

9
The State of South Carolina
In the Court of Appeal
Appeal From Darlington County
Court of Common Pleas
Case No. 2013-CP-16-0366
H. Thad White, Respondent

v.
Petro International, LLC and
Haiyan Lin, Appellants
Amended Notice of Appeal

The appellant, Haiyan Lin, has now obtained Special Referee Deed, which was filed together with the writ of Assistance on Feb. 29, 2016. It is hereby amended into the Notice of Appeal filed on March 31, 2016, dated March 21, 2016.

April 12, 2016

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APR 13 2016

SC Court of Appeals
returned
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SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, SC

FILED

Appellants
Haiyan Lin
P.O. Box 8776
Columbia, SC 29202
803-404-7163

The State of South Carolina
In the Court of Appeal
Appeal From Darlington County
Court of Common Pleas
Case No. 2013-CP-16-0366

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Certificate of Services

APR 13 2016

SC Court of Appeals

I, Haiyan Lin, certifies that I
have served the Amended Notice of Appeal
by U.S. mail to:

Bryan W. Braddock
2231 W. Palmeto St.
Florence, SC 29501

& Haigh Porter
162 S. McQueen St.
Florence, SC 29501

on April 12, 2016

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

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FILED


Appellant:

Haiyan Lin
P.O. Box 8776

Columbia, SC 29202

803-404-7163

5
 THIS PROPERTY DESIGNATED ON RECORD AS
 DEE 20-F MAP 087 SECT 00 BLK L PARCEL 031
 DIST _____ MAP _____ SECT _____ BLK _____ PARCEL _____
 DIST _____ MAP _____ SECT _____ BLK _____ PARCEL _____
 D.O.I. 02-25-16 SPLIT FROM _____
 RECEIVED 02-29-16 TIME 5:5 OUT _____
 KYLE JOHNSON ASSESSOR: COUNTY OF DARLINGTON


 Doc ID: 003020520004 Type: DEE
 Recorded: 02/29/2016 at 01:52:43 PM
 Fee Amt: \$10.00 Page 1 of 4
 Darlington County, SC
 Scott B. Suggs Clerk of Court / ROD
 BK **1077** PG **8064-8067**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON) **SPECIAL REFEREE DEED**

TO ALL WHOM THESE PRESENTS SHALL COME:

I, the undersigned, as Special Referee in and for the County aforesaid,

SEND GREETINGS:

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WHEREAS, H. Thad White, on or about April 29, 2013, exhibited its Complaint in the Court of Common Pleas, for the County aforesaid, against **Petrel International, LLC**, demanding Judgment in relation to the land hereinafter mentioned and described. The cause being at issue, came on to be heard on December 1, 2014, and such proceedings were had therein as resulted in the Decree and Judgment of the said Court, whereby it was Adjudged and Decreed that the said land hereinafter mentioned and described be sold by the Special Referee in and for the County aforesaid on the terms and for the purposes mentioned in the said Decree and Judgment, as by reference thereto on file in said Court, will appear; and the said Special Referee, after having duly advertised the said land for sale by public outcry on January 6, 2015, then openly and publicly and according to the custom of auction, sell and dispose of the same unto **H. Thad White**, for the sum of **Sixty Thousand and 00/100ths Dollars (\$60,000.00)**, being at that price the highest bid therefore.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that I, the said Special Referee, in consideration of the sum of **Sixty Thousand and 00/100ths Dollars (\$60,000.00)** to me paid by the said H. Thad White the receipt whereof is hereby acknowledged, **HAS GRANTED**, bargained, sold and released, and by these presents, **DOES GRANT**, bargain, sell and release unto the said **H. Thad White**, his heirs and assigns:

(Darlington County Tax Map #087-00-01-031)

All that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being located in the County of Darlington, State of South Carolina, designated as Tract #3 on a plat of survey made by M. E. Lind, Jr., dated October 28, 1968 and amended April 14, 1972, a copy of which is recorded in the office of the Clerk of Court for Darlington County in Plat Book 57 at Page 141. Said tract is shown on said plat as containing 7.3 acres, more or less, and is bounded according thereto on the Northwest by property of J. W. Dowling; on the East by Tract #3-A; and on the South by right-of-way of Interstate Highway #20.

ALSO: All that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being located in the County of Darlington, State of South Carolina, designated as Tract #3-A on a plat of survey made by M. E. Lind, Jr., dated October 28, 1968, and amended April 14, 1972, a copy of which is recorded in the office of the Clerk of Court for Darlington County in Plat Book 57 at Page 141. Said tract is shown on said plat as containing 5.0 acres, more or less, and is bounded according thereto on the Northwest by property of Rev. J. W. Dowling; on the Northeast by property of Rev. J. W. Dowling; on the South by right-of-way of Interstate Highway #20; and on the West by Tract #3 as shown on said plat.

