THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Hon. Joseph M. Strickland, Master-In-Equity

Case No. 2015-001807

Winrose Homeowners' Association, Inc. and Regime Solutions, LLC.....Respondents,

v.

Devery A. Hale and Tina T. Hale.....Appellants.

FINAL BRIEF OF RESPONDENT, REGIME SOLUTIONS, LLC

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II. WHETHER THE EQUITABLE PRINCIPLES ADVANCED BY APPELLANTS IN THE INSTANT APPEAL WERE PROPERLY RAISED TO THE TRIAL COURT FOR CONSIDERATION AND, IF SO, WHETHER THE TRIAL COURT COMMITTED ERROR IN ITS APPLICATION OF EQUITABLE PRINCIPLES TO THE CIRCUMSTANCES OF THIS CASE.

STATEMENT OF THE CASE

This appeal arises from the denial of Appellants' Motion to Vacate Sale of a homeowner's association (HOA) foreclosure of lien. On February 24, 2014 Respondent, Winrose Homeowner's Association, Inc. ("Winrose") filed a Complaint for foreclosure of a HOA lien against 25 Caddis Creek Court, Irmo, SC 29063. (R.p 16-17). Thereafter the Appellants were served with the same and they failed to issue a responsive pleading or otherwise appear and defend the action for foreclosure. (R.p 2-4; 16-17; 18-19; 20; 48-49). Accordingly, the case was referred to the Master-in-Equity, who thereafter issued a decree of foreclosure. (R.p 2-4; 6-11; 20). Thereafter the subject property 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. (R.p. 6-11). The winning bidder, Regime Solutions, LLC (RS), paid the bid price of $3,036.00 into the court. (R.p. 92-94). This Court issued a Master's Deed to RS which was filed on August 22, 2014 in the Richland County ROD in Book 1968, Page 266.

(R.p. 92-94; Master's Deed). Thereafter RS sought to be put in possession of the property and filed a Rule to Show Cause on September 16, 2014. (R.p. 21-24). Appellants' Motion to Vacate Sale followed and was considered in advance of ruling on RS' Rule to Show Cause as the outcome of Defendants' motion was controlling over RS' motion. (R.p 63). The Appellants' Motion to Vacate Sale was heard on February 6, 2015 by the Honorable Joseph M. Strickland, Master-in-Equity for Richland County and on April 21, 2015 Judge Strickland filed an Order Denying the Motion to Vacate Sale. (R.p. 12-14). Appellants filed the instant Notice of Appeal on August 21, 2015.

FACTS

The sole basis for setting aside the sale advanced by Appellants' Motion to Vacate Sale was that the sale price "shocks the conscience". (R.p. 29-47). No additional or contributing factors were asserted by Appellants in their motion. It is undisputed that RS purchased the property subject 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. (R.p. 6-11). Additionally, Defendants offered evidence that the principal balance presently owing on said mortgage is $66,004.00, which was not disputed by any party. (R.p. 29-47; 70, 8:10-9:10). It is also not disputed that the present fair market value of the subject property is estimated to be approximately $128,000. (R.p. 29-47; 72, 10:22 – 10:25).

STANDARD OF REVIEW

"A real estate foreclosure is an action in equity." *MI Co., Ltd. v. McLean*, 325 S.C. 616, 482 S.E.2d 597 (Ct. App. 1997). In an action in equity referred to a master for final judgment, an

appellate court may find facts according to its own view of the preponderance of the evidence; however, it is not required to ignore the trial judge's findings. *K & A Acquisition Group, LLC v. Island Pointe, LLC*, 383 S.C. 563, 571, 682 S.E.2d 252, 256-57 (2009). However, the determination of whether a judicial sale should be set aside is a matter left to the sound discretion of the trial court. *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008). "An abuse of discretion occurs when the conclusions of the circuit court are either controlled by an error of law or are based on unsupported factual conclusions." *Carson v. CSX Transp., Inc.*, 400 S.C. 221, 229, 734 S.E.2d 148, 152 (2012). The appellant in an equity matter has the burden of persuading the appellate court of reversible error. *Pinckney v. Warren*, 344 S.C. 382, 544 S.E.2d 620 (2001).

