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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.

INITIAL REPLY BRIEF OF APPELLANTS-RESPONDENTS

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STATEMENT OF ISSUES

- I. Where the circuit court had reconsidered its judgment on the pleadings as to Appellants-Respondents' at-law counterclaims, allowing Appellants-Respondents to amend and replead those counterclaims, did the circuit court err in failing to undo its decision that had struck Appellants-Respondents jury demand and referred the case to the master-in-equity?**

ARGUMENT

Appellants-Respondents (hereinafter “the Geddings”) submit this brief in reply to the respondents’ briefs submitted by Respondent-Appellant New Residential Mortgage LLC (hereinafter “New Residential”) and Respondent USAA Savings Bank (hereinafter “USAA”) in this cross-appeal.

I. The Geddings have not waived any part of their appeal. New Residential and USAA contend that the Geddings should have appealed issues on which they have already prevailed.

Both New Residential and USAA argue that the Geddings are somehow barred from success on their appeal of the striking of their jury demand and reference to the master-in-equity because they did not appeal the initial grant of judgment on the pleadings with prejudice on their claims for negligence and violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, *et seq.* (R. pp. ___; order granting motion for judgment on the pleadings, striking jury demand, and referring to master-in-equity.) The Geddings, however, have already achieved victory on that issue. Judge Curtis granted the Geddings’ motion to reconsider as to the dismissal of those claims with prejudice, allowing those claims to be amended and go forward. (R. pp. ___; order on motion to reconsider.)

With regard to the initial and now-undone ruling that the Geddings’ had failed to plead those claims, there is nothing for the Geddings to appeal. “Only a party aggrieved by an order, judgment, sentence or decision may appeal.” Rule 201(b), SCACR. “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)). Under this limitation on the right to appeal, “‘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. Having secured the right to keep their negligence and Unfair Trade Practices claims simply by amending their pleading, the Geddings are no longer aggrieved by an earlier ruling that is no longer in effect. (R. pp. ____; order granting motion for judgment on the pleadings, striking jury demand, and referring to master-in-equity; order on motion to reconsider.) The earlier ruling ending their claims with prejudice no longer does the Geddings any substantial grievance, no longer denies them any right, and no longer imposes on them any burden – because it no longer renders judgment on any of their claims. (R. pp. ____; order granting motion for judgment on the pleadings, striking jury demand, and referring to master-in-equity; order on motion to reconsider.) The Geddings *could not have* appealed the now empty ruling that Judge Curtis’ order on the motion to reconsider undid. Rule 201(b), SCACR.

II. If the Geddings’ current jury demand is active and valid, as New Residential appears to say it is, then the circuit judge should have undone the reference and returned the case to the circuit court.

New Residential appears to state that the jury demand in the Geddings’ second amended answer and counterclaim is valid to demand a jury trial. (R. pp. ____; second amended answer and counterclaim.) This only shows that the circuit judge plainly should have undone the reference to the master-in-equity and returned the case to the circuit court when she ruled on the motion to reconsider, as the Geddings argue in their

brief. Rule 53(b), SCRCF. With this concession, New Residential has yielded the field of argument to the Geddings.

III. If New Residential is correct to contend that this appeal is unnecessary because all that the Geddings need to do to get the reference undone is to request that, this court should issue an opinion or other order that so states and dismiss this appeal.

If New Residential is correct in its assertion that all that needs to be done to undo the reference to the master-in-equity is for the Geddings to request that, this court should issue an opinion or other order that states as much, then dismiss this appeal and the cross-appeal for lack of any party being aggrieved by a “final judgment, appealable order or decision.” Rule 201(a)&(b), SCACR.

CONCLUSION

This court should reverse the circuit court’s decision to grant the motion to strike the Geddings’ jury demand and refer the case to the master-in-equity, and this court should remand this case for trial, with the Geddings’ at-law counterclaims to be tried by a jury.

Respectfully submitted,

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and USAA Federal Savings Bank is theRespondent.

PROOF OF SERVICE

I certify that I have served the foregoing reply brief on the date given below by
emailing it to opposing counsel at the addresses noted below.

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