

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT
CASE NO. 2020-CP-14-00023

New Residential Mortgage, LLC,

Plaintiff,

v.

Todd S. Crawford; Tricia L. Crawford;
William T. Geddings, Jr.; Jane U. Geddings;
and USAA Federal Savings Bank;

Defendant.

ORDER **RECEIVED**

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SC Court of Appeals

This matter is before the Court pursuant to Plaintiff, New Residential Mortgage, Inc.'s ("New Residential") Motion for Judgment on the Pleadings as to Defendants, William T. Geddings, Jr. and Jane U. Geddings' ("Geddings") Counterclaims; Defendant, USAA Federal Savings Bank's ("USAA FSB") Motion for Judgment on the Pleadings as to the Geddings' Cross-claims; and New Residential's Motion to Strike Jury Demand and for Order of Reference. The motions were heard on August 19, 2020 with counsel for the parties in attendance via Webex videoconferencing. Having reviewed the pleadings as well as the briefs and other materials submitted by the parties, having heard the arguments of counsel, and being otherwise fully informed and advised, the Court finds as follows:

A party is entitled to judgment on the pleadings if the plaintiff "fail[s] to state facts sufficient to constitute a cause of action in the pleadings filed with the court." *Hambrick v. GMAC Mortg. Corp.*, 370 S.C. 118, 121, 634 S.E.2d 5, 7 (Ct. App. 2006). The motion must be denied, however, if the facts alleged in the complaint and inferences reasonably deducible therefrom would entitle plaintiff to any relief on any theory of the case. *Id.* A motion under Rule 12(c) admits the

well pleaded facts in the complaint, but it does not admit the inferences drawn by the plaintiff from such facts, nor does it admit conclusions of law. *Firemen's Ins. Co. of Newark, New Jersey v. Cincinnati Ins. Co.*, 302 S.C. 234, 236, 394 S.E.2d 855, 856 (Ct. App. 1990).

This matter arises out of a 2007 mortgage loan transaction between Todd S. Crawford and Tricia L. Crawford (the "Crawfords") and USAA FSB. In 2013, the senior mortgage was assigned to Green Tree Servicing, LLC, now known as Ditech Financial LLC. In 2018, the Crawfords conveyed the property to the Geddings subject to the existing mortgage. In December 2019, the senior mortgage was assigned to New Residential, which brought the instant action seeking foreclosure on January 15, 2020. The Geddings filed their Answer, Counterclaim, and Crossclaim on January 27, 2020, and filed an Amended Answer, Counterclaim, and Crossclaim on April 27, 2020.

The Court finds the Geddings have failed to state a claim for negligence. The Geddings allege that prior to their ownership of the subject real property, the mortgagee took steps to secure the property but then allowed it to deteriorate. However, the Geddings lack standing to maintain a negligence claim based on alleged harms that occurred prior to them gaining ownership of the property in 2018. Furthermore, the Geddings cannot show that New Residential or USAA FSB owed them a duty to maintain the property, where they did not own the property at the time the alleged negligence occurred.

Next, the Court finds that the Geddings fail to state a claim for violation of the South Carolina Unfair Trade Practices Act ("SCUTPA"). The Geddings assert this claim based on allegations of misconduct in the course of the mortgage loan transaction. Although the Geddings' ownership of the property is subject to the 2007 mortgage, the Geddings are not parties to the loan, nor have they assumed the obligation to pay the loan debt since taking ownership of the property

in 2018. The absence of an agreement to assume the mortgage debt refutes the Geddings' argument that they have "stepped into the shoes" of the Crawfords and can assert claims for unfair trade practices allegedly arising from the Crawfords' loan transaction. Because they are not the obligors for the mortgage loan, the Geddings lack standing to bring their claims under SCUTPA.

The Court finds that the Geddings have stated a valid claim for relief as to their counterclaim for Unjust Enrichment, and will deny New Residential and USAA FSB's motions for judgment on the pleadings as to this claim.

The Geddings' sole remaining counterclaim and crossclaim for Unjust Enrichment is an equitable cause of action. The Geddings are therefore not entitled to trial by jury as of right, and the Court finds that it is appropriate to strike the jury demand and refer this matter to the Clarendon County Master in Equity.

IT IS THEREFORE ORDERED:

A. The motions for judgment on the pleadings are GRANTED as to the Geddings' counterclaims against New Residential and cross-claims against USAA FSB for negligence and violation of the South Carolina Unfair Trade Practices Act, and these claims are hereby dismissed.

B. The motions for judgment on the pleadings are DENIED as to the Geddings' counterclaim against New Residential and cross-claim against USAA FSB for unjust enrichment.

C. The motion to strike the Geddings' jury demand is GRANTED. This case shall be referred to the Honorable Joseph K. Coffey, Clarendon County Master in Equity, for further proceedings and for entry of final judgment pursuant to Rule 53 of the South Carolina Rules of Civil Procedure.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE TO FOLLOW]



Clarendon Common Pleas

Case Caption: New Residential Mortgage Llc VS Todd S Crawford , defendant, et al
Case Number: 2020CP1400023
Type: Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762