ELECTRONICALLY FILED - 2019 Aug 08 11:27 AM - BEAUFORT - COMMON PLEAS - CASE#2019CP0701326

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019-CP-07-01326

South Beach Village Bluff Apartments Horizontal Property Regime No. 56, Inc.

PLAINTIFF(S)

Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski

DEFENDANT(S)

Submitted by: Mutterer Law Firm; Jannine M. Mutterer, Esq. PO Box 29 Bluffton, SC 29910	**Attorney for :** ☒ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : Foreclosure Action

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
South Beach Village Bluff Apartments Horizontal Property Regime No. 56, Inc.	Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski	$9,583.71

If applicable, describe the property, including tax map information and address, referenced in the order:

ALL that certain Apartment, situate, lying and being in Sea Pines Plantation, on Hilton Head Island, Beaufort County, South Carolina and being known as Apartment #1711 of South Beach Village Bluff Apartments Horizontal Property Regime 56, and being more particularly shown and described by reference to the Master Deed of South Beach Associates establishing said Horizontal Property Regime, said Master Deed being dated the 28th day of August, 1972, and being recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 201 at Page 1128.

ALSO, all the rights, privileges and common elements appertaining to the described Apartment set forth in the Master Deed and By-Laws of the South Beach Village Apartments Horizontal Property Regime 56.

THE within property is conveyed subject to all applicable obligations, restrictions, limitations, and covenants of record in the Register of Deeds Office in Beaufort County, South Carolina.

This being the same property conveyed to Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski by Deed of Robert Kuzich dated February 3, 2006 and recorded in the Office of Register of Deeds for Beaufort County, South Carolina in Book 2325 at Page 0262.

Property Address: 2 Braddock Bluff Drive, Unit 1711, Hilton Head Island, Beaufort County, South Carolina.
TMS#: R550 017 000 0973 0014 00

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE 14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION #: 2019-CP-07-01326
	)	
South Beach Village Bluff Apartments Horizontal Property Regime No. 56, Inc.,	)	
	)	
PLAINTIFF,	)	
	)	ORDER FOR JUDGMENT AND DECREE OF FORECLOSURE
vs.	)	
	)	
Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski, DEFENDANT(S).	)	

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, and by Order of The Honorable Marvin H. Dukes, III this case was referred to the undersigned to make appropriate findings of fact and conclusions of law, with authority to enter a final judgment in the case. Any appeal from the final judgment so entered will be to the South Carolina Court of Appeals.

Pursuant to the order of reference a hearing was held on August 8, 2019 and was attended by Jannine M. Mutterer attorney for Plaintiff and others as noted in the Record of Hearing. Evidence was offered and received as shown in the Record of Hearing. Based on the evidence, I find and conclude as follows:

FINDINGS OF FACT

1. The Lis Pendens Summons and Complaint were filed on June 6, 2019; The lien being foreclosed dated March 8, 2017 was filed on March 9, 2017, in the Office of the Register of Deeds for Beaufort County in Lien Book 121 at Page 0289, and describing the property being foreclosed. The Order of Reference referring case to the Honorable Marvin H. Dukes, III, was filed July 18, 2019 as shown by the Order on file herein.
2. Service was made upon the Defendant, Zbigniew Marek Drzazgowski, via personal service on June 15, 2019 as shown by the Affidavit of Service entered on June 27, 2019 and on file herein.
3. Service was made upon the Defendant, Alicja Anna Drzazgowski, via personal substitute

service upon the Defendant, Zbigniew Marek Drzazgowski, on June 15, 2019 as shown by the Affidavit of Service entered on June 27, 2019 and on file herein.

