responsible for the drainage issue.
 - d. There is lack of sufficient evidence that the property owners' Association or either Third Party Defendant was negligent in any manner.
 - e. Furthermore, I find even if the Plaintiff or either Third Party Defendant had been found liable for the drainage issue, there is insufficient proof of any damages.
2. As to the Defendant's, Donna Boyd, Counterclaim and Third Party Complaint, the Defendant, Donna Boyd, has failed to present credible evidence to this Court to support the Counterclaim or the Third Party Complaint. The burden of proof is upon the Defendant, Donna Boyd, as to the allegations set forth in the Counterclaim and Third Party Complaint. Donna Boyd failed to prove the elements of liability necessary for this Court to find in her favor on the Counterclaim or the Third Party Complaint as a matter of law.

CONCLUSIONS OF LAW

I, therefore, conclude as a matter of law as follows:

1. The Plaintiff should have judgment of foreclosure of the lien and the property should be ordered sold at public auction after due advertisement.
2. The Defendant and Third Party Plaintiff did not meet the requisite burden of proof on any of the Third Party Claims or Counterclaim and, therefore, the Plaintiff and Third Party Defendants are not liable for any of the claims or damages alleged in the Third Party Complaint and Counterclaim.

IT IS THEREFORE ORDERED:

1. There is due to the Plaintiff on the obligation set forth in the Complaint, the sum of \$21,856.19 representing the "Total Debt" due Plaintiff, as set forth supra, together with interest at the rate provided therein from the date aforesaid to the date hereof.
2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall accrue interest hereafter at the rate of eighteen percent (18%) per annum.
3. That the Defendant is liable for the aforesaid homeowners assessment debt shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
4. That on default of payment at or before the time herein indicated, the premises described in the Complaint, as hereinafter set forth, be sold by the Master in Equity at public auction at the Master's Courtroom, Greenville County Courthouse, Greenville,

6 

- South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on Tuesday next succeeding such holiday) on the following terms, that is to say:
- A. FOR CASH: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within twenty (20) days same to be forfeited and applied to the costs and Plaintiff's debt.
 - B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 18%.
 - C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.
 - D. Purchaser to pay for papers and costs of recording the Deed.
5. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, disbursements and expenses and the indebtedness of the Plaintiff in full, Plaintiff may pay to the Master In Equity only the amount of the costs, disbursements and expenses crediting the balance of the bid on Plaintiff's indebtedness.
 6. Personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale but compliance with the bid may be made immediately.
 7. That the Master In Equity will, by advertisement according to law, give notice of the time, date, place of sale, and the terms thereof, and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser or Purchasers should fail to comply with the terms thereof within twenty

7 

- (20) days after date of sale, then the Master In Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.
8. That should the Plaintiff, Plaintiff's attorney or agent, fail to appear on sales day, the property shall not be sold, and in that event, any such sale shall be null and void and of no force and effect; the property shall be re-advertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney, or agent is present.
9. That the Master in Equity will apply the proceeds of the sale as follows:
- FIRST: To payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.
- NEXT: To the payment of the balance due on the lien held by Plaintiff.
- NEXT: Any surplus will be held pending further order of the Court.
10. IT IS FURTHER ORDERED that in the event the successful bidder is other than the Defendants in possession herein, the Sheriff of Greenville County is ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet and peaceable possession of said premises, without delay, and to keep said successful bidder or his assigns in such peaceable possession.
11. IT IS FURTHER ORDERED that each Defendant and all persons whomsoever claiming under him, her, or them, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

12. IT IS FURTHER ORDERED that the Deed of conveyances made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the property at the time of filing of this action, and the name of the Grantee, and the Register of Deeds or Master In Equity is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.
13. The Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.
14. The Master in Equity shall direct the Register of Deeds to release of record the lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which lien is described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, being shown and designated as Lot No. 1 of The Townes at Pelham as shown on a plat thereof being recorded in the Plat Book 1029 at Page 25 and being shown and designated on a new plat prepared by Sinclair & Associates, LLC for Donna Boyd, being recorded in Plat Book 67 at Page 8 and having, according to said plat, metes and bounds as shown thereon.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008 and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008, and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

Tax Map #0540.45-01-028.00.

15. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void, and of no force and



effect. In such event, the sale will be rescheduled for the next available sales day.

16. IT IS FURTHER ORDERED that since the Third Party Plaintiff failed to meet its burden of proof on all causes of actions raised in the Counterclaim and in the Third Party Complaint, the Counterclaim and all Third Party claims shall be dismissed with prejudice to Donna Boyd.



Master-in-Equity - Greenville County

Greenville, South Carolina
2/11, 2014