

IN THE STATE OF SOUTH CAROLINA  
COURT OF APPEALS

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OCT 26 2021

FROM LEE COUNTY COURT OF COMMON PLEAS

**SC Court of Appeals**

Honorable Kristi F. Curtis, Judge

Case No.: 2019-000131

Benita Dinkins-Robinson..... APPELLANT

v.

Alan Ratner,..... RESPONDENTS

**ADDENDUM TO THE RECORD ON APPEAL**

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Camden, SC 29020

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*Pro Se Appellant*

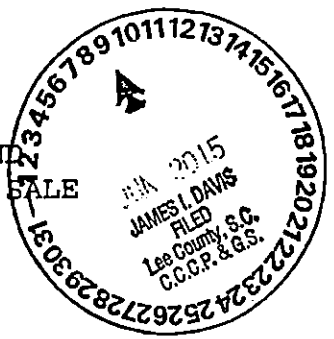
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*Counsels for Respondents*  
*Alan Ratner*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEE )  
 )  
 Allan J. Ratner, )  
 )  
 Plaintiff, )  
 )  
 Vs. )  
 )  
 Project Reach Ministries, )  
 )  
 Defendant, )  
 )

IN THE COURT OF COMMON PLEAS  
 THIRD JUDICIAL CIRCUIT  
 CASE NO.: 2014-CP-31-253

SPECIAL REFEREE'S ORDER AND  
 JUDGMENT OF FORECLOSURE AND SALE



Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, and upon the stipulation and agreement of the parties, the above-entitled matter was referred to the undersigned by Order of the Honorable James I. Davis, Lee County Clerk of Court, dated March 26, 2015, to make appropriate findings of facts and conclusions of law with authority to enter a final judgment in the cause.

Pursuant to the said Order of Reference a hearing was held on May 28, 2015. Testimony was taken, which is herewith reported, and from the testimony and evidence, I find, conclude and order as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on May October 1, 2014 in Lee County.
2. The Summons and Complaint were filed on October 1, 2014.
3. Service was made upon the Defendant named in this Order on November 10, 2014 and February 18, 2015 as is shown by the proofs of service previously filed with the court.
4. The Plaintiff's Affidavit of Default was filed on March 26, 2015.

5. The Defendant's Answer and Counterclaim was faxed to the Plaintiff on April 1, 2015, but never mailed to the Plaintiff's attorney.
6. An Order of Reference was filed with the Clerk on March 26, 2015.
7. Notice of Hearing was served on Johnny E. Watson, attorney for the Defendant, on or about April 22, 2015 as shown by Certificate of Service by Mail on file.
8. Plaintiff filed a Reply to Answer and Counterclaim and served same upon Defendant's attorney as shown by Certificate of Service by Mail on file.
9. Notice of Hearing was again served on May 6, 2015 upon Johnny E. Watson, attorney for the Defendant, and Benita Dinkins-Robinson, registered agent for service of Project Reach Ministries as shown by Certificate of Service by Mail on file.
10. The Plaintiff's attorney received a fax on May 27, 2015 as an attempt to request a continuance. This was never filed with the Court and is not in the proper form of a Motion, but the Court finds that if this was a Motion for Continuance, the same is denied.
11. For value received, the Defendant made, executed and delivered a Promissory Note dated January 27, 2014, promising thereby to pay to the order of Allan J. Ratner, the sum of Thirty-two Thousand Two Hundred and no/100 (\$32,200.00) dollars, with interest at the rate of 9% per annum. Other terms and conditions are stated in the note, which is of record herein.
12. Payment due on the note has not been made as provided for in the note, and the Plaintiff, as the holder thereof, has elected to require

immediate payment of the entire amount due thereon and has placed the note and mortgage in the hands of an attorney herein for collection. Plaintiff testified that he never received a full payment as required by the note and mortgage and actually only received three (3) partial payments of approximately \$100.00 each, which he has not cashed.

13. This Court further finds that this action arises from a commercial note and security agreement and therefore is not subject to the Home Affordable Modification Program (HMP) or the United States Treasury Supplemental Directive 09-1. The Court finds the stay arising out of Ex Parte Temporary Restraining Order dated May 22, 2009, and further supplemented by South Carolina Supreme Court Administrative Order (Order No. 2011-05-02-10), does not apply. In addition to being a commercial loan, the real property subject to this action is not an "Owner-Occupied dwelling."

