

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JUL 28 2021

SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes III, Master in Equity & Special Circuit Court Judge

Appeal Case No. 2021-000434
Circuit Court Case No. 2019CP0702178

JOSEPH CHAKYING SUN, Individually
and JOSEPH CHAKYING SUN, as Trustee
of The 2009 Sun's Family Trust in
South Carolina, USA

.....

Appellant

v.

BLUFFTON PARK COMMUNITY
OWNERS' ASSOCIATION, INC.

.....

Respondent

EMERGENCY MOTION TO STAY ORDER ON APPEAL BOND
AND MOTION FOR LEAVE TO AMEND

(1) APPELLANT JOSEPH SUN filed and served his Notice of Appeal on April 20, 2021.

Respondent Bluffton Park Community Owners Association on May 20, 2021, filed a certificate of service on its request for hearing without any detail or supporting document. (See Exhibit A)

Appellant filed his response in objection on June 3, 2021 (Exhibit B) on the ground that he could not prepare for the hearing when there was nothing filed with the request for hearing. Most of all, the Master in Equity had no more jurisdiction on any matter that would be affected by the appeal. (Rule 205, SCACR.) As respondent was requesting a surety bond pursuant to South Carolina Code Section 18-9-170 but bypassing its requirement on a surety bond pursuant to Code

Section 18-9-130(a)(2) which matter is included in Issue 5 in Appellant's Initial Brief, the Master had no more jurisdiction pursuant to Rule 205.


The Master entered an Order on Appeal Bond (Exhibit C) on June 28, 2021 requiring Appellant to post a surety bond but no requirement of surety bond on the respondent to sell Appellant's house. The Respondent immediately filed its Notice of Foreclosure Sale (Exhibit D) on July 13, 2021, scheduled the sale to be done in about a week when Appellant and his daughters are still residing in the house.

As the denial of due process in this case is clear and the Master was without jurisdiction in the hearing conducted and his order on appeal bond, Appellant prays the court to urgently vacate or stay the order on appeal bond.

(2) As the Respondent Bluffton Park requested additional hearing after Appellant's notice of appeal and Initial Brief was filed and served, and the master in Equity had entered an Order on Appeal Bond, Appellant needs to amend his initial brief to include the additional matters as Exhibits E.

This 23rd day of July, 2021.

Respectfully submitted,


JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

**STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas**

**Marvin H. Dukes, III Master in Equity
and Special Circuit Judge**

CASE NO. 2021-000434

**JOSEPH CHAKYING SUN as Trustee
of The 2009 Suns Family Trust, and
JOSEPH CHAKYING SUN, Individually Appellants**

v.

**BLUFFTON PARK COMMUNITY
ASSOCIATION, INC. Respondent**

CERTIFICATE OF SERVICE

I, Tracy L. Thornton, hereby certify that on this day I mailed one (1) copy of a Request for Hearing letter sent to the Honorable Judge Marvin H. Dukes, III by depositing the same at the United States Post Office, Hilton Head Island, South Carolina, with first class postage prepaid to:

Joseph Chakyng Sun and
The 2009 Sun's Family Trust
in South Carolina, USA
c/o Joseph Chakyng Sun, Trustee
18 Sixth Avenue
Bluffton, SC 29910

Joseph Chakyng Sun and
The 2009 Sun's Family Trust
in South Carolina, USA
c/o Joseph Chakyng Sun, Trustee
P.O. Box 2543
Bluffton, SC 29910

Joseph Chakyng Sun and
The 2009 Sun's Family Trust
in South Carolina, USA
c/o Joseph Chakyng Sun, Trustee
43 Broadview Drive
Ridgeland, SC 29936

- A -

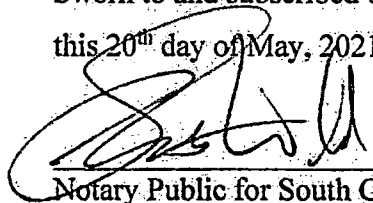
Further, a copy of the same was served by scanned electronic attachment on May 20, 2021 to Joseph Sun and The 2009 Sun's Family Trust in South Carolina, USA to jossunn1095@yahoo.com.

Respectfully submitted this 20th day of May, 2021, in the Town of Hilton Head Island, Beaufort County, South Carolina.

LAW OFFICE OF SCOTT M. WILD, L.L.C.

By: Tracy L. Thornton
Tracy L. Thornton, Legal Assistant
Post Office Box 6867
Hilton Head Island, SC 29938
(843) 785-9453
tracy@wildlawfirm.com
Attorney for the Plaintiff

Sworn to and subscribed before me on this 20th day of May, 2021.



