

3. That the Plaintiff also filed a Lis Pendens on March 17, 2017 and the same was served by mail on March 17, 2017.
4. That the Defendant failed to file any responsive pleadings and the Plaintiff filed an Affidavit of Default on October 4, 2017 and the same was served by certified mail on October 6, 2017.
5. That the Defendant contends that on or about October 13, 2017 she filed a document with the Court; however, the document was not properly filed electronically with the Court until February 19, 2018.
6. That the Defendant retained John S. Keffer as her attorney and he filed a Motion To Set Aside Default on February 19, 2018; as well as, an Answer and Counterclaim on February 20, 2018.
7. The Court received arguments from the attorneys for both parties regarding the Motion To Set Aside.
8. The Court finds that the Defendant's Motion to Set Aside should be evaluated pursuant to the two-part test set forth in Sundown Operating Company, Inc. vs. Intedge Industries, Inc., 681 S.E.2d 885, 383 S.C. 601 (2009):

The standard for granting relief from an entry of default under Rule 55(c) is mere "good cause." Rule 55(c), SCRCP. This standard requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice. Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted.

9. The Defendant argued that because her previous attorney did not timely file an Answer that this amounted to "good cause" for the Default to be set aside.

However, our Courts have ruled that the failure of a party's attorney to file an Answer is not "good cause." See Williams v. Vanbolkenburg, 440 S.E.2d 408, 312 S.C. 373 (Ct. App. 1994); Pilgrim v. Miller, 567 S.E.2d 527, 350 S.C. 637 (Ct. App. 2002), and Sundown Operating Company, Inc. vs. Intedge Industries, Inc., 681 S.E.2d 885, 383 S.C. 601 (2009).

10. The Court finds that the Defendant has not made a showing of "good cause" for the Default to be set aside; therefore, has not met the first prong of the two-part Sundown Operating Company, Inc. However, the Court will evaluate the second prong of the test for the purposes of the record. The three portions of the second prong are applied to the facts of this case as follows: (1) "the timing of the motion for relief"- The Defendant did not file her Motion to Set Aside Default until February 20, 2018, more than four months after she was served with the Affidavit of Default on October 6, 2017, therefore the Motion was not timely.; (2) "whether the defendant has a meritorious defense" – The Defendant filed a single page document on February 19, 2018 claiming a "verbal agreement" between the parties and claiming that she had to pay the taxes on the property "several times." The claims by the Defendant do not amount to a meritorious defense; and (3) "the degree of prejudice to the plaintiff if relief is granted"- The Plaintiff filed this action on February 28, 2017 and to now allow the Defendant to file an Answer after almost one year would be very prejudicial to the Plaintiff.

11. The Court has considered both prongs of the Sundown Operating Company, Inc. test and find that the Defendant has failed to meet the first prong and all three

subparts of the second prong and accordingly the Defendant's Motion To Set Aside Default is denied.

12. The Court has reviewed the file and finds that the Plaintiff is entitled to the relief requested in his Complaint and therefore the Clerk of Court shall issue a deed transferring the property described in the attached deed, found at Clarendon County Deed Book A-435, Pages 157-9, from the Defendant, Bobbi M. Proctor, to the Plaintiff, Robert W. White, in fee simple.

AND IT IS SO ORDERED.

_____, 2018

_____, SC

Judge George M. McFaddin, Jr.

STATE OF SOUTH CAROLINA

TITLE TO REAL ESTATE

COUNTY OF CLARENDON

KNOW ALL MEN BY THESE PRESENTS, That I, LEOIA F. WHITE, (hereinafter referred to as Grantor) in the State aforesaid, for and in consideration of the sum of Five and no/100 Dollars (\$5.00) to me: paid by 801181 M. PROCTOR in the State: aforesaid, the receipt of which has been acknowledged, have granted, sold and released, and by these presents do grant, bargain, sell and release unto the said 80881 M. PROCTOR all my right, title and interest in and to the following described property:

All that certain piece or tract of land lying, being and situated in School District of the County of Clarendon, State of South Carolina, containing 8 acres, more or less, and bounding, now or formerly, as follows: On the North by lands of James G. Ridgeway; On the East by lands of George Weathers, now said to be of Hillbilly; On the South by South Carolina Highway S-14-211; and on the West by lands or Shiloh Ridgeway, lands of Connie Michelle Gainey and other lands of the Grantor heretofore at the stake being the northwest corner of the 2 acre tract of Connae Jichcik Gainey and proceeds north at the angle of the western boundary line of the above tract of Connie Michell Gainey and proceeds northward to the boundary line of Leola F. White with James G. Ridgeway to an iron stake which is painted fluorescent orange.

