

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
Case #: 2009-CP-42-6251

Cornerstone National Bank,)
)
Plaintiff,)

vs.)

Foreclosure Decree

RCB Development Incorporated a/k/a)
RCB Development, Inc., David Foy,)
John Brasher, Stock Building Supply,)
Inc., Builders FirstSource—Southeast)
Group, LLC a South Carolina Limited)
Liability Company, John Dean)
Ridings, Duane Werkmeister, and)
Wildwood Estates Homeowners)
Association a/k/a Wildwood Estates)
Homeowners Association, Inc.,)
)
Defendant(s).)

(Non-eligible under the Home Affordable
Modification Program)
(Deficiency Judgments Requested as to
RCB Development Incorporated a/k/a
RCB Development, Inc., David Foy, and
Josh Brasher)

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CLERK OF COURT
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Pursuant to Circuit Rule 53 of the South Carolina Rules of Civil Procedure the above-entitled matter was referred to the undersigned to make appropriate findings of facts and conclusions of law with authority to enter a final judgment in the case.

Pursuant to the Order of Reference a hearing was held, attended by Plaintiff's attorney of record. Testimony was taken (herewith reported). From the testimony and evidence I make the following Findings of Fact, Conclusions of Law, and Order.

Findings of Fact

1. The Lis Pendens was filed in the Records for Spartanburg County (hereafter

'Records') on November 16, 2009.

2. The Summons and Complaint were filed on November 16, 2009.

3. Defendants RCB Development Incorporated aka RCB Development, Inc. (hereafter 'RCB'), David Foy hereafter 'Foy'), John Brasher (hereafter 'Brasher'), Stock Building Supply, Inc. (hereafter 'Stock Building'), John Dean Ridings (hereafter 'Ridings'), Duane Werkmeister (hereafter 'Werkmeister'), and Wildwood Estates Homeowners Association aka Wildwood Homeowners Association, Inc. (hereafter, 'Wildwood') are in default. No demurrers, answers or notices of appearance have been filed with the attorneys for the Plaintiff, as shown by the Affidavit(s) of Default. Time for filing answers, demurrers, or notices of appearances has expired. Defendant Builders FirstSource—a Southeast Group, LLC a Delaware Limited Liability Company (hereafter 'Builders FirstSource') has filed an Answer, Counterclaim and Crossclaim and is represented by Joel F. Geer and Angela A. Elliot of the Business & Construction Law Group, LLC. Plaintiff has filed its Reply thereto.

4. This is an action brought for the foreclosure of a real estate mortgage. Defendants have been served properly. The Court has jurisdiction of the parties and the real estate (which is located entirely in Spartanburg County, South Carolina).

5. On March 21, 2006, RCB gave Plaintiff a written Promissory Note. On the same day, RCB executed and delivered to Plaintiff a Mortgage as security for the Note (both in the original amount of Fifty-Six Thousand Six Hundred Seventy-One and 88/100ths (\$56,671.88) Dollars, with interest thereon at eight point two five (8.25%) percent with a variable rate of point seven five (.75%) percent over the index as published in the Wall Street Journal and a maturity date of March 19, 2007. The Mortgage was recorded in the Records on March 22, 2006 in

Mortgage Book 3630 at Page 649.

6. To further secure the note and mortgage, Foy and Brasher gave their continuing Guaranty dated March 21, 2006 in connection therewith whereby they unconditionally guaranteed to Cornerstone the timely payment and performance of all liabilities of Borrower to Plaintiff.

7. Thereafter, the Note was renewed by Renewal dated March 30, 2007 wherein the interest rate was set at nine (9%) per cent, interest payments were to be made quarterly beginning June 28, 2007 and the maturity date was changed to March 28, 2008. The Renewal dated March 30, 2007 was further secured by the continuing Guaranty of Foy and Brasher dated March 30, 2007 whereby they unconditionally guaranteed to Cornerstone the timely payment and performance of all liabilities of RCB to Cornerstone in connection with the Note and Renewal.

8. Thereafter, the Note was renewed by Renewal dated April 23, 2008 wherein the interest rate was set at six (6%) per cent with a variable rate of point seven five (.75%) per cent over the Index as published in the Wall Street Journal, interest payments were to be made quarterly beginning July 22, 2008 and the maturity date was changed to October 22, 2008. The Renewal dated April 23, 2008 was further secured by the continuing Guaranty of Foy and Brasher dated April 23, 2008 whereby they unconditionally guaranteed to Cornerstone the timely payment and performance of all liabilities of RCB to Cornerstone in connection with the Note and Renewal.

