

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
Case No. 2012-CP-42-3549
Case No. 2012-CP-42-2874

U.S. Bank, NA, as trustee relating to the)
Chevy Chase Funding, LLC Mortgage)
Backed Certificates, Series 2004-B,)
Plaintiff,)

v.)
Alyce F. Otto, Individually; Alyce F. Otto)
Trustee Under Declaration of Trust of)
Alyce F. Otto dated the 17th of November)
2009; TD Bank, NA; The United States)
of America, acting by and through its)
agency, the Internal Revenue service;)
Laura Kerhulas Giese, as Co-Trustee of the)
Theodore Ernest Kerhulas Trust Under)
Declaration of Trust dated May 25, 2004;)
Mrk Warner Kerhulas, as Co-Trustee of)
the Theodore Ernest Kerhulas Trust Under)
Declaration of Trust dated may 25, 2004;)
Jackson L. Munsey, Jr.; Citibank, N.A.;)
Defendants.)

ORDER AS TO OTTO VS. MUNSEY

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And)
Alyce F. Otto, Trustee,)
Plaintiff,)
v.)
Jackson L. Munsey, Jr.,)
Defendants.)

A hearing was held before me on November 24, 2015 in these two cases which were consolidated, one arising out of the foreclosure of the first mortgage against the subject property, the other arising out of the foreclosure of a Contract for Deed between these parties as to the same property. This Order relates to the foreclosure and termination of the Contract for Deed. At the time scheduled for hearing, the Court heard testimony and received evidence as to both cases. This Order relates to the action between these parties.

FINDINGS OF FACT

1. I find that this Court has jurisdiction of the parties and subject matter of this action.
2. I find that the parties entered a certain Contract for Deed as to property located at 1825 Fairview Farms Road, Campobello, SC on March 4, 2011, by which the Defendant Munsey was

to purchase from Otto the subject property. This was to be done by paying a total of One Million Four Hundred Thousand and no/100 (\$1,400,000) Dollars for the property. The essence of this transaction was that Munsey was to make a cash downpayment to Otto but then was to take on the responsibility of making the first mortgage payment on the property directly to the first mortgage holder, make the second mortgage payment directly to the second mortgage holder, make a third mortgage payment directly back to Otto, pay the Homeowners Association dues and assessments and any other costs associated with the property. If all such payments were made, the property would ultimately belong to Munsey.

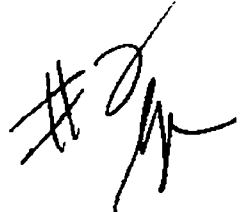
3. I find that Munsey has failed to make all payments required by the Contract for Deed, which has resulted in foreclosure of the property by the first mortgager holder and default on the other obligations.

4. I find that, in light of the foreclosure by the first mortgage holder, Otto has waived her right to foreclose on the Contract for Deed and instead has elected to seek judgment against Munsey for amounts due under the Contract for Deed.

5. I find that the amount due Otto as a result of the default in the Contract for Deed are as shown on the attached Exhibit A, which is established through testimony and evidence presented at the hearing, giving all appropriate credits to Munsey.

6. I find that, since the first mortgage holder which brought the foreclosure action has waived any deficiency judgment against Otto, the amount actually due the first mortgage holder and for which Otto should have claim against Munsey should be adjusted based on the actual foreclosure sale, the amount of the judgment against Munsey should likewise be adjusted once the foreclosure sale occurs. Therefore, the actual amount of the judgment against Munsey will be adjusted after the foreclosure sale occurs on February 1, 2015. Therefore, this Court reserves the right to enter a Supplemental Order concerning the judgment amount.

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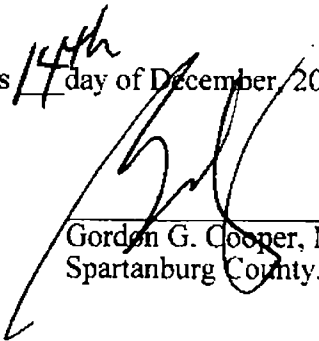


7. I find that since the actual amount of judgment will not be entered until after the foreclosure sale, Munsey's rights to the property shall not terminate until the foreclosure sale and he shall not be required to deliver possession of the property until the time specified in the Order of Foreclosure.

NOW, THEREFORE, I CONCLUDE AND IT IS ORDERED that Otto have judgment against Munsey in the amount shown on the attached Exhibit A, subject to revision by Supplemental Order following the foreclosure sale.

IT IS FURTHER ORDERED that Munsey's rights in the property and rights under the Contract for Deed are hereby terminated and possession is to be delivered according to the terms of the Order of Foreclosure.

AND IT IS SO ORDERED this 14th day of December, 2015.



Gordon G. Cooper, Master-In-Equity
Spartanburg County, SC

Spartanburg, SC

CLERK OF COURT
SPARTANBURG COUNTY, SC
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December 11, 2015

Hon. Gordon G. Cooper
Master-In-Equity
County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Otto v Munsey, Case No. 2012-CP-42-3549 and 2874

Dear Judge Cooper:

Enclosed is the Order issued as a result of the November 24 hearing. If you think any changes are necessary, please let me know. Otherwise, please sign the Order and ask your staff to return a filed copy to me in the envelope provided.

Very truly yours,



Kenneth C. Anthony, Jr.

KCAjr:cmh
Enclosure
cc: Erin Culbertson, Esq.
Erica Lybrand, Esq.
David Walsh, Esq.

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