ARGUMENTS

A judicial sale can be set aside for two reasons: (1) if the inadequacy of the price is so gross as to shock the conscience of the court; or (2) if the price is inadequate and this inadequacy is accompanied by other circumstances that warrant the interference of the court. *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008) (quoting *Poole v. Jefferson Standard Life Ins. Co.*, 174 S.C. 150, 157, 177 S.E. 24, 27 (1934)). Mere inadequacy of sale price is no ground for setting a judicial sale aside unless some unfair means have been employed to prevent competition at a judicial sale. *Ex parte Cooley*, 69 S.C. 143, 154-55, 48 S.E. 92, 95 (1904). Circumstances warranting interference of the court "should relate to the conduct of the officer making the sale ... or to the conduct of the purchaser ... in the attempt to stifle competition ...". *In re Wallace*, 179 S.C. 480, 484, 184 S.E. 849, 851 (1936). "South Carolina has not established a bright line rule for what percentage the sale value must be with

respect to the actual value in order to shock the conscience of the court." *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 71, 762 S.E.2d 729, 734 (Ct. App., 2014); citing *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 359, 644 S.E.2d 802, 807 (Ct. App. 2007). "However, a search of 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 conscience of the court." *Id.* In a junior lien sale, unlike a senior mortgage foreclosure sale, the buyer takes the property subject to any senior mortgage as well as other senior liens and therefore the trial court must consider the amount of mortgages and other liens in determining the true value of a property to a buyer at a judicial sale. *Arrow Bonding Co. v. Warren*, 399 S.C. 603, 732 S.E.2d 622 (2012); citing *Norman v. Norman*, 26 S.C. 41, 11 S.E. 1096 (1886).

Although the identical situation herein has not been addressed by the appellate courts of this State, the Supreme Court in *Arrow Bonding Co. v. Warren*, 399 S.C. 603, 732 S.E.2d 622 (2012) addressed a closely analogous situation and came to the same conclusion as the trial court in this case. Respondent asks that the Court affirm the judgment of the trial court for the reasons detailed below.

I. THE TRIAL COURT EMPLOYED A PROPER CALCULATION IN DECIDING WHETHER THE BID SHOCKED THE CONSCIENCE OF THE COURT.

South Carolina has not established a bright line rule for what percentage the sale price must be with respect to the actual value in order to shock the conscience of the court. *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 71, 762 S.E.2d 729, 734 (Ct. App., 2014). "However, a search of 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 conscience of the court." *Id.* Although the adequacy of a bid in exact circumstances of

this case has not been addressed by the appellate courts of this State, Respondent contends *Arrow Bonding Co. v. Warren*, 399 S.C. 603, 732 S.E.2d 622 (2012) addressed a closely analogous situation and is controlling in this case.

In *Arrow* the Appellant, Warren, appealed the denial of his Motion to Set Aside Sale. *Id.* Respondent, Arrow Bonding Company, obtained a $5,120.00 judgment against Warren. In August 2007, the clerk issued a Judgment Execution, and on September 19, 2007, the sheriff issued an Execution Account Statement. *Id.*, 399 S.C. at 605. Respondent brought an action to foreclose its judgment lien, which Warren did not answer, and the clerk granted Respondent's motions, ordering entry of the default against Warren, and referring the matter to the Master-in-Equity for a judicial sale. *Id.* The Master issued a deed to Respondent, who was the successful bidder on all of Warren's properties. *Id.* Warren filed a Motion to Set Aside the Sale, which the Master-in-Equity denied. *Id.* On appeal, the Supreme Court concluded that the Master-in-Equity did not err in refusing to set aside the sale. *Id.*

There are two significant distinctions in the *Arrow* case that are particularly applicable to the instant case: (1) the calculation employed by the Master in determining whether the selling price was grossly inadequate; and (2) the distinction the Court drew between adequacy of sales price in mortgage foreclosure sales as opposed to other sales where the buyer takes the property subject to mortgage as well as other liens. The Master found that tax assessment records submitted by Warren reflected a combined value of $263,121 and were sufficient to establish the value of the properties sold. *Id.*, 399 S.C. at 606. Although the Master noted the sale price of $2,500 when compared to the $263,121 assessed value of the property would normally shock the conscience, the Master went on to find that there existed mortgage liens totaling more than