14. The Note between Plaintiff and Defendant requires the borrower to reimburse Plaintiff for attorney's fees, costs and expenses. The Note expressly provides as follows:

Upon the failure of the Borrower timely to make any payment due hereunder, the entire principal balance, all accrued interest and all other sums secured hereby, including but not limited to its attorneys' fees for legal services incurred by the holder thereof in collecting or enforcing payment of this Note, shall immediately become due and payable at the option of the holder of this Note, notwithstanding the Maturity Date set forth herein. Interest after the Maturity Date shall be at the rate of Fifteen (15%) percent per annum.

15. The attorney's fees requested in the Attorney fee Affidavit of Plaintiff's counsel are reasonable and appropriate in this matter. The

Defendant stated no objection to Plaintiff entitlement to or the reasonableness of the fees requested.

16. The amount due and owing on the note, with interest at the rate provided in the note, and other costs and expenses of collection, including an attorney's fee, secured by the note and mortgage lien is as follows:

(a) Principal due from January 27, 2014	\$ 34,265.59
(b) Interest from January 27, 2014 to May 28, 2015 @ 9% per annum	\$ 4,198.31
(c) Costs of collection prior to hearing (service, filing, etc.)	\$ 270.00
(e) Attorney's fee	<u>\$ 2,500.00</u>
Total Debt	\$ 41,233.90

Interest for the period from May 28, 2015 through the date of this judgment at above stated rate to be added to the above stated "total debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the rate of 9% per annum (pursuant to the terms of the note) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt through the date to which such interest is computed.

17. The Plaintiff is seeking the foreclosure of the lien and has expressly waived the right to a personal or deficiency judgment. Since a no deficiency judgment is demanded, the bidding will not remain open for a period of thirty (30) days, as prescribed by law.

#### CONCLUSIONS OF LAW

I, therefore, conclude as follows:

1. The Plaintiff should have judgment against the Defendant in accordance with the above findings of fact. The Plaintiff is

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determined to have a valid equitable mortgage lien as to the property described herein and is entitled to foreclosure of the mortgage lien.

2. The mortgaged property should be ordered sold at public auction after due advertisement. The sale shall be made subject to taxes and assessments that are due on the day of such sale.

3. That after making the required deposit the successful bidder at the sale shall be required to pay interest at the rate set forth in the obligation described in the Complaint from date of sale to the date of compliance.

4. The proceeds arising from such sale should be applied, first, to the costs and disbursements of this action, and next, to the payment and discharge of the amount of Plaintiff's debt and interest or so much thereof as the proceeds will pay, and any surplus should be held pending further order of the Court.

Now, on motion of Plaintiff's attorney, S. Bryan Doby,

IT IS ORDERED, ADJUDGED AND DECREED:

1. That there is due to the Plaintiff on the obligation set forth in the Complaint the sum of \$41,233.90 representing the "Total Debt" due Plaintiff as set out in Paragraph 11, supra, together with interest at the rate provided in said obligation on the balance of principal from the aforesaid date to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth in paragraph 11, supra, and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the rate of 9% per annum.

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3. That the Defendant liable for the aforesaid debt does, on or before the date of sale of the property hereinafter described, pay to the Plaintiff's attorneys, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

4. That on default of payment at or before the time herein indicated, the mortgaged premises subject to Plaintiff's security interest described in the Complaint, as hereinafter set forth, be sold by the undersigned Special Referee or designee, at public auction, at the Lee County Courthouse, in the City of Bishopville, County of Lee and state aforesaid, on some convenient Salesday hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the Salesday shall be on Tuesday next succeeding such holiday), on the following terms, that is to say:

a. FOR CASH: the undersigned Special Referee will require a deposit of 5% of the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within Thirty (30) days same to be forfeited and applied to the costs and Plaintiff's debt.

b. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 9%.

c. The sale shall be subject to taxes and assessments due on the day of such sale, existing easements and easements and restrictions of record.

d. Purchaser to pay for the preparation of the deed, deed stamps and costs of recording the deed.

