

Master's Report and Judgment of Foreclosure and Sale

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-entitled matter was referred to the undersigned Master in Equity to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the cause. Any appeal from the decision of the Master in Equity shall be directly to the South Carolina Supreme Court.

Pursuant to the said reference, a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on _____, 199__.
2. The Summons and Complaint was filed on _____, 199__.
3. Service was made upon the Defendants named in this Report as is shown by the proofs of service filed herein.
4. The Defendants, _____, are in default as shown by Affidavit filed herein.
5. According to an Affidavit filed herein, no Defendant in default is in the military service of the United States of America, as contemplated under the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.
6. All Defendants were notified of the time, date and place of hearing in this matter.
7. For value received, _____ made, executed and delivered a note, dated _____, 19__ , promising thereby to pay to the order of _____ the sum of \$ _____, with interest at the rate of ___% per annum. Other terms and conditions are stated in the note, which is of record herein.
8. To better secure the payment of the note described above, the said _____ made, executed and delivered to _____ a mortgage, in writing, dated _____, 19__, covering real property in Charleston County, which is the same as that described in the Complaint. The mortgage was recorded on _____, 19__, and is of record in the Office of the R.M.C. for Charleston County in Book _____ at page ____.
9. This mortgage constitutes a first lien on the subject property and is a purchase money mortgage.
10. By Assignment of Mortgage dated _____, 19__, and recorded in the Office of the R.M.C. for Charleston County in Book _____ at page ____ on _____, 19__,

_____, assigned the subject note and mortgage to _____. By virtue of said assignment, the Plaintiff in this action is the owner and holder of the note and mortgage.

11. The title holders of record of the subject property as of the filing of the Lis Pendens in this action were _____, who were the original mortgagors.

12. Payment due on the note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the note and mortgage in the hands of its attorney of record herein for collection.

13. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$_____ is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

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

(a) Principal due as of _____, 19__ \$_____

(b) Interest from _____, 19__, to _____, 19__, at ___% per annum _____

(c) Advancements to Escrow _____

(d) Late Charges _____

(e) Costs of collection prior to hearing _____

(f) Attorney's Fee (paragraph 13, supra) _____

Total Debt secured by note and mortgage,

including interest to date shown \$_____

Interest for the period from the date shown in (b) above 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 9.5% per annum, pursuant to the terms of the note and mortgage on the judgment debt should be added to such judgment debt to comprise the amount of the Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

15. The Plaintiff is seeking foreclosure of its mortgage and has, in the Complaint or subsequently thereto in writing, expressly waived the right to a personal or deficiency Judgment pursuant to Rule 71(b), SCRPC.

16. The Defendants, _____, United States of America, South Carolina Department of Revenue and Taxation, formerly South Carolina Tax Commission, claim or may claim liens upon or interests in the subject property; and in the event there is a surplus from the sale of the subject property, the validity, priority and amount of any such lien claims will be determined at a hearing subsequent to the sale, in accordance with Rule 71(c), SCRPC. The said Defendants and such claims or liens are as follows:

(a) _____, holds a mortgage given by _____ in the original amount of \$_____, dated _____, 19____, and recorded on _____, 19____, in the Office of the R.M.C. for Charleston County in Book _____ at page ____.

(b) South Carolina Department of Revenue and Taxation, formerly South Carolina Tax Commission, holds a certain tax lien against _____ in the amount of \$_____, and filed in the Office of the R.M.C. for Charleston County on _____, 19____, as 93-_____.

(c) United States of America holds certain tax liens filed against _____, in the Office of the R.M.C. for Charleston County by the Columbia District Office of the Internal Revenue Service as follows:

_____, 1994 Serial Number _____ \$_____

Said tax liens are junior and subordinate to the lien of the Plaintiff herein.

(d) _____ holds a judgment against _____ in the amount of \$_____, filed in the Office of the Clerk of Court for Charleston County on _____, 19____, as Judgment Roll No. _____.

17. Pursuant to Section 2410(c), Title 28, United States Code, the Defendant, United States of America, has a right of redemption on proper application to redeem the within property for 120 days from the date of sale of the subject property.

CONCLUSIONS OF LAW: I, therefore, conclude as follows:

1. The Plaintiff should have judgment of foreclosure of its mortgage; and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That there is due to the Plaintiff on its note and mortgage the sum of \$_____, representing the Total Debt due to the Plaintiff as set out in Paragraph 14, supra, together with interest thereon at the rate provided in the note to the date hereof.

2. That the amount due in the preceding paragraph (the "Total Debt" as set forth in Paragraph 14, supra, and later accrued interest and costs) shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of ___% per annum.

3. That the Defendants liable for the aforesaid mortgage debt shall, prior to the date and time of the sale of the subject property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

4. That on default of payment prior to the date and time of the sale, the mortgaged premises, hereinafter described, shall be sold by the undersigned Master in Equity at public auction, at the Charleston County Courthouse, in the City of North Charleston, County and State aforesaid, on some convenient sales day hereafter, on the following terms, that is to say:

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

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of ___% per annum.

C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.

D. The sale shall also be subject to the Right of Redemption by the Defendant, United States of America, pursuant to Sec. 2410(c), Title 28, United States Code, for a period of 120 days from the date of sale of subject property.

E. Purchaser to pay for the deed and the cost of recording the deed.

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

6. That a personal or deficiency Judgment being waived, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately.

7. That the undersigned Master in Equity will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. Upon such sale being made, should the successful bidder, or his assignee, fail to comply with the terms thereof within thirty (30) days after the date of sale, then the undersigned Master in Equity may re-advertise the premises for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

8. That the undersigned Master in Equity shall apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court; and

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

NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRCF.

9. That it is further ORDERED ADJUDGED AND DECREED that, in the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Charleston County is hereby directed to eject and remove from the premises the occupant(s) of the property sold, together with any and all personal property located thereon, and to put the successful bidder, or his assigns, in full, quiet and peaceable possession.

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

11. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Register of Mesne Conveyance/ is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

12. That the undersigned Master in Equity shall retain Jurisdiction to do all necessary acts incident to this foreclosure, including, but not limited to, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRCF.

13. That after the Order Confirming Sale and Disbursements has been issued and filed, the undersigned Master in Equity shall direct the Register of Mesne Conveyance to release of record the mortgage liens

being foreclosed, which mortgage liens are described in Paragraphs 8 and 16 of the Findings of Fact hereinabove.

14. That the following is a description of the premises herein ordered to be sold:

Insert legal description here

CURRENT ADDRESS OF PROPERTY:

TMS:

AND IT IS SO ORDERED.

Roger M. Young

Master in Equity for Charleston County