$88,000 and a federal tax lien in excess of $12,000 which should be considered in determining the effective sales price paid by the buyer. *Id.* Since the properties sold remained encumbered by the mortgages and the tax lien, the Master added $100,000 to the sales price for a total of $102,500 and concluded that the effective sales price of $102,500 represented about 39%, which did not justify setting aside the sale. Although Warren argued on appeal that the Master erred in not judging inadequacy of sale price by comparing the sales price to the properties' value, without considering mortgages or liens, citing *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct.App.1990), and *Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (2008), the Supreme Court disagreed and concluded that in a sale where the buyer takes property subject to mortgage and other liens the Master properly considered the amount of mortgages and liens in determining the true value of the property to the buyer at sale. *Id.*, 399 S.C. at 607. In so ruling, the Supreme Court specifically distinguished both *Phelps* and *Wells Fargo*:

> In both Phelps and Wells Fargo the judicial sale was to foreclose a mortgage rather than a sale in execution of a judgment. The effect of a mortgage foreclosure sale is to remove the mortgage encumbrance from the property, and therefore the amount of the mortgage is a fair gauge of the property's value in the hands of the buyer. In a judgment execution sale such as this, however, the buyer takes the property subject to the mortgage as well as other liens. [citation omitted] The Master properly considered the amount of the mortgages and tax liens in determining the true value of the properties to the buyer at an execution sale.

Id. Accordingly, the Court concluded Warren did not met his burden of showing an abuse of discretion in the Master's finding that the sale price was not so grossly inadequate as to shock the conscience.

Similarly, in the present action Appellants appealed the denial of their Motion to Set Aside Sale based upon the alleged error of the Master to consider the inadequacy of sale price by comparing the sales price to the properties' value, without considering mortgages or liens. As in *Arrow*, the Master in the instant case found that evidence submitted by the parties reflected a property value of $128,000. (R.p. 12-15). Likewise, the Master in the instant case went on to find that there exists a mortgage lien totaling $66,004. (R.p. 12-15). Since the property sold remained encumbered by the mortgage, the Master added $66,004 to the sales price of $3,036 and concluded that the effective sales price of $69,040 represented about 54% of the property's value, which did not justify setting aside the sale. (R.p. 12-15).

The only other case cited by the Appellants for the proposition that the calculation of the sales price should not consider senior liens is *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 762 S.E.2d 729 (Ct. App., 2014). *Bloody Point* is admittedly a HOA foreclosure case addressing the adequacy of a bid amount, but it does not address the issue of whether senior liens need be considered in determining a sales price. Not once in the entire opinion is there a discussion of the existence of or the propriety of considering senior liens continuing to encumber the property purchased by the buyer at the foreclosure sale. In fact, contrary to the Appellant's assertion, the Master in *Bloody Point* determined that the buyer had paid an effective sales price of $11,593.20 for the property, which figure was derived from the amount of the buyers bid amount of $8,800 **plus** "$2,793 in taxes and fees unpaid by Appellants" and therefore added to the sale price. *Id.*, 762 S.E.2d at 731. This addition of taxes and fees to the sales price was implicitly adopted by the *Bloody Point* Court in its determination that the Respondents purchased the property for $11,593.20 and that the "master applied the correct legal standard in making his

determination." *Id.*, 762 S.E.2d at 734. Therefore, Appellants have not met their burden of showing an abuse of discretion in the Master's finding that Respondent's bid is not so grossly inadequate as to shock the conscience and accordingly the finding of the court below should be affirmed.

a. Equity in a property is an improper and unworkable consideration in determining whether a bid shocks the conscience of the court

