The South Carolina Court of Appeals

SunTrust Mortgage, Inc., Respondent,

v.

Mark Ostendorff, Appellant.

Appellate Case No. 2013-002432

ORDER

Respondent has filed a motion to dismiss this appeal, arguing (1) Appellant was required to file a motion with the circuit court under Rule 60(b), SCRCP, to preserve his right to appeal because he failed to appear at the foreclosure hearing, which resulted in the order from which appeal was taken, and (2) several of the issues Appellant raises on appeal are barred by res judicata.

After careful consideration, Respondent's motion is denied. *See Balloon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 157-58, 399 S.E.2d 439, 442 (Ct. App. 1990) (holding an appellant is not required to move under Rule 60, SCRCP, prior to appealing where the appellant appeared and answered below, the lower court ruled on the issues raised on appeal, and the parties are able to supply this court with a sufficient record on appeal). Nothing precludes Respondent from raising these arguments in its brief for consideration after the appeal has been perfected.

FOR THE COURT

Columbia, South Carolina

cc: Mark Ostendorff
Brian Steed Tatum, Esquire

FILED
9/30/14