

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
Kristi F. Curtis, Circuit Judge

Appellate Case No. 2020-001490
Common Pleas 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, Defendants,

Of Whom William T. Geddings, Jr. and Jane U. Geddings are the Appellants,

and

New Residential Mortgage LLC and USAA Federal Savings Bank are the Respondents.

MOTION TO DISMISS
RESPONDENT-APPELLANT NEW RESIDENTIAL MORTGAGE, LLC'S
CROSS-APPEAL

Appellant-Respondent Geddings (“the Geddings”), pursuant to Rules 201 and 260, SCACR and all other applicable law, for an order that dismisses Respondent-Appellant New Residential Mortgage, LLC (“New Residential”)’s cross-appeal. The grounds for this motion are set forth below.

Unlike the Geddings, who appeal a decision that denies them a mode of trial and must be immediately appealed, e.g., Flagstar Corp. v. Royal Surplus Lines, 341 S.C. 68, 73, 533 S.E.2d 331 (2000), New Residential is simply not aggrieved by a decision of the lower court. Rule 201(b),

SCACR, expressly limits the right to appeal to “[o]nly a party aggrieved by an order, judgment, sentence or decision.” “A party is aggrieved by a judgment or decree when it operates on his or her rights of property or bears directly on his or her interest.” Beaufort Realty Co., Inc. v. Beaufort County, 346 S.C. 298, 301, 551 S.E.2d 588, 589 (Ct. App. 2001) (citing Cisson v. McWhorter, 255 S.C. 174, 178, 177 S.E.2d 603, 605 (1970); Bivens v. Knight, 254 S.C. 10, 13, 173 S.E.2d 150, 152 (1970)). Moreover, “‘aggrieved’ refers to a substantial grievance, a denial of some personal or property right, or the imposition on a party of a burden or obligation.” Id.

New Residential has brought a cross-appeal of the lower court’s September 3, 2020 order. (Notice of cross-appeal.) New Residential is not an aggrieved party by that order; rather, that order particularly *benefitted* New Residential, as its motion to strike the Geddings’ jury demand and refer the case to the master-in-equity was granted. (Order of Sept. 3, 2020, p. 3.) Accordingly, it is difficult to see exactly why or what New Residential has cross-appealed.

The only conceivable ground for New Residential’s cross-appeal of the September 3 order is the lower court’s denial of its motion for judgment on the pleadings as to the Geddings’ counterclaim for unjust enrichment. (Order of Sept. 3, 2020, p. 3.) It is settled law, however, that “the denial of a motion for judgment on the pleadings is not directly appealable under S.C. Code Ann. § 14-3-330[.]” Rose v. Thrash, 291 S.C. 459, 459, 354 S.E.2d 378, 378 (1987). It is the same as the denial of a motion to dismiss under Rule 12(b)(6), SCRCPP, and “[t]he denial of a Rule 12(b)(6) motion does not establish the law of the case nor does it preclude a party from raising the issue at a later point or points in the case.” Huntley v. Young, 319 S.C. 559, 560, 462 S.E.2d 860, 861 (1995); accord McLendon v. S.C. Dept. of Hwys. & Pub Transp., 313 S.C. 525, 443 S.E.2d 539 (1994) (same).

Nothing has been decided against New Residential. Accordingly, its cross-appeal should be dismissed.

WHEREFORE Appellant-Respondent prays for an order dismissing Respondent-Appellant's cross-appeal.

Respectfully submitted,

/s/ Andrew S. Radeker
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