

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Winrose Homeowners' Association, Inc.

Plaintiff

vs.

Devery A. Hale and Tina T. Hale

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

**ORDER ON DEFENDANT'S
MOTION TO VACATE SALE**

C/A No. 2014-CP-40-0847

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THIS MATTER came before me on February 6, 2015 on Defendants, Devery and Tina Hale's, Motion to Vacate Sale for Inadequacy of Bid. Present at the hearing was Eric C. Hale, attorney for the successful bidder at the foreclosure sale herein, Regime Solutions, LLC, and Brian Boger, attorney for Defendants. Also present at the hearing was Stephanie Trotter, attorney for Plaintiff.

This is an action arising from the foreclosure of a homeowner's association lien. The property located at 25 Caddis Creek Court Irmo, South Carolina 29063 was foreclosed on due to a homeowner's association lien and sold at judicial sale on August 4, 2014 subject to any and all valid senior encumbrances on the property, including but not limited to a recorded mortgage on the subject property in the Richland County ROD at Book R 64, Page 617 and in the amount of \$99,037.00. The winning bidder, Regime Solutions, paid the bid price of \$3,036.00 into the court. This Court issued a Master's Deed to Regime Solutions which was filed on August 22, 2014 in the Richland County ROD in Book 1968, Page 266. Thereafter Regime Solutions sought to be put in possession of the property and filed a Rule to Show Cause on September 16, 2014. Defendants' Motion to Vacate Sale followed and was considered in advance of ruling on Regime Solutions' Rule to Show Cause as the outcome of Defendants' motion was controlling over Regime Solutions' motion. Defendants' Motion to Vacate Sale asks this court to rule that the sale price "shocks the conscience" and to accordingly set aside the sale due to the inadequacy of the bid. It is undisputed that Regime Solutions purchased the property subject to the

aforementioned senior mortgage. Additionally, Defendants offered competent evidence that the principal balance presently owing on said mortgage is \$66,004.00. It is also undisputed that the present fair market value of the subject property is estimated to be approximately \$128,000.

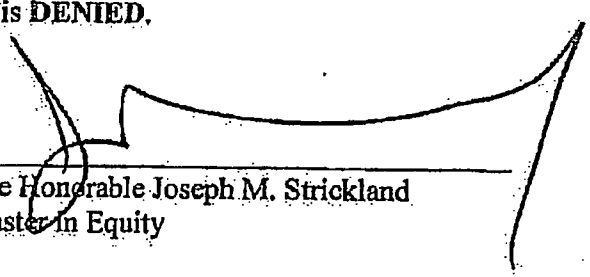
After consideration of the motions, filings, and arguments of the respective parties, this Court concludes as follows:

Defendants argue that the bid price of \$3,036 shocks the conscience due to the South Carolina Court of Appeals' observation that "South Carolina jurisprudence reveals only when judicial sales are for less than ten percent of a property's actual value, have our courts consistently held the discrepancy to shock the conscience of the court. *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 359, 644 S.E.2d 802, 807 (Ct. App. 2007). The defendants calculate the bid price as constituting only 2.37% of the value of the subject property. However, this Court declines to adopt the calculation advanced by Defendants and instead adopts the calculation of the bid amount in the fashion set forth in the South Carolina Supreme Court case *Arrow Bonding Company v. Warren* 399 S.C. 603, 732 S.E.2d 622, 623 (2002).

Accordingly, the appropriate measure of the effective sales price is the bid amount, \$3,036, plus the encumbrances against the property, \$66,004 according to the evidence offered by Defendants, for a total effective sale price of \$69,040. This effective sales price is then divided by the value of the property, \$128,000, to calculate a percentage of the property value, 54% of estimated fair market value. This is far and above what South Carolina courts have routinely considered shocking to the conscience and therefore I conclude that the bid of Regime Solutions is not grossly inadequate or shocking to the conscience and the sale should not be set aside. In so concluding the Court has also considered that the practice of homeowners' association foreclosures would effectively be eradicated if the defendants' position came to bear. Virtually no foreclosures of this type would pass scrutiny if encumbrances and liens are not considered when calculating the appropriateness of a bid amount.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

that Defendants' Motion to Vacate Sale is **DENIED**.



The Honorable Joseph M. Strickland
Master in Equity

Dated: April 13, 2015
Columbia, South Carolina