Contrary to Appellants' assertion, as set forth *supra* there is precedent in South Carolina for how the percentage is determined to decide whether a bid shocks the conscience of the court. On the other hand, there is absolutely no precedent for is the proposition that equity in a home is to be considered in such a calculation. Nothing is more demonstrative of this fact than the Appellants' reliance on a calculation loosely mentioned by the non-binding precedent set forth by the United States Bankruptcy Court of the Southern District of New York in *In re 824 South East Boulevard, Inc.*, No. 12-01028, 2012 WL 3561981 (S.D.N.Y. Aug. 17, 2012). What is telling about this particular case is the entire discussion of whether a sales price would shock the conscience is dicta by the *In re 824* Court:

> Calculation of the percentage of fair market value paid ... requires a determination of the status of the Judgment Lien and possibly the value of the Premises, neither of which is feasible on the present record. ... New York docketing statutes, including CPLR 5018 and 5203, do not appear to address this issue, which has not been briefed, and the judgment creditors have not appeared on this motion. ... As the Defendants conceded at oral argument, resolving this issue may require an evidentiary hearing, depending on the outcome of Expo's litigation regarding the status of the Judgment Lien.

Id. The fact is, the *In re 824* Court made no conclusions or determination concerning whether the sale price shocks the conscience, concluding simply that there was insufficient information before the court for such a determination, that such a determination was contingent on the

disposition of a related case, and the Court therefore denied "summary judgment without prejudice to renewal on the issue of whether the sale price paid at the foreclosure sale was unconscionably low and therefore 17 may be avoided under BFP and Bankruptcy Code § 548(a)(1)(B)." *Id.*

Perhaps more persuasive than the dicta of the United States Bankruptcy Court of the Southern District of New York is the fact that there is no binding precedent in this State to support the contention that equity is a consideration in the determination of the adequacy of a judicial sales price. There are a host of cases discussing the valuation of property and the determination of an effective sale price paid by a buyer (see *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct.App.1990); *Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (2008); *Arrow Bonding Co. v. Warren*, 399 S.C. 603, 732 S.E.2d 622 (2012); and *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 762 S.E.2d 729 (Ct. App., 2014). However, there is not one that adequacy of a sales price in terms of equity. Perhaps this is because it is simply a quantity that is unknowable by the court, the foreclosing party, or the innocent purchaser for value. The only party to a foreclosure action with that knowledge would be the foreclosed homeowner. The fact is that Mortgage Notes are not recorded as part of real estate transactions in South Carolina. While the Mortgage or pledge of property as collateral is recorded the Note or obligation for repayment is not. So the affected homeowner is the party uniquely in possession of or capable of gaining possession of this information. There are a host of statutes prohibiting the disclosure of non-public personal information to anyone other than the borrower or his designee: *Gramm-Leach-Bliley Financial Services Modernization Act* (GLB Act), Title V of the Financial Services Modernization Act of 1999, Pub. L. No. 106-102, 113

Stat. 1338 (Nov. 12, 1999) (codified at 15 U.S.C. §§ 6801, 6809, 6821, and 6827); 16 C.F.R. part 313 (implementing privacy rules pursuant to GLB Act); *Fair Debt Collections Practices Act* (FDCPA) Pub. L. 95-109; 91 Stat. 874, September 20, 1977 (and as subsequently amended) (codified as 15 U.S.C. § 1692 –1692p) to name just a couple.

Perhaps the lack of precedent for considering equity in a determination of the adequacy of a sale price is because the information that is discernible by the court, the foreclosing party, or the innocent purchaser for value is at best speculative. While the amount and duration of a mortgage is public record, one can only speculate as to the status of the loan that the mortgage secures. It is quite possible the underlying loan is an interest only loan with a balloon payment where the only equity discernible would be appreciation in the value of the property. It is also possible that the loan instrument that is not public record contemplates future advances or was modified by the lender at some time between the loans origination and the present action.

Perhaps the lack of precedent for considering equity in a determination of the adequacy of a sale price is because the only information available concerning the value of a property that is discernible by the court, the foreclosing party, or the innocent purchaser for value is the tax assessed value. This value might be inaccurate for any number of reasons: the condition of the property has significantly improved or declined since the last assessment; the property has not been revalued by the tax assessor for a lengthy period; prior assessments were deflated or inflated due to the comparable sales in a neighborhood, etc.