For a more complete description of the above referenced tracts, reference is had to the above referred to plat.

This being the same property conveyed to H. Thad White by deed of James A. Strode and Celeste M. Strode dated December 11, 1999 and recorded in the office of the Clerk of Court for Darlington County in Deed Book D286 at Page 9.

Property Address: 4600 Lamar Highway, Lamar, SC 29069
Tax Parcel #: 087-00-01-031

GRANTEE'S ADDRESS:

1800 Mars Hill Circle

Florence, South Carolina 29501

TOGETHER with all and singular the Rights, Members, Hereditaments, and Appurtenances to the said premises belonging or in anywise incident or appertaining; and all the estate, right, title, claim, and interest whatsoever, of the parties to the cause aforesaid, and of each of them, in and to the same; and of all other persons rightfully claiming, from, under or by them or any of them.

TO HAVE AND TO HOLD, all and singular, the premises before mentioned, unto the said **H. Thad White**, his heirs and assigns forever.

IN WITNESS WHEREOF, I, the said Special Referee in and for the County aforesaid, under and by virtue of the aforesaid Decree, have hereunto set my hand and seal this 25th day of February, 2016.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Elizabeth S. Lawhon
Haigh Porter

Haigh Porter
Haigh Porter
Special Referee for Darlington County

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

PROBATE

PERSONALLY APPEARED before me, Elizabeth S. Lawhon who made oath that (s)he saw the within named **HAIGH PORTER, Special Referee for Darlington County**, sign, seal and as his act and deed deliver the within Deed and that (s)he with _____ witnessed the execution thereof.

SWORN to before me this 25th
day of February, 2016.
Haigh Porter (SEAL)
Notary Public for South Carolina
My Commission Expires: 4/14/25

Elizabeth S. Lawhon

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property being transferred is located at 4600 Lamar Highway, bearing Darlington County Tax Map Number 087-00-01-031, was transferred by Haigh Porter, Special Referee for Darlington County to H. Thad White on Feb. 25, 2016.
3. Check one of the following: The Deed is
 - (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
 - (c) X EXEMPT from the deed recording fee because foreclosure
(If exempt, please skip items 4-7 and go to item 8 of this affidavit)

If exempt under exemption #14 as described in the information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ___ or No ___

4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
 - (b) _____ The fee is computed on the fair market value of the realty which is \$ _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.

5. Check YES ___ or NO ___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes", the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The DEED Recording Fee is computed as follows:
 - (a) Place the amount listed in item 4 above: \$ _____
 - (b) Place the amount listed in item 5 above here: \$ _____
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is \$ _____.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: _____

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Haigh Porter, Special Referee
Grantor, Grantee, or Legal Representative
connected with the transaction

SWORN TO and subscribed before me
this 25th day of February, 2016.

Haigh Porter (SEAL)
Notary Public for South Carolina
My Commission Expires: 7/14/25

The South Carolina Court of Appeals
H. Thad White, Respondent

V.
Petrel International, LLC and
Haiyan Lin, Appellant
Appellate Case No. 2014-002764

Petition For Writ of Supersedeas

The appellant, Haiyan Lin, here by
files a petition For Writ of Supersedeas,
pursuance to Rule 241, SCACR, to
suspend illegal execution of writ of
the Assistance issued by Haigh Porter,
Special Referee for Darlington County.
to preserve and to protect her due pro-
cess right and equal protection right
under the law.

April 12, 2016

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Appellant
Haiyan Lin
P.O. Box 8776
Columbia, SC 29202

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DARLINGTON COUNTY, S.C.

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The South Carolina Court of Appeals

H. Thad White, Respondent

V.
Petrel International, LLC

and Haiyan Lin, Appellant

Appellate Case No. 2014-002764

Memorandum In Supporting
Petition For Writ of Supersedeas

In Supporting the Petition for Writ
of Supersedeas, the appellants shows
the following.

On March 16, 2016, the single
Judge has denied the appellants Motion
to stay the writ of Assistance. The
Rule 241(d)(2), SCACR, specifically
provides that an aggrieved party
may petition the full appellate
court panel for review of the single
Judge's order of denying stays and
supersedeas.

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SC Court of Appeals

Pursuant to SC Code Ann § 18-9-220 (Supp. 2014), under the provisions of Section 356 of the Code, appellant's timely appeal of the Decree of Foreclosure Sale acted as an automatic stay of further proceeding below, (Le Conte v. Irwin, 23 S.C. 106, 112 (1885)).

