

RECEIVED

Aug 16 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the 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-Respondents,
and

New Residential Mortgage LLC is the Respondents-Appellant,
and USAA Federal Savings Bank is the Respondent.

BRIEF OF RESPONDENT USAA FEDERAL SAVINGS BANK

W. Shawn Bingham
South Carolina Bar No. 103944
Eric Retter
Motion for Admission *Pro Hac Vice Pending*
100 Galleria Parkway, Suite 1600
Atlanta, Georgia 30339
770-818-9090
sbingham@fmglaw.com
eretter@fmglaw.com
Attorneys for Respondent

TABLE OF CONTENTS

TABLE OF CONTENTS..... ii

TABLE OF Authorities..... iii

STATEMENT OF THE Issues on Appeal..... 1

STATEMENT OF THE CASE..... 2

SUMMARY OF THE ARGUMENT 3

ARGUMENT..... 4

I. The Geddings Have Waived Arguments that the Trial Court Erred in Dismissing the Crossclaims for Negligence and Violation SCUTPA Against USAA FSB, and the Trial Court’s Ruling is Binding..4

I. USAA FSB Adopts by Reference The Brief of Respondent/Appellant New Residential Mortgage.4

CONCLUSION 4

TABLE OF AUTHORITIES

Cases

Page(s)

Ashy v. WeCare Distribs., Inc., 289 S.C. 526, 528, 347 S.E.2d 123, 125 (Ct. App. 1986).....4

Guinan v. Tenet Healthsystems of Hilton Head, Inc., 383 S.C. 48, 54 n.4, 677 S.E.2d 32, 36 n.4 (Ct. App. 2009).....4

Harmon v. Bank of Danville, 294 S.C. 39, 41, 362 S.E.2d 315, 316 (Ct. App. 1987).....4

Statutes

S.C. Code Ann. § 39-5-10.....2

Other Authorities

Rule 208(b)(1)(D), SCACR..... 4

Rule 208(b)(6), SCACR.....4

Statement of the Issues on Appeal

Whether the trial court properly dismissed the Crossclaims for negligence and violation of the SCUTPA and properly struck the Geddings Jury demand as they relate to the counterclaims raised against New Residential Mortgage, LLC.

Statement of the Case

Respondent USAA Federal Savings Bank (“USAA FSB”) fully adopts the Statement of the Case as contained in Initial Respondent’s Brief for Respondent/Appellant New Residential Mortgage, LLC (“New Residential”), adding the following:

The Geddings filed crossclaims for negligence, unjust enrichment, and violation of the South Carolina Unfair Trade Practices Act (“SCUTPA”) S.C. Code Ann. § 39-5-10 *et. seq.* against Respondent USAA FSB. These crossclaims were identical to the counterclaims asserted against New Residential, which were described in New Residential’s Initial Respondent’s brief. (Amended Answer and Counterclaim ¶¶ 27-50.)

Like New Residential, USAA FSB moved under South Carolina Rule of Civil Procedure 12(c) for judgment on the pleadings on the Geddings’ crossclaims. (USAA Federal Savings Bank’s Motion for Judgment on the Pleadings.) In an Order dated September 2, 2020, the trial court granted judgment on the pleadings on Plaintiff’s negligence and SCUTPA claims but denied judgment on the pleadings as to the Geddings’ unjust enrichment claims against USAA FSB. (12(c) Order.) The Geddings then appealed the Court’s ruling. USAA FSB has not cross-appealed the denial of its motion for judgment on the pleadings with respect to the unjust enrichment claim.

USAA FSB further notes that Appellants/Respondents William T. Geddings, Jr. and Jane U. Geddings (collectively “Geddings”) have not appealed the Court’s dismissal of the crossclaims for negligence and violation of the SCUTPA.

Summary of the Argument

Because Geddings did not appeal the trial court's dismissal of the Geddings' Crossclaims for negligence and violation of SCUTPA claims against USAA FSB, no claims are on appeal as it relates to USAA FSB. The parts of the Orders that relate to the crossclaims against USAA FSB are the "law of the case." Regarding the portions of the trial court's Order that were appealed by the Geddings, Respondent USAA FSB fully adopts the Argument as contained in Initial Respondent's Brief for Respondent/Appellant New Residential.