The simple truth is that a determination of equity without the provision of information by the affected homeowner is speculation and conjecture. In fact, the *Arrow Bonding* Court stated that there was no authority which requires or permits the trial court to conduct a title search,

discover liens, determine the value of property and then calculate an adequate sale price. 399 S.C. 603, 608, 732 S.E.2d 622, 625 (2012). Using equity in determining the adequacy of a bid is not supported by any precedent in this State, represents an unworkable calculation, and improperly shifts the burden upon the trial court, the foreclosing party or the innocent purchaser for value to divine such a calculation. Therefore, this Court should reject the notion that equity should be considered in determining the adequacy of a bid at a judicial sale.

b. **In the alternative the affected if equity is to be considered as an alternative valuation method the burden for so proving should be shifted to the affected homeowner.**

In the alternative, if this Court is inclined to entertain equity as a novel alternative the existing precedential determination of the adequacy of a bid amount at a judicial sale, the Respondent suggests that the burden for so proving be shifted to the affected homeowner(s). As set forth *supra*, the affected homeowner(s) is in the best position to provide information on the equity in a property. Although there is no precedent for such a requirement, if this Court were to adopt a calculation including equity it would be consistent with the spirit of existing law to require the affected homeowner(s) to provide evidence of that equity. For instance, Rule 71(a) SCRCP provides that any party who has appeared in the action may present proof that the debt may be satisfied by selling the property in parcels, rather than selling the whole to satisfy the claims. Likewise, in the present circumstances, if the Court were to adopt equity as an alternative calculation to determine the adequacy of a bid, any party who has appeared, including the affected homeowner, could present proof that there is equity in the property such that the court could fashion a minimum bid amount that would not shock the conscience of the court. Although Respondent feels that this would have a chilling effect on competitive bidding and would place an unnecessary burden on the proceedings in light of existing precedent, if this

Court is inclined to adopt an equity calculation model Respondent would offer that placing the burden on affected party prior to sale is the only just and equitable way to do so.

This requirement on the burden would also be consistent with the existing law concerning bona fide purchasers at foreclosure sales. To be considered a bona fide purchaser without notice a party must show (1) actual payments of the purchase price of the property, (2) acquisition of legal title to the property, or the best right to it, and (3) a bona fide purchase. *Robinson v. Estate of Harris*, 378 S.C. 140, 662 S.E.2d 420, 423, (S.C. App., 2008). A bona fide purchase is "in good faith and with integrity of dealing, without notice of a lien or defect." *Spence v. Spence*, 368 S.C. 106, 117, 628 S.E.2d 869, 874-75 (2006). There have been no allegations by the Appellants that Respondent has not satisfied each of the foregoing requirements.

The South Carolina Supreme Court in *Cumbie v. Newberry* held:

> A sound public policy requires that the validity of judicial sales be upheld, if in reason and justice it can be done. In the furtherance of this principal, our decisions have applied the general rule, applicable here, that a purchaser in good faith at a judicial sale is not affected by irregularities in the proceedings or even error in the judgment, under which the sale is made; but is required at his peril only to make inquiry as to the jurisdiction of the court which ordered the sale, and whether all proper parties were before the court when the order was made.

(*Cumbie v. Newberry*, 251 S.C. 33, 37, 159 S.E. 2.d 915 (1968) (citing *Wingard v. Hennessee,* 206 S.C. 159, 33 S.E.2d 390; *Brownlee v. Miller,* 208 S.C. 252, 37 S.E.2d 658; *Bennett v. Floyd*, 237 S.C. 64, 115 S.E.2d 659).) Similarly, Respondent herein can only be charged with matters that are of the public record. If the affected homeowner established, prior to sale, that there was equity in the property then any would be bidder would be on notice that the bid amount needed to be a certain amount to be beyond challenge for adequacy. Even if this methodology is adopt with approval from this Court, the outcome of this particular action is nonetheless unchanged as

the Respondent, as bona fide purchaser, cannot be charge with knowledge concerning the equity in the property which was not a matter of public record. Therefore, the ruling of the Master below should be affirmed.

II. THE EQUITABLE PRINCIPLES ADVANCED BY APPELLANTS IN THE INSTANT APPEAL WERE NOT PROPERLY RAISED TO THE TRIAL COURT FOR CONSIDERATION.