Notary Public for South Carolina

My Commission Expires: 2-8-28

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

2021 JUN -3 AM 11: 27

BLUFFTON PARK COMMUNITY)
ASSOCIATION, Inc.)

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
Plaintiff CLERK OF COURT

CIVIL ACTION
NO. 2019-CP-07-02178

v.)

DEFENDANTS' RESPONSE TO
PLAINTIFF'S REQUEST FOR
HEARING

JOSEPH CHAKYING SUN, et al)
Defendants.)

Defendants Joseph Sun (hereinafter Sun) and the 2009 Suns Family Trust (hereinafter the Trust) hereby respond to Plaintiff's request for hearing as follows:

Plaintiff Bluffton Park Community Association (hereinafter Bluffton Park) requests the court to grant a hearing without filing or serving any motion or document informing defendants any detail. Defendants can only guess on Plaintiff's purpose of the hearing requested. For that reason alone, no hearing should be granted as Defendants are not required to speculate, without more they cannot prepare for any argument or present any evidence for the hearing.

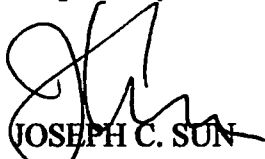
It is a denial of the defendants' right to due process here, in addition to numerous illegal acts already committed by the Plaintiff that the defendants now has to guess, that Plaintiff wishes to present certain issues at a hearing of which defendants are not sure. Reviewing the Beaufort County Public Index, Plaintiff seems to have filed a "formal objection/sufficiency of surety" at the Supreme Court with a copy put in the county public index. But this court has no authority to hear anything filed at the South Carolina Supreme Court after Notice of Appeal had already been filed and served on April 16, 2021. Therefore, this court has no more jurisdiction on any matter relating to the judgment in this case which would be affected by the outcome of the appeal. (Rule 205, SCRAP.) Therefore, Plaintiff's request for a hearing must be denied.

-B-

If and when the Supreme Court would ever remand the matter to this court for determination, Defendants Sun and the Sun Trust would include the provisions in South Carolina Code Section 18-9-130(A)(2) that “(2) A plaintiff may not enforce a sale of property after a notice of appeal is filed without giving an undertaking or bond to the defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgment, conditioned to pay all damages the defendant may sustain by reason of the sale in case the judgment is reversed.”

This 1st day of June, 2021

Respectfully submitted,


JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

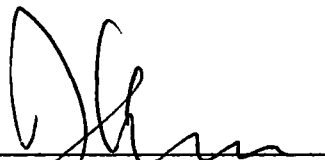
CERTIFICATE OF SERVICE

This is to certify that I have this date served the Plaintiff a copy of this document, by depositing a copy of same in the U.S. Mail to:

Scott M. Wild, Esq.
P. O. Box 6867
Hilton Head Island, SC 29938

and by email to: scott@wildlawfirm.com

This 1st day of June, 2021.


JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
Bluffton Park Community Association, Inc.,)
Plaintiff(s),)
vs.)
Joseph Chakyng Sun, et al.,)
Defendant(s).)

IN THE COURT OF COMMON PLEAS

CASE NO: 2019-CP-07-02178

ORDER ON APPEAL BOND

This came before me June 24th, 2021 on the issue of an appeal bond to stay the sale of real estate in this HOA foreclosure action. As of this date, no bond has been posted or tendered by any party. At the hearing (held by Web-ex), Defendant Sun indicated that he had not posted a bond and did not intend to post a bond on his belief that SC Code of Laws 18-9-130(a)(2) controlled and said section required the Plaintiff to post a bond. Plaintiff references SC Code of Laws 18-9-170 as the controlling section in a case of the sale of real estate for foreclosure of an HOA lien and seeks to have Defendant Sun post a bond. I respectfully differ with Defendant's opinion and find that SC Code of Laws 18-9-170 is controlling.

As such, I find that the property can be sold as an exception to Appellate Court Rule 241, and Order that the same be done.

I find that the Defendant may stay the sale by posting an undertaking, as set forth in SC Code of Laws 18-9-170 in an amount not to exceed 1 ½ times the judgment amount, together with the other requirements and provisions as set forth in 18-9-170.

In the event that Defendant fails to post as set forth hereinabove, the Plaintiff may advertise and sell the property with the sale to be held not before the August 2021 sales date.