9. Thereafter, the Note was renewed by Renewal dated October 22, 2008 wherein the interest rate was set at five point two five (5.25%) per cent with a variable rate of point five (.5%) percent over the prime as published in the Wall Street Journal, interest payments were to

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be made quarterly beginning January 20, 2009 and the maturity date was changed to April 20, 2009. The Renewal dated October 22, 2008 was further secured by the continuing Guaranty of Foy and Brasher dated October 22, 2008 whereby they unconditionally guaranteed to Cornerstone the timely payment and performance of all liabilities of RCB to Cornerstone in connection with the Note and Renewal "and any extensions, renewals or replacements thereof."

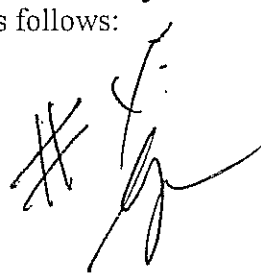
10. Thereafter, the Note was renewed by Renewal dated April 20, 2009 wherein the interest rate was set at four point two five (4.25%) per cent with a variable of one (1%) percent over the prime as published in the Wall Street Journal, payments were to be made at maturity and the maturity date was changed to July 19, 2009.

11. Consecutive monthly installment payments of interest were due until July 19, 2009 when the entire balance of principal, interest and all other indebtedness owed by Borrower(s) to Note Holder (if any) were due and payable. The Note has matured according to its terms.

12. RCB has defaulted in payment of the interest installments which became due and payable. Plaintiff has exercised its option to declare the full amount due and payable. Therefore, RCB is in default. The entire balance of principal and accrued interest is due and payable, and Plaintiff is entitled to foreclosure.

13. Based on the complexity, responsibility, and time involved, \$3,000.00 is a reasonable fee for Plaintiff's attorney (for services performed and anticipated to be performed until final adjudication of this action) as provided for under the terms of the note and mortgage.

14. 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) is as follows:

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(a)	Principal due through March 10, 2010	\$ 57,936.42
	Interest due through March 10, 2010	\$ 2,135.67
	2008 Taxes paid	\$ 1,264.54
(b)	Costs of collection prior to hearing:	
	Case Filing Fee	\$ 150.00
	Filing Order of Reference	\$ 25.00
	Service fees	\$ 580.00
	Postage and copies	\$ 75.00
	Title Abstractor Fee	\$ 75.00
(c)	Attorney's fee	\$ 3,000.00
(d)	Master's fee	\$ 125.00


TOTAL DEBT secured by note and mortgage, including interest to date shown: \$ 65,366.63

Interest (at above-stated rate) for the period from the date shown in (a) above through the date of this judgment should be added to the "total debt" (above) and is the judgment debt herein.

Interest (after the date of judgment at the judgment rate of 7.25%) should be added to the judgment debt to comprise Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

15. Plaintiff has filed the necessary affidavit(s) in connection with the requirements of the Soldiers and Sailors Civil Relief Act of 1940 USCA, Title 50 App., Section 501, et. seq. I can find no basis for a stay of this proceeding.

16. Plaintiff specifically demands a deficiency judgment against RCB, Foy and Brasher pursuant to S. C. Code Ann. Section 29-3-660 (1976) for any deficiency remaining after sale of the mortgaged premises. Plaintiff reserves its right to withdraw its demand for deficiency judgment at any time prior to the foreclosure sale herein.

#5


17. Plaintiff is entitled to have judgment on the note and the mortgage foreclosed with the equity of redemption of RCB forever barred. Plaintiff is entitled to have the premises sold at public auction on Legal Sales Day on May 3, 2010 or some subsequent Legal Sales Day. The sale shall bar the equity of redemption. The sale shall be subject to Spartanburg County property taxes and easements, to existing easements and to existing restrictions of record. The proceeds derived from the sale (after payments of costs and expenses of this action, including attorney's fees) shall be applied to the satisfaction of RCB's indebtedness to Plaintiff.

18. Defendant(s) below named may have or claim some interest in, or lien upon, the premises because of the following.

A). Stock is the owner and holder of a mortgage from RCB dated February 11, 2009 and recorded February 20, 2009 in Mortgage Book 4186 at page 521 in the original amount of \$390,000.00.