Much is made by the Appellants of the alleged inequities in this case and the failure of the court to address equitable maxims in its Order denying Appellants' motion to vacate sale. However, what is not mentioned by Appellants is not once in their motion or at the hearing on their motion did the Appellants seek to invoke any particular maxim, stating only that "this Court has the ability in its gavel to do equity where perhaps equity should be done." (R.p. 81-82, 19:25 – 20:1). And factually in support of this loose equitable power the Appellants seek to invoke they offer only that they are hard-working people, that they stand to lose significant equity, that they attempted to offer a settlement to the Respondent, and that the Respondent was being unreasonable. (R.p. 80-82, 18:18-22, 20:2-10).

"Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide us with a platform for meaningful appellate review." *Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006). Issue preservation requires, at a minimum that an issue be raised and ruled upon by the trial judge. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). It is "axiomatic that an issue cannot be raised for the first time on appeal." *Id.* This requirement "is meant to enable the lower court to rule properly after it has considered all relevant facts, law,

and arguments." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

In the instant action the Appellants never advanced any of the equitable maxims now being invoked for the first time on appeal. The closest the Appellants came was to implore the trial judge's ability to use his gavel in furtherance of equity. Moreover, should the Appellants have desired the trial court to make a ruling on equitable issues they allegedly raised they had recourse to seek relief under Rule 59(e) SCRCP. "Where a matter is not ruled on by the Circuit Court, the issue is not preserved for appellate review unless the complaining party moves to amend the judgment pursuant to 59(e)." *Vespazianni v. McAlister*, 307 S.C. 411, 413, 415 S.E.2d 427, 428 (Ct. App. 1992); see also *Skinner v. Elrod*, 308 S.C. 239, 417 S.E.2d 599, 602 (Ct. App. 1992) (to properly preserve an issue for appeal one must make a motion for the master to alter or amend his order regarding a specific allegation). For this reason the equitable arguments advanced by Appellants are not properly before this court and therefore the order of the Master below should be affirmed.

a. **Even if this Court were inclined to review the equitable maxims raised, equity nonetheless favors the Respondent.**

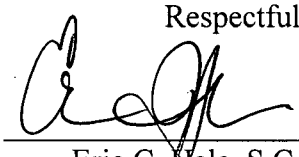
Equity aids the vigilant, not those who slumber on their rights. Equity follows the law. These principles were demonstrated in the case of *Nutt Corp. v. Howell Rd., LLC*, 396 S.C. 323, 721 S.E.2d 447 (Ct. App. 2011). The *Nutt* Court found that the Respondent had an adequate remedy at law under contract and therefore seeking equitable relief was unnecessary and improper. *Id.* The *Nutt* Court went on to note that the possibility the statute of limitations potentially barring Respondent from obtaining a legal remedy was no ground in itself for allowing the Respondent to seek equitable relief. *Id.*

Similarly in the present case, it is undisputed that the Appellants were properly served and sat on their rights, issuing no responsive pleading, appearing at no hearing after notice, and in no way challenging the foreclosure. The Appellants herein could have challenged the proceedings and bid themselves at the sale to insure an adequate sale price was realized but they chose instead to wait until the sale was complete and an innocent purchaser for value was attempting to gain possession to challenge the proceedings. Equity does stand to provide a remedy to a party who sat on their rights. Equity also does not offer a remedy when there is an adequate remedy at law. For these reasons the decision of the trial court below should be affirmed.

Conclusion

For the reasons set forth above the decision of the Court below should be affirmed.

Respectfully submitted,



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PROOF OF SERVICE

I, Elias Fain, an employ with Clarkson Law Firm, LLC, attorneys for Respondent Regime Solutions, LLC certifies that I have served or caused to be served, a copy of the foregoing document upon the Appellant and Respondent Winrose Homeowners's Association, Inc this 23rd of February 2016, via United States Mail, postage prepaid, addressed to their attorney of record, Brian L. Boger 1331 Elmwood Ave, Ste. 210, Columbia, SC 29201 and Stephanie C. Trotter P.O. Box 212069, Columbia, SC 29221, respectively.

Elias Fain