Argument

I. The Geddings Have Waived Arguments that the Trial Court Erred in Dismissing the Crossclaims for Negligence and Violation SCUTPA Against USAA FSB, and the Trial Court's Ruling is Binding

The Geddings do not claim that the trial court erred in dismissing the crossclaims against USAA FSB in its May 12, 2020 Order. (Geddings notice of Appeal). Thus, judgment in favor of USAA FSB on the crossclaims for negligence and violation of SCUTPA should be affirmed.

“Where no exception is taken to findings of fact or conclusions of law, they become the ‘law of the case.’” Ashy v. WeCare Distribs., Inc., 289 S.C. 526, 528, 347 S.E.2d 123, 125 (Ct. App. 1986); Harmon v. Bank of Danville, 294 S.C. 39, 41, 362 S.E.2d 315, 316 (Ct. App. 1987). The Geddings do not appeal the trial court’s order dismissing the crossclaims for negligence and violation of SCUTPA against USAA FSB. As such, those rulings are binding as the law of the case. Moreover, because no arguments relating to the dismissal of these crossclaims against USAA FSB were raised by the Geddings in their Appellate brief, the Geddings have waived any challenge to the dismissal. See Guinan v. Tenet Healthsystems of Hilton Head, Inc., 383 S.C. 48, 54 n.4, 677 S.E.2d 32, 36 n.4 (Ct. App. 2009); SCACR 208(b)(1)(D).

II. USAA FSB Adopts by Reference The Brief of Respondent/Appellant New Residential Mortgage

Pursuant to Rule 208(b)(6), SCACR, USAA FSB adopts by reference the brief of Respondent/Appellant New Residential Mortgage.

CONCLUSION

The Court should affirm the trial court’s orders dismissing the Geddings’ crossclaims for negligence and violation of SCUTPA against USAA FSB.

This 16th Day of August 2021

Respectfully submitted,

FREEMAN, MATHIS & GARY, LLP

/s/ W. Shawn Bingham

Shawn Bingham

South Carolina Bar No. 103944

Eric Retter

Motion for Admission *Pro Hac Vice Pending*

100 Galleria Parkway, Suite 1600

Atlanta, Georgia 30339

770-818-9090

sbingham@fmglaw.com

eretter@fmglaw.com

Attorneys for Respondent USAA Federal Savings
Bank

August 16, 2021

RECEIVED

Aug 16 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the 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-Respondents,
and

New Residential Mortgage LLC is the Respondents-Appellant,
and USAA Federal Savings Bank is the Respondent.

PROOF OF SERVICE

I hereby certify that a copy of the foregoing INITIAL APPELLATE BRIEF OF RESPONDENT
USAA FEDERAL SAVINGS BANK via email to the following counsel of record:

Drew Radeker
Harrison Radeker & Smith P.A.
923 Calhoun Street
Columbia, SC 29201
drew@harrisonfirm.com

William T. Geddings, Jr.
20 South Brooks Street
Manning, SC 29102
wtg@geddingslawfirm.com

Attorneys for Appellants-Respondents William T. Geddings, Jr. and Jane U. Geddings

Kelley Yarborough Woody
Kelley Yarborough Woody
Attorney at Law, LLC
PO Box 6432
Columbia, SC 29260
Attorney for Defendant Todd S. Crawford

G. Benjamin Milam
Jonathn E. Schulz
Bradley Arant Boult Cummings LLP
214 N. Tryon Street, Suite 3700
Charlotte, NC 28202
(704) 338-6000
(704) 332-8858 (fax)
Bmilam@bradley.com
jschulz@bradley.com
Attorney for Respondent/Appellant New Residential Mortgage, LLC

Lindsay B. Crawford III
Theodore Von Keller
Sara C. Hutchins
B. Lindsay Crasford, IV
Crawford & von Keller, LLC
PO Box 4216
Columbia, SC 29240
(803) 790-2626
court@crawfrodk.com