

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Wells Fargo Bank, N.A.,

IN THE COURT OF COMMON PLEAS
CASE NO.: 2015-CP-40-0220

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OCT 18 2017

SC Court of Appeals

RICHLAND COUNTY
FILED
2017 MAY - 8 PM 2:48
ANGELITE W. MORRISON
C.C.P. & G.S.

Plaintiff,

v.

Gwendolyn Ladson a/k/a Gwendolyn H. Ladson,

Defendant(s).

**ORDER DENYING
PLAINTIFF'S
MOTION FOR RELIEF**

The parties were before the Court on April 19, 2017, on the Plaintiff's Motion for Relief ("Motion"). The Plaintiff was represented by its attorney, Caroline R. Glenn. Stuart Arnold was represented by his attorney, Leonard R. Jordan, Jr. No representative for Defendant, Gwendolyn Ladson, was present at the hearing. Prior to the hearing, Mr. Jordan filed Stuart Arnold's Return to Plaintiff's Motion for Relief ("Return").

BACKGROUND

This is a suit for foreclosure of a mortgage on real property known as 4226 Chesterfield Drive, Columbia, South Carolina, which suit resulted in a foreclosure sale held on July 5, 2016. Stuart Arnold was the successful bidder at the sale. He complied with his bid and received a Master's Deed to the subject real property, which deed was recorded on August 8, 2016.

The sale was conducted without notice to the public that there was a senior mortgage. The Judgment indicated that the Plaintiff's mortgage was a second lien but also provided that the first mortgage, which was also held by the Plaintiff, was paid in full and was, by the Judgment, removed from the title. The Plaintiff claims that this provision was inconsistent with the facts and was unintentionally included due to inadvertence and mistake of counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the Motion, the Return and the arguments of the parties' respective attorneys, I find and conclude as follows:

1. This suit, which was initiated on April 10, 2015, came for a hearing on the merits on March 29, 2016, and it resulted in the filing on June 22, 2016, of a Master in Equity's Order and Judgment of Foreclosure and Sale ("Judgment"). Stuart Arnold was not named as a party to the suit, and he had no legal or equitable interest in the subject property until his purchase thereof at the Master's Sale.

2. The Judgment (as well as the Record of Hearing for Foreclosure Case) included the following paragraph:

The Defendant(s), (sic) Wells Fargo Bank, N.A. s/b/m to Wachovia Bank, N.A., has or may claim to have some interest in the Property by virtue of a mortgage given by John Ladson and Gwendolyn Ladson, in the original principal amount of \$73,848.50, which mortgage was recorded/filed in the Richland County Records on 09/16/2003 in Book 852 at Page 958. Upon information and belief, said lien has been paid in full but never satisfied of record and is hereby removed from the title to the Property upon the entry of a judicial order.

3. In preparing to bid on the subject property at the foreclosure sale, Mr. Arnold reviewed the Judgment and concluded that the sale of the property was not subject to a prior (senior) mortgage, which confirmed what he had concluded from closely reviewing the published notice of the Master's Sale involving this case and property.

4. When the property was auctioned-off, no announcement was made that the property was offered for sale subject to an outstanding senior mortgage.

5. Mr. Arnold was the high bidder, with a bid of \$5,001.00. He timely complied with his bid, and I issued to him a deed, which, although without warranty, I intended to be good,

unencumbered title. I also issued an Order Confirming Sale, filed on August 2, 2016. None of these documents made any mention of a specific, surviving encumbrance.

6. It is quite apparent, and I find, that the Court was unaware that the above-quoted provision was erroneous or of any other claims with regard to the Plaintiff's other, senior mortgage even four months after the merits hearing, when I confirmed the sale.

7. It is also apparent, and I find, that Mr. Stuart performed appropriate due diligence with regard to investigating the foreclosure suit and the Judgment prior to bidding on the property and complying with his bid; that he paid in full the purchase money; that he acquired fee simple title; and that he did not have any notice of Wells Fargo Bank's claim to have a surviving, enforceable mortgage on the property until November 18, 2016, when he was served with Wells Fargo Bank's foreclosure suit seeking to enforce its remedies under said mortgage.

8. Based on these findings, I conclude that, in equity, Mr. Arnold is a bona fide purchaser for value without notice of any lien (defect) affecting the title to the subject property.

9. I further find that, since Mr. Arnold has invested large sums of money improving the subject property since acquiring title (he claims to have expended around \$64,000.00), which improvements were made by him while supposing, and believing in good faith, that he held good, fee simple title to the subject property, there is no realistic way to reverse the sale at this point to place all interested persons in the position they were in prior to the sale.

10. I therefore conclude that there is no relief available to the Plaintiff.

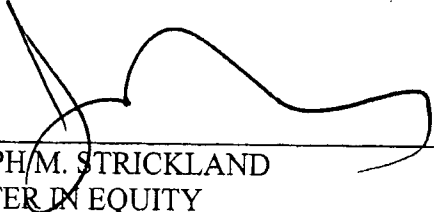
11. The matter of the validity and enforceability of Wells Fargo Bank's senior mortgage is not before the court in this case, and I decline to make any ruling with respect to that mortgage.

WHEREFORE, it is

ORDERED that the Motion is DENIED.

AND IT IS SO ORDERED.

Columbia, South Carolina
May 2, 2017



JOSEPH M. STRICKLAND
MASTER IN EQUITY

