

IN THE STATE OF SOUTH CAROLINA  
COURT OF APPEALS

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FEB 19 2021

SC Court of Appeals

FROM LEE COUNTY COURT OF COMMON PLEAS

Honorable Kristi F. Curtis, Judge

Case No.: 2019-000131

Benita Dinkins-Robinson..... APPELLANT

v.

Alan Ratner,..... RESPONDENTS

**BRIEF OF APPELLANT**

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## FACTS OF THE CASE

The plaintiff in this case Benita Dinkins-Robinson/Project Reach entered a contract with the defendant. The defendant in this case did file a foreclosure in this case. The defendant did file bankruptcy, however the bankruptcy was dismissed for unforeseen circumstances. The defendant eventually regained possession of the property, 124 Gregg Street, Bishopville, SC 29010 at an auction. However, the plaintiff unaware of this transfer or ownership-maintained ownership of this property. The plaintiff went to use, and retrieve belongs out property and the locks were changed, and a no trespassing sign was placed on the door.

At no point did the plaintiff receive a Formal Eviction or a Notice to Vacate the property which would have allowed her to remove the over million dollars' worth of supplies and materials that was maintained in this 20,000 square foot building. The plaintiff was prohibited from gaining access to the property and was not allowed to retrieve her belongings that was rightfully hers.

The plaintiff fully contends that even though she was initial served foreclosure papers, that is all the notice that she received during these proceedings. WE further reiterate that in no shape or form did the plaintiff file the proper eviction or notice or a notice to vacate. The judge in this case clearly errored in dismissing the case and not allowing a juror to decide this case. The judge allowed the defense to hide behind the foreclosure, stating that it barred by the doctrine of res judicata.

In her own order she states that Attorney Watson was the attorney on record for this proceeding but she did not allow him represent the plaintiff in these proceeding.

### **Whether the judge failed to allow the plaintiff to have sufficient legal representation?**

1. The plaintiff and her attorney notified the court and the defendant's attorney that she had retained the Attorney Watson to handle this case and to hear this motion at hand. Attorney Watson requested a continuance, in which the plaintiff reiterated because he had a family court hearing at the same time. The plaintiff submitted the notice of appearance and the retainer to the assigned judge. The judge clearly in ignored the evidence.

**The judge in dismissing the case when the defendant clearly erred in providing the plaintiff due process in regard to the eviction proceeding.**

2. The judge stated that because the defendant foreclosed on the plaintiff, he did not have to follow the Civil Rule of Law NRS. 40.2551. Even through the defendant did foreclose on the property he did not serve the plaintiff a formal eviction as outlined in the underline rule of law. The defendant regain possession of the building at a foreclosure sale was not given notice of the final sale with that being the case, the plaintiff-

maintained ownership of the building, with over a million dollars' worth of material within this 20,000 square foot building. The defendant changed the locks without notice and but a no trespassing sign on the door, without properly allowing the plaintiff to regain her property. The law is clear, if the owner/tenant and/or her designee maintains the property after a foreclosure then the defendant was required to go through the proper procedures to evict the plaintiff if not formally agreement was made between the two parties regarding the departure of the property in questions. The defendant cannot highjack the plaintiff property or just put her out on the streets.

The Civil Rules for following a foreclosure pursuant to NRS 40.255(1)(b). require that the plaintiff should have been served with a Three-Day Notice to Quit Following Foreclosure, this process never happen. If the defendant did serve this plaintiff with this proceeding, then the plaintiff should have served with a Summons and Complaint for Unlawful Detainer. None of these proceedings took place. The defendant assumed that he could have just walked over the plaintiff because she was in a vulnerable position.

Whether the Trial Judge erred in failing grant Appellant's Motion to Re-consider.

3. The plaintiff filed a motion to reconsidered and the judge did not respond to the motion to reconsider. The judge should have allowed the jury of their peers to determine this case. It is also clearly that evident that there are clear conflicts and that the defendant did not follow the file.


**The judge erred in allowing the defense counsel to continue as counsel.**

4. The defense attorney has served as the plaintiff attorney on several occasions, to include the purchase of property. Therefore, it is clearly a conflict of interest for him to represent the defendant on this matter. The plaintiff has consulted with the defense attorney on every level. He has been her lifelong attorney, until this clear conflict. The judge clearly erred in not addressing this issue.

### **Conclusion**

We again contend that the defendant does rightfully have a right to obtain his property after the estranged foreclosure proceeding, but he must follow the Civil Rules to fully obtain the property. The defendant cannot just hijacked property and pilfer the plaintiff's belongings within the property. Any landlord that gains property after a foreclosure proceeding, must follow the proper Civil Proceeding and **formally Eviction process NRS 40.255(1). The eviction process is not embedded within the foreclosure proceeding as the judge in this case as alleged. If this is the case as soon as the foreclosure takes place the tenant would be immediately left in the cold and not allowed to replace. Everything has a proper process; the fact is the defendant failed to follow the proper procedure. We request that this honorable court remand this case back to the lower court and or rule in this matter.**

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Benita Dinkins-Robinson". The signature is stylized with a large initial "B" and a long horizontal flourish extending to the right.

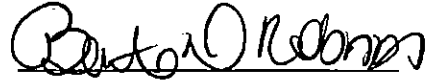
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CERTIFICATE OF SERVICE

I, Benita Dinkins-Robinson hereby this *Initial Appellant Brief* on February 19, 2021 to Bryan Doby, attorney for respondent/defendant via mail at 1 Court House Square, Bishopville, SC 29010 and PO Box 106, Bishopville, SC 29010



Benita Dinkins-Robinson

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