

the Judgment was entered against her in favor of Plaintiff, but denied that the Judgment constituted a lien on real property owned by Defendant located at 1164 Village Creek Lane #704, Mt. Pleasant, Charleston County, South Carolina (hereinafter the "Property").

Defendant was served with Requests to Admit, through counsel, on or about May 8, 2020. Defendant did not respond to said Requests. Defendant's counsel stipulated at the hearing that if they had been answered they would have been admitted.

ANALYSIS

A. Standard of Review

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." SCRPC 56(c). Summary judgment is appropriate when "plain, palpable, and undisputable facts exist on which reasonable minds cannot differ." McNaughton-McKay Electric Co. of N.C., Inc. v. Andrich, 324 S.C. 275, 279, 482 S.E.2d 564 (Ct. App. 1997).

B. **There is no genuine issue of material fact and Plaintiff is entitled to judgment as a matter of law.**

Final judgments entered in any court of record in South Carolina constitute a lien on the real estate of the judgment debtor in the county in which the judgment is entered from the time of the entry and continuing for a period of ten years. S.C. Code Ann. § 15-35-810; *see also Ducker v. Standard Supply Co., Inc.*, 280 S.C. 157, 158, 311 S.E.2d 728, 729 (1984) ("Under South Carolina law, a judgment represents a judicial declaration that a judgment debtor is personally indebted to a judgment creditor for a sum of money. A judgment may also establish a lien upon the real property of the debtor").

Defendant has admitted her indebtedness to Plaintiff and the Judgment, that Plaintiff is the holder of the Judgment and that no payments have been made on same, that she owns the property in question, and that the only other lien on the property is for \$2,0534.32 worth of unpaid regime fees. The fact that there is a superior lienholder to the Plaintiff does not prevent the judicial sale. *See Arrow Bonding Co. v. Warren*, 399 S.C. 603, 607, 732 S.E.2d 622, 624 (2012) (“The effect of a mortgage foreclosure sale is to remove the mortgage encumbrance from the property, and therefore the amount of the mortgage is a fair gauge of the property’s value in the hands of the buyer. In a judgment execution sale such as this, however, the buyer takes the property subject to the mortgage as well as other liens”).

In her Response to Plaintiff’s Motion, Defendant Karin M. Curlee informed the Court that she filed a Motion for Relief from the Greenville County Master in Equity’s prior ruling pursuant to South Carolina Rule of Civil Procedure 60(b). However, Ms. Curlee made no argument as to any alleged defense to Plaintiff’s Motion herein. Rule 60 specifically states that a motion under subdivision (b) does not affect the finality of a judgment or suspend its operation.

Plaintiff is well within its statutory ten-year period to enforce its lien and there is no material question of fact to be resolved by a trier of fact.

CONCLUSION

Based on the foregoing, it is hereby **ORDERED, ADJUDGED, and DECREED**, that the Plaintiff’s Motion for Summary Judgment is **GRANTED**. Accordingly, the Property should be sold at public auction on the next available sales date, after due advertisement, and in accordance with the standard sales procedure for the Charleston County Master in Equity Office.

- 1) The Master in Equity, will, by advertisement according to law, give notice of the time and place of such sale and the terms thereof and will execute to the purchaser, or purchasers, a

deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within thirty (30) days after the conclusion of the bidding, then the Master in Equity, may advertise the said 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.

- 2) In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales day upon the terms and conditions as set forth in this Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.
- 3) If Plaintiff is the successful bidder at the 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 Plaintiff's indebtedness.
- 4) The Master in Equity will 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;
 - NEXT: To the payment to the Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same;
 - NEXT: Any surplus should be held pending further Order of this court.
- 5) In the event the successful bidder is other than the Defendant(s) in possession of the subject property, upon full compliance and title by deed from the Court vested into such purchaser,

and upon issuance of a Writ of Assistance by the Court, the Sheriff of Charleston County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful purchaser or his assigns in full, quiet, and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession. All valid tenant rights shall be protected pursuant to the Protecting Tenants at Foreclosure Act of 2009.

- 6) In the event the successful purchaser is someone other than the Defendant(s) in possession of the subject property, and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage is said property, and title by deed from the Court is vested into such purchaser, the Purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of the Plaintiff. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the subject property by placing said property on the public street or highway or by any other means.
- 7) In accordance with S.C. Code Ann. §30-9-31, the deed of conveyance made pursuant to said sale shall be indexed by the R.M.C. in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the Master in Equity, who executes such deed as grantor.
- 8) The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance

IT IS SO ORDERED.

(JUDGE'S SIGNATURE PAGE TO FOLLOW)



Charleston Common Pleas

Case Caption: Southeastern Sureties Group Inc VS Karin M Curlee , defendant, et al

Case Number: 2020CP1000924

Type: Order/Summary Judgment

So Ordered

s/Mikell R. Scarborough 3062

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