Said to be a portion of the premises conveyed to Leola F. White by Last Will and Testament of John H. White, recorded in Apartment 227, Package 20, of the records of the Probate Court for Clarendon County. Same being the Eastern portion of Clarendon County Tax Map Parcel Number 213-00-03-005-00.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said, 80881 M. PROCTOR, her Heirs and Assigns forever in fee simple, together with every contingent remainder and right of reversion.

And the Grantor does hereby bind herself and her Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said 80881 M. PROCTOR, her Heirs and Assigns, against the said Grantor and her Heirs and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal this day of March, in the year of our Lord two thousand and one, and in the two hundredth and twenty-fourth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED)
IN THE PRESENCE OF)

Lorene H. Nelson)
1st Witness)

LEOLA F. WHITE (SEAL)
LEOLA F. WHITE

Marcell P. Lassana)
2nd Witness)

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

PERSONALLY appeared before me the undersigned and made oath that (s)he saw the within-named Grantor(s) sign, seal and, as his/her/their act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that (s)he, with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this 01st)
day o March, 2001.)

[Signature])
Notary Public of South Carolina)
My ommission Expires: 11-10-01)

Marcell P. Lassana)
Witness)

Grantee's Address:

Bobbi M. Proctor
125 Phifer Street
Sumter, South Carolina 29150

✓
000081818 EXEMPT
FILED, RECORDED, INDEXED
03/26/2001 09:04:07AM
Bk: A0435 Pg: 00157
Rec Fee: 10.00 Page: 3
R N C DEPARTMENT CLARENDON CO
Beulah G. Roberts, Clerk of Court

000081818 B:A043S Pa00158

Notarized by Phifer Street, Sumter, South Carolina. LEOLA F. WHITE, LEOLA F. WHITE, BOBBI M. PROCTOR, BOBBI M. PROCTOR, BOBBI M. PROCTOR, BOBBI M. PROCTOR

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CLARENDON

PERSONALLY appeared before me the undersigned, who being duly sworn, depose and say:

1. I hereby certify the information on this affidavit and I understand such information
2. The property being transferred is located at 831 AIRS in CLARENDON, CO. A PORTION OF FAX MAIL NUMBER 213-00-03-01S-00 am is transferred by L. L. OLAJI. **PODOLU PROCH** on **MARCH 20 2001**
3. Check one of the following:
 - 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 a distribution to a trust beneficiary, except from the deed recording fee because (See Information Section of affidavit);

.....x.Lt.Ll_

(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3a or item 3b above has been checked (See Information section of this affidavit):
 - h. The fee computed on the consideration paid or to be paid in money or money's worth in the amount of \$:fb
 - h. The fee computed on the fair market value of the realty which is

THIS fee is computed on the fair market value of the realty which is \$:fb

The fee computed on the fair market value of the realty which is \$:fb
5. Check one of the following:
 - a. Yes. The amount of the outstanding balance of this lien or encumbrance is \$:fb
 - b. No. The amount of the outstanding balance of this lien or encumbrance is \$:fb

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as **L. L. OLAJI, While the Grantor**

9. I understand that any 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.

Signature of Responsible Person Connected with the Transaction

Legia F White
Print or Type Name Here

SWORN to before me this **20th** day of **March**, 2001

Lawrence Nelson
Notary Public for South Carolina
My Commission Expires: **11-19-03**

000081818 BaA0435 Pa00159



Clarendon Common Pleas

Case Caption: Robert White VS Bobbi M Proctor

Case Number: 2017CP1400061

Type: Order/Judgment and Form 4

So Ordered

S/George M. McFaddin, Jr., #2759