IT IS SO ORDERED:

Honorable Marvin H. Dukes, III
Master in Equity and Special Circuit Court
Judge for Beaufort County

June 28, 2021
Beaufort, South Carolina

- C -

NOTICE OF FORECLOSURE SALE

BY VIRTUE OF A DECREE by the Honorable Marvin H. Dukes, III, heretofore issued in the case of Bluffton Park Community Owners Association, Inc. v. Joseph Chakyng Sun as Trustee of The Sun's Family Trust in South Carolina, USA, et al., Civil Action No.: 2019-CP-07-02178, the undersigned will sell on August 2, 2020 at 11:00 a.m., in the Office of the Master-In-Equity for Beaufort County, South Carolina, or a courtroom to be determined, located at 102 Ribaut Road, Beaufort, South Carolina, the following property (hereinafter referred as to the "Property") to the highest bidder:

All that certain piece, parcel, lot or track of land, with all improvements thereon, situated, lying and being in Bluffton Park, Town of Bluffton, County of Beaufort, State of South Carolina, being more fully shown and delineated as Lot M3, on that certain plat entitled "A PROPOSED SUBMISSION PLAT OF TRACT B-3A, A PORTION OF TRACT B-3, A SECTION OF BLUFFTON PARK, FORMERLY THE GEORGE SHULTS TRACT, TOWN OF BLUFFTON, BEAUFORT COUNTY, SOUTH CAROLINA" prepared by T-Square Group, Inc., Forrest F. Baughman, P.L.S. No. 4922, dated October 13, 2006, last revised January 26, 2007, which is recorded in the Register of Deeds Office for Beaufort County, South Carolina in Plat Book 118 at Page 65. For a complete and accurate description as to location, metes, bounds, distances, direction, and all other matters shown and disclosed thereon, reference to said plat of record shall be had.

TMS #: R610 039 000 1375 0000

Address: 18 Sixth Avenue
Bluffton, SC 29910

TERMS OF SALE: For cash. Other than the Plaintiff in this matter, Bluffton Park Community Owners Association, Inc. (hereinafter, the "Association"), the successful bidder will deposit with the Clerk of Court for Beaufort County or the undersigned's office, at the conclusion of the bidding, five percent (5%) of the bid, in cash or equivalent, as evidence of good faith, the same to be applied to the purchase price in case of compliance, but to be forfeited and applied first to costs and then to the debt owed the Association in the case of non-compliance. Should the last and highest bidder fail or refuse to make the required deposit at the time of bid or comply with the other terms of the bid within thirty (30) days, then the Clerk of Court for Beaufort County, South Carolina may resell the Property on the same terms and conditions on some subsequent Sale Day (at risk of the said highest bidder). Seven and one-quarter *per cent* (7.25%) annual interest shall

-D-

be paid on the bid balance until the date of compliance, or the then-prevailing statutory judgment interest rate.

THE ASSOCIATION HAS WAIVED ITS RIGHT TO OBTAIN A DEFICIENCY JUDGMENT, AND THE SALE SHALL BECOME FINAL ON THE SALE DAY.

Purchaser to pay for preparation of the Master's Deed, documentary stamps on the deed and recording of the deed.

Said sale will not be held unless the Association or its attorney is present at said sale.

Said sale of this property is subject to cancellation up until the moment of sale.

SAID PROPERTY TO BE SOLD SUBJECT TO ANY LIENS OF RECORD NOT RELEASED BY VIRTUE OF THE ABOVE-REFERENCED FORECLOSURE, INCLUDING A FIRST MORTGAGE OF RECORD, AND NEITHER THE ASSOCIATION NOR THE UNDERSIGNED WARRANT TITLE UPON PURCHASE. ANY BIDDER IS RESPONSIBLE FOR CONDUCTING THEIR OWN TITLE SEARCH AND EXAMINATION.

The Honorable Marvin Dukes, III Master-in-Equity for Beaufort County, South Carolina

Beaufort, South Carolina,

This ____ day of _____, 2021.

LAW OFFICE OF SCOTT M. WILD, LLC
SCOTT M. WILD, ESQUIRE
P.O. Box 6867
Hilton Head Island, SC 29938
Attorney for the Plaintiff



Beaufort Common Pleas

Case Caption: Bluffton Park Community Association Inc VS Joseph Chakyng Sun ,
defendant, et al
Case Number: 2019CP0702178
Type: Master/Order/Notice of Foreclosure Sale

So Ordered:

s/Marvin H. Dukes III #3069

EXHIBIT E TO MOTION FOR LEAVE TO AMEND

AMENDED STATEMENT OF THE ISSUES

Statement of the Issues 5:

5. It is error and abuse of discretion of the Master in Equity, to allow Plaintiff-Respondent to include the sale of Appellant's house in the Master's Decree of Foreclosure, Sale and judgment without first requiring an undertaking or bond to the Appellant, with two good sureties, in double the amount of the judgment of \$21,115.47 pursuant to *South Carolina Code §18-9-130(A)(2)* but requiring Appellant to post a bond pursuant to *South Carolina Code §18-9-170*. Without giving any legitimate reason, the Master shows prejudice and bias against the Appellant as he has done through out the case.

