

Oct 01 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF BEAUFORT) C/A No. 2016-CP-07-01466

Deutsche Bank National Trust Company as)
Trustee for NovaStar Mortgage Funding)
Trust, Series 2006-5, NovaStar Home)
Equity Loan, Asset-Backed Certificates,)
Series 2006-5,)

Plaintiff,)

v.)

Terry Lennette Grant; Catherine Alls,)

Defendants.)

HEARING

Tuesday, August 3, 2021
10:30 a.m. - 10:35 a.m.

The hearing before The Honorable Marvin H.
Dukes, III, Master-In-Equity for Beaufort County, was
taken at 102 Ribaut Road, Courtroom 3, Beaufort,
South Carolina on the 3rd day of August, 2021, before
Barbara J. Howell, Court Reporter and Notary Public
in and for the State of South Carolina.



APPEARANCES

William P. Stork, Esquire
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Westpark Center
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Columbia, South Carolina 29210
Attorney for the Plaintiff

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EXHIBITS

(There were no exhibits marked during this hearing.)



1 **CALL TO ORDER:**

2 **THE COURT:** Good morning, then. We're here in 2016-
3 CP-07-01466, this is Deutsche Bank versus Grant
4 and Alls. This is a Motion for Summary
5 Judgment that was previously filed and served.
6 It is 10:30 a.m. on the third day of August,
7 2021.

8 The names of the Defendants have been
9 called three times in the hallway without
10 result. Additionally, the deputy station
11 downstairs reports that no one has come in and,
12 for this hearing, and had to take their
13 telephone back to the car or anything like
14 that. So, it's a fair assumption, at this
15 point, that no one from the defense side is
16 going to appear.

17 So I'm happy to hear from you, sir.

18 **MR. STORK:** Thank you very much, Your Honor.

19 **MOTION FOR SUMMARY JUDGMENT**

20 **PLAINTIFF'S ARGUMENT FOR THE MOTION - MR. STORK:**

21 **MR. STORK:** May it please the Court. Will Stork
22 with Brock and Scott representing the
23 Plaintiff.

24 This is an action for foreclosure of a
25 note and mortgage. The note being entered into



1 by the Defendant, Terry Grant, on September 18,
2 2006, and payable to the order of NovaStar
3 Mortgage, Inc., the sum of 680,000 dollars with
4 interest, and an adjustable rate initially of
5 7.75 percent.

6 This note was secured by a mortgage
7 delivered to Ameris, as nominee for NovaStar
8 Mortgage, encumbering the subject real
9 property; which mortgage was recorded with the
10 Beaufort County registry on September 26, 2006,
11 in book 2448 at page 823. Thereafter, the
12 mortgage was assigned to Deutsche -- to the
13 Plaintiff by assignment recorded December 10th,
14 2009, in book 2915 at page 902.

15 It is of record that the legal description
16 and the mortgage was previously reformed by
17 Order granting Plaintiff's Motion for Partial
18 Summary Judgment recorded February 7th, 2014,
19 in Civil Action Number 2010-CP-07-01690.

20 The last payment was credited to this
21 account on December 1st, 2007. No demand has
22 been made. The arrearage has not been cured.
23 Total debt at this time is 1,624,441 dollars
24 and 87 cents.

25 Plaintiff filed, in addition to



1 Plaintiff's Motion for Summary Judgment,
2 Plaintiff filed an Affidavit in Support of
3 Judgment testifying as to the existence of the
4 debt, the breach of the debt, the damages,
5 which under U.S. Bank v. Hills is the prima
6 facie case for foreclosure. That Affidavit
7 also included a detailed breakdown of the
8 outstanding debt figures.

9 Additionally, Plaintiff filed a Affidavit
10 of Attorney's Fees and Costs. No affidavits in
11 opposition have been received; there's really
12 been no communication from either Defendant
13 Grant or Defendant Alls for the past quite some
14 time.

15 So, at this time, Judge, it's Plaintiff's
16 position there is no genuine issue of material
17 fact and that summary judgment would be proper.
18 We are requesting a September 7th, 2021, sales
19 date, and deficiency is waived in this matter,
20 Judge.

21 **THE COURT:** Thank you very much. And let's see. I
22 understand the Plaintiff asserts that there are
23 no COVID holds or anything like that on this
24 loan at this time, is that accurate?

25 **MR. STORK:** That's correct, Your Honor. A



1 Certificate of Compliance with the Cares Act
2 order was filed, I believe, a little later on
3 last week along with an Amended Affidavit of
4 Default.

5 **THE COURT:** Okay. Thank you very much.

6 **MR. STORK:** And, Your Honor, I do have the properly-
7 endorsed original note in my possession if you
8 would like to inspect prior to ruling.

9 **THE COURT:** Thank you. I will take Counsel's word
10 that, in fact, that's what you have in your
11 hand, but will ask you to go down the hall at
12 the conclusion of this and get Jackie to stamp
13 it and give it back to you.

14 **MR. STORK:** Certainly, Judge. I will do that, so.

15 **THE COURT:** All right.

16 **RULING BY THE COURT:**

17 **THE COURT:** I've had an opportunity to review the
18 file, which actually, after thumbing through
19 it, I'm familiar with from the past and note,
20 of course, the absence of the Defendant and the
21 fact that no affidavits have been filed on her
22 behalf.

23 I find it appropriate to grant the relief
24 requested, and I will do so. And also the
25 September sales date, I will grant. Ask that



1 the original Note be stamped and returned to
2 the Plaintiff and I've also asked the Plaintiff
3 to just copy the bankruptcy attorney from the
4 former bank- -- the previous bankruptcy and
5 that would be Mr. Matthews, it appears from the
6 documents I see in the file, but double-check
7 on that.

8 **MR. STORK:** Certainly, Judge.

9 **THE COURT:** Just, please, send him a copy of the
10 Notice of Sale and Order. All right. Anything
11 else for this record, then?

12 **MR. STORK:** Nothing further from the Plaintiff, Your
13 Honor.

14 **CLOSING REMARKS - THE COURT:**

15 **THE COURT:** All right. Then that will conclude the
16 record on 1466. Thank you very much.

17 **(There being nothing further, the hearing concluded**
18 **at 10:35 a.m.)**

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