

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
2009-CP-42-4544

First Piedmont Federal Savings and Loan )  
Association, Gaffney, South Carolina, )  
 )  
Plaintiff, )

-vs-

B.J. Ivey & Son, Inc., Danny C. Ivey, Builders )  
Mutual Insurance Company and South Carolina )  
Department of Revenue, )  
 )  
Defendants. )

**JUDGMENT AND DECREE**  
(Foreclosure)

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2009 NOV -5 PM 2:35  
MARC KITCHENS

This is an action for the foreclosure of a real estate mortgage on property located in Spartanburg County, South Carolina. The action was properly commenced by the filing of a Lis Pendens and by the filing and service of a Summons and Complaint upon the Defendant. The Defendants were notified of the hearing which was held on November 5, 2009, before the undersigned at the Office of the Master-in-Equity, Spartanburg, South Carolina. The Lis Pendens, Summons and Complaint, Proof of Personal Service, Affidavit(s) of Default, Order of Reference, and Notice of Hearing are all a part of the record. I find that this court has jurisdiction of the parties and of the subject matter of this action.

The Plaintiff appeared at the hearing by and through its attorney, James R. Thompson, who testified concerning the note and mortgage delivered to the Plaintiff by B.J. Ivey, & Son, Inc. and Danny C. Ivey.

The Defendants B. J. Ivey, & Son, Inc., and Danny C. Ivey promised to pay to the order of First Piedmont Federal Savings and Loan Association the principal sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) bearing interest and payable as shown by the note. The note, dated November 8, 2002, was secured by a mortgage of even date given by B.J. Ivey & Son, Inc.

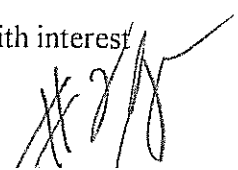
and Danny C. Ivey which mortgage was recorded in the R.M.C. Office for Spartanburg County, S. C., in Mortgage Book 2817, page 417, on November 13, 2002. The Note was modified by Agreement dated January 31, 2008 whereby the loan was amortized over a period of 231 months with a balloon payment on January 5, 2017. The note, mortgage and Agreement to Convert/Modify were introduced into evidence. I find that the mortgage of the Plaintiff is a first lien.

I find that since the inception of this action, Plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property, or the date the mortgage was executed, to the date of the filing of the Lis Pendens. He has been responsible for the preparation of the following pleadings:

1. Lis Pendens
2. Summons and Complaint
3. Order of Reference
4. Notice of Hearing
5. Transcript of Testimony
6. Proposed Final Decree
7. Notice of Sale
8. Other documents as applicable pertaining to finalization of this action.

Additionally, he has arranged for service of process on the Defendant, has scheduled and attended the hearing in this matter, and responded to any inquiries made by the Defendant concerning the balance due and/or the foreclosure action. Future duties include arranging and coordinating the amount to be bid by the Plaintiff, representation of the Plaintiff at the sale, and preparation of after sale documentation as required. In light of the potential liabilities inherent in a property matter, the attendant responsibilities, and the size of the total mortgage debt, I find that the attorney's fee requested by the Plaintiff in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) is reasonable.

From the testimony, I find that the Defendants, B. J. Ivey, & Son, Inc. and Danny C. Ivey are in default of the terms of the note and mortgage. I, therefore, find that Plaintiff is entitled to declare, and has declared, the entire amount secured by said mortgage due and owing, with interest



at the rate provided in the note, and other costs and expenses of collection, including an attorney's fee, which is as follows:

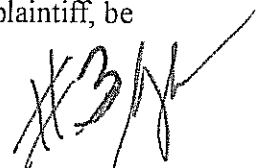
Principal Due on Default	\$ 91,010.86
Interest from 05/05/09 thru 11/05/09 @ 8.0%	\$ 4,029.90
Late charges	\$ 236.22
Costs prior to hearing (Filing, Service, etc.)	\$ 400.00
Attorney's Fee	\$ 2,500.00
<b>TOTAL DEBT</b> secured by Note and Mortgage including interest to 11/05/2009	\$ 98,176.98

Pursuant to a Temporary Restraining Order of the South Carolina Supreme Court dated May 4, 2009, and a further Administrative Order dated May 22, 2009, the Home Affordable Modification Program (HMP) is inapplicable to the mortgage loan which is the subject of this action, and the foreclosure action may therefore proceed.

I find that the Plaintiff has proven the allegations of its Complaint by a preponderance of the evidence and that it is entitled to the relief demanded. I find that the Plaintiff is not seeking a Deficiency Judgment in the event that the property does not sell for an amount sufficient to satisfy the aforesaid indebtedness. Therefore, the sale will be final on the sales date. It is, therefore,

ORDERED, ADJUDGED AND DECREED that Plaintiff is awarded judgment in the amount of Ninety-Eight Thousand One Hundred Seventy-Six and 98/100 Dollars (\$98,176.98), plus interest as hereinafter provided and any subsequent cost incurred. It is further

ORDERED that the Plaintiff's mortgage be foreclosed, the equity of redemption of all parties hereto be forever barred, and that the real property hereinafter described be sold by the Master-in-Equity on sales day on December 7, 2009, or on some convenient subsequent sales day, after due advertisement, and that such sale will be final on the sales date. The terms of the sale shall be cash, with the successful bidder to pay for stamps and deed; that any successful bidder, except plaintiff, be



required to deposit, in cash, not less than five (5%) percent of the amount of the successful bid, such deposit to be applied toward the purchase price upon compliance, or forfeited in the event of noncompliance. Should the successful bidder fail to comply with the terms of his bid within 15 days from the date of sale, the Master-in-Equity will readvertise and resell said property at the risk of the defaulting purchaser. It is further

ORDERED that in the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be automatically withdrawn from sale and sold at the next available sales date upon the same terms and conditions as set forth in this Decree. It is further

ORDERED that the proceeds of sale be applied first to the costs, disbursements and expenses, to include attorney fees in this action, and second toward the amounts due the Plaintiff, including interest through the date of this Decree at the contract rate, and thereafter to the date of compliance at the legal rate, together with late charges and the costs of securing the property, if any. It is further

ORDERED that any successful bidder shall be entitled to immediate possession of the premises upon compliance with the bid, and upon failure to acquire possession of the said premises, the sheriff of this county shall put the purchaser into possession and this Decree shall be his warrant therefor. It is further

ORDERED that any funds remaining following the payment of the Plaintiff, the costs, and attorney fees shall be retained subject to the further Order of this Court.


The property herein ordered to be sold is described as follows:

ALL that lot or land in Spartanburg County, South Carolina, being shown and described as Lot No. 9 on a plat of Orchard-View Subdivision, Section One, made by Joe E. Mitchell, Surveyor, dated March 8, 1990 and recorded in Plat Book 110, at Page 120.

Tax Map #: 5-36-10-004.00  
Property Address: 7755 Reidville Road  
Woodruff, SC 29388

A handwritten signature in black ink, appearing to be a stylized name, located in the bottom right corner of the page.

IT IS SO ORDERED!

  
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GORDON G. COOPER  
MASTER-IN-EQUITY  
SPARTANBURG COUNTY, S.C.

Spartanburg, South Carolina

November 5, 2009

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
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