The Rule 241, SCACR provides that "the automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court." In fact, this automatic stay has been in effect until Feb. 29, 2016, when Haugh Power, Special Referee for Darlington County issued Special Referee Deed and Writ of Assistance, without a motion for lifting automatic stay, this Ex Parte order violate the Rule 241 ~~241~~, procedure for obtaining lift of stay or supersedeas.

without lifting automatic stay, the lower court lacks jurisdiction to revive the term of prior order of judicial sale to issue special Referee Deed and the Order for writ of Assistance. The foreclosure sale could not be finalized, until the report by the special referee is confirmed by the circuit court and appeal court. (Wachovia Bank of S e N. A. v. Player 341 S.C. 424, 535 S.E. 2d 128 (2000)). "The master should not have issued a deed during the pendency of the appeal, because the appeal acted as an automatic stay pursuant to §18-9-220 (Wachesaw Plantation East Community services Association v. Todd C. Alexander 2015) (Ex parte Moore 346 S.C. 274, 294, 550 S.E. 2d 877 (ct. App. 2001), to abide the judgment of the appellate court or the Supreme Court.

At the last stage of the appeal, respondent has filed a motion to dismiss the appeal, or alternatively to require Appellant to post a bond pending the disposition of the appeal. This motion is denied by the appeal court on Jan. 28, 2016, without lifting automatic stay of proceeding below, the lower court overstepped its boundary to issue special Referee Deed and writ of Assistance. It disregards the authority of the appellate court and the Supreme Court in attempting obstruction of justice to make the appeal becoming moot. There is no rule that a judicial sale cannot be appealed unless a writ of Super sededeas has been issued and bond posted. In Antrum v. Hartsville Prod. v. Credit Ass'n, 228 S.C. 201, 89 S.E. 2d 376

(1955), the case is on deciding on petition to set aside foreclosure sale and declaring deed to purchaser void.

Pursuant Rule 241, SCACR, "As a general rule, the service of a notice of appeal in civil matter acts to automatically stay the proceeding below; This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court; The lower court shall have jurisdiction to entertain petition for lifting automatic stay and for writ of Superseedeas; In a case subject an exception, any party may move for an order imposing a Superseedeas of matters where specific condition must be met before the exception applies, those conditions must be strictly complied with" without obtaining an order for lifting automatic stay to consider whether or not a specific condition for the exception of 18-9-170 apply in this case, the lower court issued the Ex Parte order for special Referee Deed

and writ of Assistance. This action is not only in violation of Rule 241, SCACR, but also cause the appellant's due process right and equal protection right to be damaged. The appellant could potentially be prejudiced in the pending appeal case as a result of this action.

Further, Haiyan Lin, as current property owner and occupant, has been evicted from the premiss without an ejection order as provided by SC code § 27-37-20, § 27-37-30, § 27-37-40, and § 27-37-800, she has neither been served with a notice for the rule to vacate, nor has been given an opportunity for the Rule to show cause hearing. Without a writ of Possession from magistrate court, the writ of Assistance has been used by the respondent illegally evicted her.

It is in serious violation of 14th amendment of US Constitution. "The Constitutional guarantee that no state shall deprive any person of life, liberty or property without due process of law or deny any person "equal protection of the laws" (U.S. V. Morrison, 120 S. Ct. 1740).

"The guaranty of equal protection of the laws is a pledge of the protection of equal laws" (Romer V. Evans, 116 S. Ct. 1620).

"Any person has right to demand equal protection right, and to demand that any unequal treatment shall be under strictest judicial scrutiny" (Ho by Ho V. San Fran. School Distrit, 147 F. 3d, 854, 826 F. 2d 160, 646 F. Supp. 1362). "Judges, States, and Federal alike, are bound by oath or affirmation to respect ~~or~~ right arising under U.S. Const. Art. 6." (Heimbach V. Chu, 744 F. 2d 11, 105 S. Ct 1842).

For the reasons stated above, the appellants respectfully request that this court issues a writ of Supersedeas to suspend the illegal execution of the writ of Assistance, to prevent a contested issue from becoming moot, to protect due process right of the appellants under equal protection of the law, to restore integrity of the judiciary.

This petition for writ of Supersedeas is filed in the appellate court under such extraordinary condition in the lower court. The petition is supported by applicable statutory and case law, and any supporting memorandum and affidavits which may be filed with the court prior to the hearing on this petition.

April 12, 2016

Appellant
Haiyan Lin
P.O. Box 8776
Columbia, SC 29202.

The South Carolina Court of Appeal
H. Thad White, Respondent
v.

Petrel International, LLC
and Haiyan Lin, Appellant

Appellate Case No. 2014-002764

Certificate of Services

I, Haiyan Lin, certifies that I
have served the Petition For Writ of Supersedeas
and the Memorandum In Supporting Petition
For Writ of Supersedeas by U.S. mail to:

Bryan W. Braddock
2231 W. Palmeto St.
Florence, SC 29501

and

Haigh Potter
162 S. McQueen St.
Florence SC 29501

on April 12, 2016

Appellant
Haiyan Lin
P.O. Box 8776
Columbia, SC 29202
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