

REPLY BRIEF

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 28 2015
SC Court of Appeals

APPEAL FROM DILLON COUNTY
Court of Common Pleas

Harry Easterling, Jr., Special Referee

Case No. 2015-000985

Bank of America, N.A., successor by
Merger to BAC Home Loans Servicing, LP
f/k/a Countrywide Home Loan Servicing, LLP,

Respondent

v.

Shawn Bethea,

Appellant

August 27, 2015

Shawn Bethea

Shawn Bethea, Pro Se
1317 Gordonville Court
Dillon, SC 29536
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TABLE OF CONTENTS

Table of contents..... i
Reply statement of facts..... 1
Reply argument
 1. RESPONDENT STATES MOBILE HOME IS A PERMANENT
 FIXTURE..... 1
 2. THE SPECIAL REFEREE IMPROPERLY GRANTED
 SUMMARY JUDGMENT TO BANK OF AMERICA..... 2
Conclusion..... 3
Certificate of service..... 4

REPLY STATEMENT OF FACTS

In 2004 Appellant successfully file bankruptcy. In 2010 Appellant found out home was not legally recorded as real property. Through the DMV and Title Insurance, Appellant discovered the title was not in his name and sought to rectify the problem. Appellant began charging storage fees. In 2011 the Appellant properly served the Respondent and Respondent failed to appear in court and therefore the Magistrate Court was within its jurisdiction to sell the personal property. Appellant settled his storage fees by assuming ownership of the mobile home and a title was issued.

REPLY ARGUMENT

I. RESPONDENT STATES MOBILE HOME IS A PERMANENT FIXTURE POINT 1

The respondent points out S.C. Code § 56-10-510 which allows a person to retire title to a mobile home by satisfying two elements (1) making it a fixture on the land by removing the wheels, axles, and towing hitch and (2) filing an affidavit with the register of deeds-enacted in 2005. Ms. Davis signed the affidavit in 2000. However, the first element was not met by Ms. Davis. In 2002, the appellant was the one to complete the first element. Establishing that Appellant made repairs or furnished material for repairs to the home qualifies him to charge storage fees. The Manufactured Housing Affidavit signed by Ms. Davis was created just for the purpose of obtaining one tax notice for Ms. Davis. (See affidavit)

As a requirement for retiring or de-titling a mobile home, the proper documents were never sent to the DMV. In fact, the submitted Manufactured Home Affidavit form

submitted by Ms. Davis specifically states, at the bottom of the document, that the document was created just for the “purpose of Ms. Davis to receive one tax notice.” It further states the “mobile home will not be de-titled.” Therefore the DMV retained possession of the title until Appellant legally acquired it.

POINT 2

The Respondent argues (brief pg 2) that both the deed conveying the property to appellant and the mortgage securing the loan specifically referenced the mobile home in their respective legal terms. Just because two items are sold at the same time doesn't mean it's one. The deed and mortgage only points out that the property and land was both sold at the same time under the same loan. There is no wording on either document that states the home and land was real property. In fact, the respondent admits that the execution of the Note at issue here did not specifically reference the mobile home. (Respondent brief pg 2)

**II. THE SPECIAL REFEREE IMPROPERLY GRANTED SUMMARY
JUDGMENT TO
BANK OF AMERICA
POINT 1**

The special referee abused his discretion by overlooking the affidavit which states the mobile home is not a permanent fixture. The special referee repeatedly failed to allow appellant's witness to testify to the facts of the case and wrongfully voided the Magistrate Court order. Nevertheless, the Respondent failed to produce any evidence showing ownership of the property. Furthermore, Respondent offered no case law to support the assertion that Appellant is subject to foreclosure proceedings.

CONCLUSION

Considering all the evidence offered by the Respondent in the light most favorable to them, the judge had no discretion in such circumstances to disregard appellant's constitutional right. The Appellant pointed out genuine interest of material fact relative to the case. The Appellant legally obtained possession of the property through Bankruptcy Court and Magistrate Court; therefore the Respondent's claim against the Appellant is irrelevant.

Even if this court considers the respondent's claims, rejecting all other evidence, show that the court committed not merely reversible error, but has committed both manifest injustice and a grave miscarriage of justice. The special referee's judgment should be rejected.

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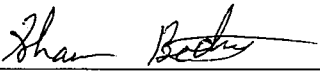
Certificate of Service

The undersigned certifies that this reply brief was served on Respondent by fax (704) 444-8738 and by depositing a copy thereof in the United States Mail, first class, postage prepaid, address to:

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This 27th day of August.



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