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5. If Plaintiff is the successful bidder at said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the undersigned Special Referee only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

6. As a personal or deficiency judgment is waived, the bidding will not remain open for a period of thirty (30) days after the date of sale as provided by law in such cases.

7. The undersigned Special Referee will, by advertisement according to law, give notice of the time and place of such sale, and the terms thereof; and will execute to the purchaser or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser or purchasers, should fail to comply with the terms thereof within thirty (30) days after date of sale, then the undersigned Special Referee may advertise the said premises for sale on the next or some other subsequent Salesday, at the risk of the former highest bidder, and so from time to time thereafter until a full compliance shall be secured. In the event the Plaintiff is the successful bidder, at its option, or the option of the assignee, the deed may be taken subject to payment by grantee of any taxes or assessments constituting a lien against the property sold under this Order and hereinafter more fully described.

8. The undersigned Special Referee to apply the proceeds of the sale as follows:

First: to payment of the amount of the costs and expenses of this action.

Next: to the payment to the Plaintiff or Plaintiff's attorneys, of the amount of Plaintiff's debt and interest, or so much thereof as the purchase money will pay on the same.

9. Any surplus should be held pending further Order of this Court.

10. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder is other than the Defendant in possession of the subject property and title by deed from the court is vested in such purchaser, the Sheriff of Lee County is ordered and directed to eject and remove from the property the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his or its assigns in full, quiet and peaceable possession of said property without delay, and to keep said successful bidder or his or its assigns in such peaceable possession.

11. In the event the successful purchaser is someone other than the Defendant in possession of the subject property, and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said property, and title by deed from the court is vested in such purchaser, the purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of Plaintiff's Mortgage. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

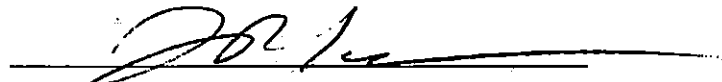
12. And it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein and all persons whosoever claiming under him, them or it, be forever batted and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

13. IT IS FURTHER ORDERED that the deed of conveyance made pursuant to said sale shall contain the names of only the first-named Plaintiff and first-named Defendant and the Defendants who were the titleholders of the mortgaged property at the time of the filing of the notice of pendency of the within action, and the name of the grantee, and the Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

14. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure, including, but not limited to, the issuance of a writ of assistance.

15. It is further ordered, that if the Plaintiff nor the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales date.

16. The premises herein ordered to be sold are described on Exhibit "A" attached hereto and made a part hereof.

  
Honorable James P. Saverance, Jr.  
Special Referee for Lee County

Bishopville, SC

June 4, 2015

**EXHIBIT "A"**

All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in the Town of Bishopville, Lee County, South Carolina and fronting on Gregg Street in said town Three Hundred Twenty-Eight (328) feet, more or less, and being bounded and described as follows, to wit: on the North by property of Bishopville Presbyterian Church; on the East by Gregg Street; on the South by lot formerly of Gerald Hershman; and on the West by the run of Black River Ditch, separating this lot from property formerly of R.W. McLendon, now said to be owned by Bishopville Finishing Company, Dr. Leroy B. Dennis and Ray D. Stephenson.

This being the same property conveyed to the mortgagor herein by deed Allan J. Ratner dated January 16, 2014 and in Book 309 at Page 272 in the Register of Deeds for Lee County, South Carolina.

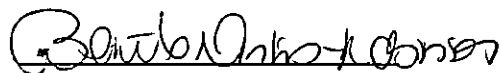
Tax Map No. 030-10-00-035-000

CURRENT ADDRESS OF PROPERTY IS:124 Gregg St., Bishopville, SC  
29010

SUBJECT TO ASSESSMENTS, LEE COUNTY TAXES, EXISTING EASEMENTS,  
EASEMENTS AND RESTRICTIONS OF RECORD, AND OTHER SENIOR  
ENCUMBRANCES, IF ANY.

CERTIFICATE OF SERVICE

I, Benita Dinkins-Robinson hereby this *ADDENDUM TO THE RECORD ON APPEAL* on October 26, 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 via fax : (803) 484-6044



Benita Dinkins-Robinson

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