4. Defendants, having filed no answer, notice of appearance or other responsive pleadings, are in default as shown by the Affidavit entered on July 17, 2019 and on file herein.
5. According to the Affidavit filed herein, Defendants are not in the Military Service of the United States of America, as contemplated under the Service Members Civil Relief Act, any amendments thereto.
6. Defendants is not entitled to protection under South Carolina Supreme Court Order 2011-05-02-01 as the Plaintiff is a homeowners' association not a mortgagee. The Certificate of Exemption entered on June 6, 2019 and on file herein.
7. This Matter is exempt from mandatory Alternative Dispute Resolution ("ADR") under Rule 6 as this is a mortgage or lien foreclosure. The Certificate of Exemption from ADR entered on June 6, 2019 and on file herein.
8. Defendants were notified of the time, date and place of hearing in this matter as shown by the Notice of Hearing and Certificate of Service entered on July 17, 2019 and on file herein.
9. Defendants purchased 2 Braddock Bluff Drive, Unit 1711, Hilton Head Island, South Carolina, by deed recorded on February 24, 2006 in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 2325 at Page 0262 and that the Deed unto Defendants was taken subject to the recorded Master Deed and By Laws for South Beach Village Bluff Apartments Horizontal Property Regime No. 56. and any amendments thereto recorded on September 6, 1972 in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 201 at Page 1128, and all amendments thereto ("Master Deed") requiring Defendants to pay annual and special assessments and fees as they came due.
10. That by virtue of the Master Deed the sum due constitutes a lien against the interest owned by Defendant(s).
11. The lien being foreclosed was signed March 8, 2017 and was filed on March 9, 2017, in the

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Office of the Register of Deeds for Beaufort County in Lien Book 121 at Page 0289.

12. That payment has not been made by Defendants after demand and that South Beach Village Bluff Apartments Horizontal Property Regime No. 56, Inc. ("South Beach") has elected to foreclose its lien.

13. That the Master Deed authorized the employment of an attorney to collect such sum as is owed by South Beach but unpaid.

14. Having specifically considered each of the following: the nature, extent and difficulty of the services rendered (the field of lien foreclosures being a focused area of practice); the time and labor devoted to the case, including reviewing the various documents, performing the title search, preparing, filing and serving the pleadings, preparing for the hearing, including preparing the judgment and other documents requested by the Court, attending the hearing, preparing for and attending the sale, and preparing any post-sale documents requested by the Court; the professional standing of Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for Plaintiff, I find that the sum of $4,662.50 is a reasonable attorney's fee for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

15. The amount due and owing to Plaintiff, is as follows:

a. Association Fees:	$	3,382.91
b. Attorney's Fees	$	4,662.50
c. Costs of Collection	$	1,538.30
d. Total	**$**	**9,583.71**

16. Plaintiff is entitled to foreclose its lien and to sell the property at public auction to satisfy the total sum due.

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17. That the Defendants are believed to have no equity in the property and/or do not reside in the property as their primary residence, thus rendering it exempt from S.C. Code Ann. §15-41-30.
18. Plaintiff waives its right to a personal deficiency against Defendants.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

IT IS ORDERED, ADJUDGED and DECREED:

1. Any finding of fact which is in fact a conclusion of law is here so adopted.
2. Plaintiff should have judgment for the total sum due and should have the right to have the property described herein and, in the Lis Pendens, sold at public auction after due advertisement.
3. Each Defendant and all persons whomsoever claiming under him, her or them, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.
4. There is due to Plaintiff from the Defendants the total sum of $9,583.71.
5. That on default of payment prior to the date and time of the sale, the premises, hereinafter described, shall be sold by the Master In Equity at public auction, at the Beaufort County Courthouse, in the County and State aforesaid, at 11:00 am on the next convenient sales day hereafter, on the following terms, that is to say:

   a) FOR CASH: The Master In Equity shall require a deposit at the conclusion of the bidding 5% of the amount of the bid, in cash or equivalent, as evidence of good faith, the same to be applied on the purchase price in case of compliance with the bid, but in case of non-compliance within thirty (30) days, the same to be forfeited and applied to the costs and then to the Plaintiff's debt.

   b) Interest on the balance of the bid shall be paid to the day of compliance at the post judgment statutory rate.

