

The State of South Carolina - in the Court of Appeals

APPEAL FROM LAURENS COUNTY COURT OF COMMON PLEAS

THE HONORABLE - W. REID COX, JR.,
MASTER IN EQUITY/SPECIAL REFEREE

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APPELLATE CASE NO. 2018-002059

T.M. PROPERTIES, LLC.,
RESPONDENT,

V.

ANTHONY BERNARD BURNSIDE,
APPELLANT

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LAURENS COUNTY
CLERK OF COURT
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LYNN W. LANCASTER

BRIEF OF THE APPELLANT

ANTHONY BERNARD BURNSIDE
10367 HIGHWAY 101, SOUTH
GRAY COURT, SC 29645

THOMAS J. THOMPSON, ESQUIRE
POST OFFICE BOX# 215
LAURENS, SC 29360

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TABLE OF AUTHORITIES

RULES

RULE - 53, SOUTH CAROLINA RULES OF CIVIL PROCEDURE

SOUTH CAROLINA CODE ANN., SECTION 30-9-31, (1991):

RULE - 71 (C), SOUTH CAROLINA RULES OF CIVIL PROCEDURE

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ISSUE ON APPEAL

1. WHETHER THE SPECIAL REFEREE CORRECTLY ENTERED A FINAL ORDER OF JUDGEMENT - WHERE THE DEFENDANT WAS NOT ALLOWED TO SPEAK OR PRESENT EVIDENCE AT THE NOVEMBER 08, 2018, HEARING FOR FORECLOSURE PROCEEDINGS?

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STATEMENT OF THE CASE

THE DEFENDANT IN THIS MATTER AGREED TO PURCHASE PROPERTY FROM - T.M. PROPRIETIES, LLC., 10367 HIGHWAY 101 SOUTH, GRAY COURT, SC 29645. THE SAID PROPERTY PURCHASED FROM - T.M. PROPRIETIES, IS LOCATED ONE AND ONE-HALF MILES WEST OF GRAY COURT, SC (DIALS TOWNSHIP); LAURENS, SOUTH CAROLINA.

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ARGUMENT - I

Pursuant to Rule - 53, of the South Carolina Rules of Civil Procedure, the above entitled matter was referred to the Special Referee to make appropriate findings of fact and conclusions of law with authority to enter a final judgement in the cause. The defendant now appeals to the South Carolina Court of Appeals - then Final Judgement (ORDER OF FORECLOSURE).

The Defendant, ANTHONY B. BURNSIDE, in this matter asserts the special referee incorrectly entered and "ORDER OF FORECLOSURE" based on the ten (10) minute hearing, without hearing the full facts of the matter from the side of the Defendant; November 9, 2018.

The defendant further asserts, the hearing was based on the erroneous facts presented by the Plaintiff's Attorney. The Defendant asserts the hearing was not in compliance with the rules of the South Carolina Rules of Civil Procedure, as warranted.

The Defendant avers at the said hearing, the Defendant was NOT allowed to address any of the issues that were to be addressed at the said hearing, and was barred from presenting a defense.

The Defendant was also prejudiced as a result of the said hearing being biased, and totally one sided. The Defendant notices this Court of Appeals, the hearing held on November 9, 2018, was PREDETERMINED. SEE - EXHIBIT "A", PARAGRAPH # 4.

The Defendant further contends - the Clerk of Court, for the County of LAURENS, issued an "ORDER OF REFERENCE", on October 12, 2018. In the Clerk's - ORDER OF REFERENCE, Paragraph #2; states:

IT IS HEREBY ORDERED, THAT THIS ACTION IS REFERRED TO
W. REID COX, JR., AS SPECIAL REFEREE TO TAKE TESTIMONY
AND TO DIRECT ENTRY OF FINAL JUDGMENT IN THIS ACTION
UNDER - RULE 53 (B), SCRPC, AND ALL MATTERS ARISING FROM
OR REASONABLY RELATED TO SUCH ACTION.
SEE - EXHIBIT - "B"

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The applicant asserts - The Clerk of Court's Order was blatantly ignored, and intentionally violated. There was NO testimony taken, and the Special Referee's ORDER OF FORECLOSURE, does not reflect any testimony from the Defendant. SEE - EXHIBIT "C".

No testimony was taken from the Defendant at the said hearing. The special Referee blatantly "LIED" on the ORDER OF FORECLOSURE; as there was no testimony from the Defendant taken, and no testimony from the Defendant was ever solicited from the Defendant by the Plaintiff's Attorney, nor the Special Referee.

The Defendant, again, asserts - the Defendant was barred from presenting testimony at the said hearing, and there is no evidence to dispute Defendant's claims.

Furthermore, in the Special Referee's - ORDER OF FORECLOSURE - PAGE #1, PARAGRAPH - 3, the Special Referee, emphatically stated:

TESTIMONY WAS TAKEN AND AFFIDAVITS WERE SUBMITTED,
AND FROM SAME AND OTHER EVIDENCE, I FIND, CONCLUDE,
AND ORDER AS FOLLOWS:

The Defendant in this matter asserts, there were NO affidavits submitted at the hearing, NO testimony, and NO other evidence presented by the Defendant, at said hearing. Therefore, RULE - 53, SOUTH CAROLINA CODE ANN., SECTION 30-9-31, (1991), all of the RULES OF CIVIL PROCEDURE, were not adhered to, and a VALID - "FINDING OF FACT", could NOT be entered pursuant to the rules.

Futhermore, a FINAL JUDGMENT ORDER, should not have been entered in this action because, there was NO valid hearing held in the above matter.

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CONCLUSION

Wherefore, the Appellant in this matter solemnly pray that this Honorable - Court of Appeals, grant the relief sought by vacating and setting aside the previous biased hearing of November 08, 2018; thus instructing the Clerk of Court, for Laurens County, to enter a new "ORDER OF REFERENCE", in conjunction with a new non-biased hearing.

Respectfully Submitted,

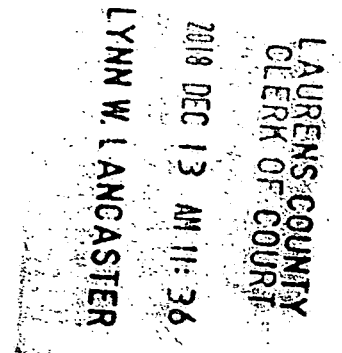
SI Anthony Bernard Burnside

Anthony Bernard Burnside
10367 Highway 101 , South
Gray Court, SC 29645

Sworn to and subscribed before me
this 13th day of December, 2018.

Mack J. Rice

Notary Public for South Carolina
My Commission expires: 11/16/2021



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CERTIFICATE OF SERVICE

I, ANTHONY BERNARD BURNSIDE, do hereby certify that a true copy of the - BRIEF OF THE APPELLANT- in the above reference case has been served on, THOMAS J. THOMPSON, ESQUIRE, Post Office Box #215, Laurens, SC 29360 - on this 13TH of December, 2018.

Respectfully Submitted,

SI Anthony Bernard Burnside

Anthony Bernard Burnside
10367 Highway 101, South
Gray Court, SC 29645

Sworn to and subscribed before me
this 13th day of December, 2018.

Macels J. Rice
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