

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF LEXINGTON)

_____,)
)
Plaintiff,)
)
vs.)
)
_____,)
)
Defendants)
)
_____)

DOCKET NO.: 2007-CP-_____

ORDER

Notice: The original of this document was filed in the Office of the Clerk of Court for Lexington County on the ____ day of _____, 2007.

PURSUANT to Section 53(b) of the South Carolina Rules of Civil Procedure, and upon the stipulation and agreement of all parties hereto not in default, the above-entitled matter was referred to the undersigned to make appropriate findings of fact 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, attended by the Plaintiff's witness, _____, and its attorney, _____, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT

1. The Lis Pendens was filed on June 11, 2007.
2. The Summons and Complaint were filed on June 11, 2007.
3. Service was made upon the Defendants named in this Report as shown by the Affidavit of Service and Certificate of Service by Mail filed herein; Defendants are in default as evidenced by the Affidavit of Default filed with the Court.
4. The Defendants are not in the military service of the United States of America as contemplated by The Soldiers and Sailors Civil Relief Act.

5. [REDACTED] testified that he is the owner of the Plaintiff LLC and that he was familiar with the facts pertinent hereto. [REDACTED] testified as follows:

a. [REDACTED] and [REDACTED] executed and delivered to Plaintiff an Installment Contract for deed, in writing, dated April 14, 2006, covering real property in Lexington County, which is the same as that described in the Complaint. Said Installment Contract for Deed was recorded January 25, 2007, in the Office of the Register of Deeds for Lexington County in Book [REDACTED] at Page [REDACTED]. This document obligates the Defendants to pay \$56,900.00, after having made a down payment of \$3,000.00; a copy of their contract was introduced into evidence.

b. Payment due on the Installment Contract for Deed has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amount due thereon and has placed the Installment Contract for Deed in the hands of the attorney for collection.

c. The amount due and owing on the Installment Contract of Sale totals \$57,939.34 as of June 7, 2007, plus late charges of \$350.00, costs of \$368.85, and interest in the amount of \$2,234.85 as of August 14, 2007, all totaling \$60,893.04.

d. He further testified that the monthly fair market rental value for the subject real property is at least \$600.00 per month and that the monthly installment payment is \$587.32 per month; Plaintiff further testified that the existing fair market value of the land and mobile home covered by the installment contract for deed is less than that which is presently owed upon it. There is no equity in the property which will inure for the benefit of the Defendants.

CONCLUSIONS OF LAW

The court has jurisdiction over the parties and the subject matter of this action. Based upon the pleadings, testimony and exhibits, the court finds and concludes as follows:

1. In some cases, a purchaser in possession under an installment sales contract has an equitable right of redemption, i.e. the right to pay the seller the amount due under the contract, but the right is not absolute. This right is determined by an examination of case specific factors such as length of default, number of payments, value of improvements to the property etc as set forth in Lewis v Premium Investment Corp, 568 S.E. 2d 361 (2002) and Cody Discount Inc v Merritt, 629 S.E. 2d 697 (Ct. App. 2006).

2. There is insufficient equity in the land and mobile home which is the subject of this action to warrant granting the Defendant this right of redemption. .

3. The Defendants will not realize any money from a foreclosure sale of the subject real property as the property is worth less than that owed upon it.

IT IS ORDERED, ADJUDGED AND DECREED:

1. The Installment Contract for Deed is forever voided, cancelled and terminated. The Defendants shall have no further interest in the real property and mobile home as hereinbelow described.

2. Plaintiff is given leave to take possession of the property which is the subject of this action and the Defendants' interest therein is forever ended, terminated and cancelled.

AND IT IS SO ORDERED.

James O. Spence, Master-in-Equity
for Lexington County

Lexington, South Carolina
August _____, 2007

All that certain piece, parcel or lot of land containing 1.278 acres, more or less, with the improvements thereon, situate, lying and being near [REDACTED], in the County of Lexington, State of South Carolina, being shown and designated as Tract [REDACTED] on a plat entitled "[REDACTED]," prepared for [REDACTED] Developers, Inc. recorded in the Office of the Register of Mesne Conveyances for Lexington County in Plat Book [REDACTED] at page [REDACTED], also being shown on a plat prepared by [REDACTED] Land Surveyors, recorded in said RMC Office in Plat Book [REDACTED] at page [REDACTED]; to include a [REDACTED] Mobile Home, Serial Number [REDACTED].

DERIVATION: This being the same property conveyed to [REDACTED], LLC by deed of [REDACTED] Corp. f/k/a [REDACTED] Mortgage, Inc. dated October 17, 2005 and recorded November 1, 2005 in Deed Book [REDACTED] at page [REDACTED], RMC Office for Lexington County.

TMS #: [REDACTED]

PROPERTY ADDRESS: [REDACTED]
LEXINGTON, SOUTH CAROLINA 29072