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c) The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.

d) Purchaser to pay for the deed and the cost of recording the deed.

6. That if Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the Master In Equity only the amount of the costs and expenses, crediting the balance of the bid on Defendants' indebtedness.

7. That a personal or deficiency judgment being waived, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately.

8. That the Master In Equity, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he will execute to the purchaser, or purchasers, a deed to the premises sold. Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. Upon such sale being made, should the successful bidder, or his assignee, fail to comply with the terms thereof within thirty (30) days after the date of sale, then the Master In Equity may re-advertise the premises for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

9. That the Master In Equity shall apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court; and

NEXT: To the payment of the amount to the Plaintiff, or the Plaintiff's Attorney, of the amount of the Plaintiff's debt and interest or so much thereof as the purchase money will pay on the same; and

NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRCP.

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10. That it is further ORDERED, ADJUDGED AND DECREED that, in the event the successful bidder is other than the Defendant(s) in possession herein, upon the presentation of this Order or a Writ of Assistance the Sheriff of Beaufort County is hereby directed to eject and remove from the premises the occupant(s) of the property sold, together with any and all personal property located thereon, and to put the successful bidder, or his assigns, in full, quiet and peaceable possession.
11. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant(s) named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.
12. That it is further ORDERED, ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the named Defendants, Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski who are the titleholder of the property at the time of the filing of the Lis Pendens, and the Grantee; and that the Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.
13. That the Master In Equity shall retain jurisdiction to do all necessary acts incident to this foreclosure, including, but not limited to, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRCP, and hearing any issues involving appraisal proceedings under § 29-3-680, et seq., *South Carolina Code of Laws*, 1976.
14. That it is further ORDERED, ADJUDGED AND DECREED that, if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the mortgaged property, hereinafter described, the Master In Equity (or the sale officer designated herein) shall pull the property from sale; and in the event that the sale is nevertheless conducted, then such sale will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next or some subsequent sales day.

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15. That after the Order Confirming Sale and Disbursements has been issued and filed, the Master In Equity shall direct the Clerk of Court/Register of Deeds to release of record the lien being foreclosed, which lien is described in the Findings of Fact hereinabove.

The following is a description of the property to be sold:

> ALL that certain Apartment, situate, lying and being in Sea Pines Plantation, on Hilton Head Island, Beaufort County, South Carolina and being known as Apartment #1711 of South Beach Village Bluff Apartments Horizontal Property Regime 56, and being more particularly shown and described by reference to the Master Deed of South Beach Associates establishing said Horizontal Property Regime, said Master Deed being dated the 28th day of August, 1972, and being recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 201 at Page 1128.
>
> ALSO, all the rights, privileges and common elements appertaining to the described Apartment set forth in the Master Deed and By-Laws of the South Beach Village Apartments Horizontal Property Regime 56.
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> THE within property is conveyed subject to all applicable obligations, restrictions, limitations, and covenants of record in the Register of Deeds Office in Beaufort County, South Carolina.
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> This being the same property conveyed to Zbigniew Marek Drzazgowski and Alicja Anna Drzazgowski by Deed of Robert Kuzich dated February 3, 2006 and recorded in the Office of Register of Deeds for Beaufort County, South Carolina in Book 2325 at Page 0262.
>
> TMS#: R550 017 000 0973 0014 00
>
> Property Address: 2 Braddock Bluff Drive, Unit 1711, Hilton Head Island, Beaufort County, South Carolina.

_____
Marvin H. Dukes, III
Master in Equity for Beaufort County

Beaufort, South Carolina
This ____ day of _____, 2019

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Beaufort Common Pleas

Case Caption: South Beach Village Bluff Apartments Hpr No 56 Inc VS Zbigniew Marek Drzazgowski , defendant, et al

Case Number: 2019CP0701326

Type: Master/Order/Foreclosure & Sale and Form 4

So Ordered:

s/Marvin H. Dukes III #3069