AMENDED DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on Appeal:

1. Beaufort County Public Index for Civil Action No. 2019CP0702178.
2. Notice of Foreclosure Sale filed July 13, 2021.
3. Order on Appeal Bond filed June 28, 2021.
4. Appellant's Response to Respondent's certificate of service on request for hearing filed June 3, 2021.
5. Certificate of service on request for hearing filed on May 20, 2021.
6. Formal Objection and Partial Return on Petition for writ of Mandamus filed by respondent at the South Carolina Supreme Court on April 30, 2021.
7. Notice of Appeal filed April 20, 2021 on Orders of April 7, 2021 and January 13, 2021.
8. Form 4 Order denying Motion to Reconsider issued April 7, 2021.
9. Second Supplement to Motion to Reconsider filed March 8, 2021.
10. Supplement to Motion to Reconsider filed February 1, 2021.
11. Motion for Order Compelling Discovery filed January 27, 2021.
12. Motion to Reconsider filed January 25, 2021.

- E -

13. Master's Decree of Foreclosure, Sale & Judgment issued January 13, 2021 and Form 4.
14. Objection to Plaintiff's Proposed Master's Decree/Foreclosure, Sale & Judgment filed December 31, 2020.
15. Affidavit of Joseph Sun filed December 16, 2020. (With Exhibits.)
16. Supplement to Motion to Open & Set Aside Default filed December 14, 2020.
17. Motion to Open & Set Aside Default filed August 7, 2020.
18. Motion for Permanent Injunction and/or Temporary Restraining Order filed August 5, 2020.
19. Verification of Answer and Counterclaim filed July 20, 2020.
20. Defendants' Answer, Counterclaim and CrossClaim filed July 13, 2020.
21. Affidavit of Attorney fees, Costs and Expenses filed July 13, 2020.
22. Verified Statement and Affidavit of Debt filed July 13, 2020.
23. Notice of Foreclosure Hearing filed June 17, 2020.
24. Order of Default and Reference filed June 5, 20220.
25. Affidavit of Default filed June 5, 2020.
26. Affidavit of Publication filed March 18, 2020.
27. Order for Publication filed January 31, 2020.
28. Amended Affidavit in Support of Order for Publication filed January 24, 2020.
29. Affidavit in Support of Order of Publication filed December 23, 2019.
30. Summons and complaint - Lien foreclosure filed October 1, 2019.
31. Transcripts of WebEx hearing August 8, 2020.
32. Transcripts of WebEx hearing February 8, 2021.

I certify that this designation contains no matter which is irrelevant to this appeal.

July 22, 2021.

JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

PROOF OF SERVICE

I certify that I have this date served the Appellant's Amended Designation of Matters on Respondents' counsel by depositing a copy of same in the U.S. Mail postage prepaid:

Scott M. Wild, Esq.
P. O. Box 6867
Hilton Head Island, SC 29938
email: scott@wildlawfirm.com

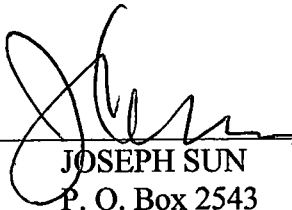
This 22nd day of July, 2021

PROOF OF SERVICE

I certify that I have this date served the Appellant's Emergency Motion to Stay Order on Appeal Bond and Motion for Leave to Amend on Respondents' counsel by depositing a copy of same in the U.S. Mail postage prepaid:

Scott M. Wild, Esq.
P. O. Box 6867
Hilton Head Island, SC 29938
email: scott@wildlawfirm.com

This 23rd day of July, 2021



JOSEPH SUN
P. O. Box 2543
Bluffton, SC 29910

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JUL 28 2021

SC Court of Appeals

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Hilton Head Island, SC 29938
email: scott@wildlawfirm.com

This 23rd day of July, 2021



JOSEPH SUN

P. O. Box 2543
Bluffton, SC 29910

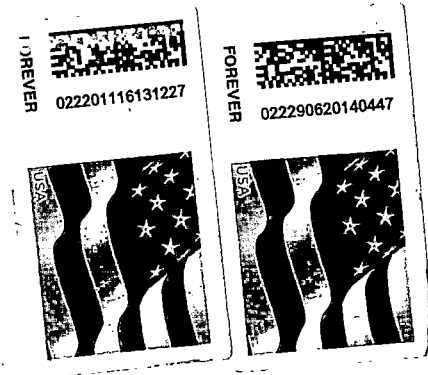
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JUL 28 2021

SC Court of Appeals

Clerk of court
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211



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