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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Joseph M. Strickland
Master in Equity

Case No. 2014-000140

Bank of America, N.A.,Respondent

v.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association, Defendants,

And Willie Zimmerman, Third Party Participant,Appellant

FINAL BRIEF OF APPELLANT

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STATEMENT OF THE CASE

Appellant, Willie Zimmerman, was the successful bidder on a foreclosed residential property (25 Sunturf Circle, Columbia, South Carolina 29223) at the Richland County Courthouse (the bid). On June 21, 2013, Appellant was contacted by Susan Goldston (Manager, Master-in-Equity) to give notice that the Master wanted to hold a status conference at the courthouse to discuss the loan proceedings.

On July 30, 2013, the Master signed the Order to Vacate Sale and later returned the 5% Deposit to the Appellant.

FACTS

Appellant, Willie Zimmerman, was the successful bidder on a foreclosed residential property (25 Sunturf Circle, Columbia, South Carolina 29223) at the Richland County Courthouse (the bid). Appellant also remitted the required 5% deposit of \$17,600.00. Appellant and Movement Mortgage, LLC (Lender) received an electronic copy of the signed purchase agreement (the contract) from Bernstein Law Firm (Closing Attorney). On or about April 16, 2013, the Lender requested from Bernstein Law Firm an extension of time to comply with the bid. Amber Gee (Bernstein Law Firm) contacted Korn Law Firm (Respondent) and made the request on the Lender's behalf. Korn Law Firm gave written approval to extend the compliance deadline to May 15, 2013.

On May 09, 2013, Appellant called Earle Reese (Paralegal/Post Sale Manager at Korn Law Firm) to give a status report and to inquire if Bank of America NA would accept \$10,800.00 less than the \$352,000.00 bid price. Knowing that the compliance deadline was six days away, Appellant was looking at "all available options" in an effort to close by May 15, 2013. Earle Reese instructed the Appellant to attach a formal letter to an e-mail, requesting an adjustment.

Appellant waited a total of 40 days to hear from Respondent on whether the May 10 request had been accepted. Appellant logged more than ten calls and five e-mails requesting updates. On June 18, Earle Reese forwarded an "Approved" e-mail from the Respondent, approving the adjusted price of \$341,200.00.

1. BECAUSE APPELLANT IN NO WAY CONTRIBUTED TO THE MISTAKE MADE BY THE RESPONDENT, THE COURT ERRED IN SETTING ASIDE THE FORECLOUSE SALE 3
2. BECAUSE THE JUDICIAL SALE NEITHER INVOLVED AN INADEQUATE PRICE SO GROSS AS TO SHOCK THE CONSCIENCE, NOR WERE THERE OTHER CIRCUMSTANCES THAT WARRANTED INTERFERENCE FROM THE COURT, THE COURT ERRED IN SETTING ASIDE THE FORECLOUSE SALE..... 3

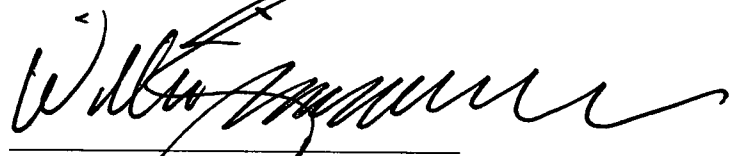
The law is well established that the policy of the Courts to uphold judicial sales when regularly made, and when it can be done without violating principle or doing injustice. A judicial sale will not be set aside except for cogent reasons. The purpose of the law and of proceeding in which a sale has been decreed is that it shall be final. Spillers v. Clay. 233 S.C. 99, 104, 103 S.E. 2d 759, 761-62 (1958)

If neither the officer making the sale (nor the purchaser), contributed to the mistake, and the sale was fair and regularly conducted, the sale shall not be set aside.

CONCLUSION

The Court erred in setting aside the sale because of a mistake of the Respondent, Bank of America. The voiding of the sale by the Master-in-Equity should be reversed.

Respectfully submitted

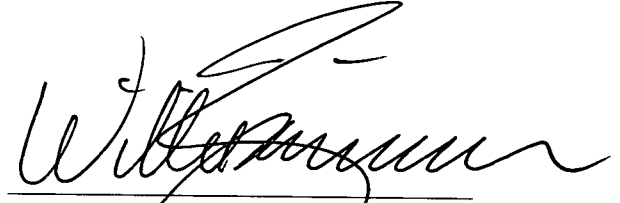


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February 18, 2015

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Briefing complies with Rule 211(b), SCACR.



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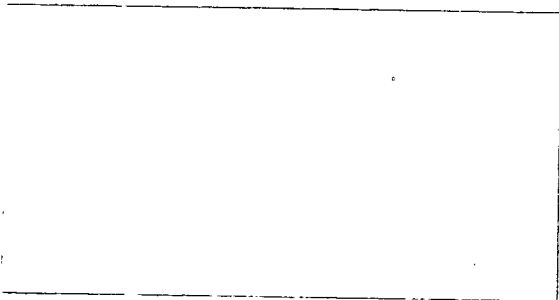
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And Willie Zimmerman, Third Party Participant,Appellant

PROOF OF SERVICE

I, Willie Zimmerman, served upon the Respondent this FINAL BRIEF OF APPELLANT by placing the same in the United States Mail, first class postage prepaid, addressed to the following as shown this 18th day of February, 2015.



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