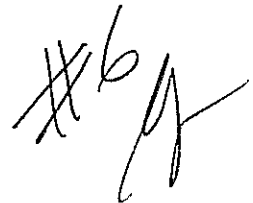
B). Builders is the owner and holder of a mortgage from RCB dated April 16, 2009 and recorded May 1, 2009 in Mortgage Book 4217 at page 408 in the original amount of \$34,442.20.

C). Builders is the owner and holder of a judgment against RCB in judgment roll # 09-5760 dated October 22, 2009 in the original amount of \$41,738.08.

D). Ridings is the owner and holder of a judgment against RCB entered September 21, 2009 in judgment roll # 08-1696 in the original amount of \$110,720.61.

E). Werkmeister is the owner and holder of a judgment against RCB entered September 21, 2009 in judgment roll # 08-1720 in the original amount of \$153,918.96.

F). Wildwood is the owner and holder of a "Notice of Lien" filed against RCB dated



April 21, 2009 and filed April 23, 2009 in REM 4213 at page 432 in the original amount of \$1,117.09, plus costs. Wildwood may also have some claim on or interest in the subject property because of other unpaid dues or assessments as provided for in the "Restrictive Covenants and Easements Wildwood Estates" dated August 25, 2005 and filed October 27, 2005 in Deed Book 84-G at page 084.

However, I find that each and every claim set out above and in this section/paragraph is junior and subordinate to the claim of Plaintiff.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

19. The lien of Plaintiff constitutes a First Lien on the property. Plaintiff should have judgment on the note and foreclosure of the mortgage.

20. The mortgaged property should be ordered sold at public auction after due advertisement. The sale shall be subject to Spartanburg County taxes and assessments (due on the day of sale), to existing easements of record, to existing restrictions of record. After making the required deposit at the time of bid, the successful bidder at the sale should be required to pay interest (from the date of sale through the date of compliance) at the rate set forth above.

21. The proceeds arising from such sale should be applied as set out below. a). First, to costs and disbursements of this action (plus reasonable attorney's fees); b). Next, to payment and discharge of Plaintiff's debt plus interest (or so much thereof as the proceeds will pay); and c). Last, any surplus to held pending further order of this court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows.

A. This matter is properly before the Court

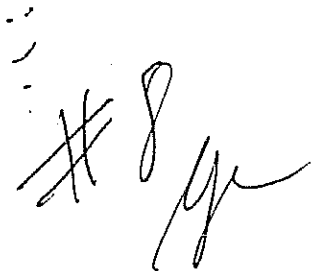
A. Plaintiff is due \$65,366.63 on its mortgage which constitutes a First Lien on the Subject Property. This amount is the "Total Debt" due Plaintiff as set out in paragraph 14, infra, (together with interest at the rate provided in said obligation on the balance of principal from aforesaid date to the date hereof).

B. The amount due in the preceding paragraph (the "Total Debt" as set forth in paragraph 14, infra, and later accrued interest on the principal) constitutes the total judgment debt due Plaintiff. Plaintiff's total judgment debt shall bear interest hereafter at the rate of 7.25% per annum.

C. On or before the date of sale of the property (hereinafter described), RCB shall pay to Plaintiff, (or Plaintiff's attorney), the amount of Plaintiff's total debt mentioned above, plus costs and disbursements of this action.

D. On default of payment (at or before the time herein indicated), the mortgaged premises (described hereafter) shall be sold by the Master in Equity for Spartanburg County, at public auction, at the Spartanburg County Court House, in Spartanburg, South Carolina on May 3, 2010 or some convenient Sales Day thereafter. Should the regular day of judicial sales fall on a legal holiday, then the Sales Day shall be on Tuesday next succeeding such holiday. The following terms shall govern the sale.

(a) CASH: The Master shall require a deposit of five (5%) per cent of the bid (in cash or equivalent) at the time of the bid, (if the successful bidder be other than Plaintiff). Such deposit shall be applied on the purchase price only upon compliance (within twenty (20) days) with the bid. In case of non-compliance the deposit will be forfeited and applied to the costs and to Plaintiff's debt.

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(b) INTEREST: Interest on the balance of the bid shall be paid through the day of compliance at the rate of 7.25%.

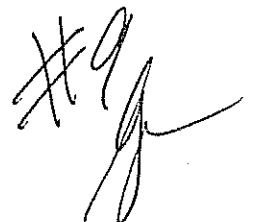
(c) SALE: The sale shall be subject to Spartanburg County taxes and assessments, to existing easements and to existing restrictions of record.

(d) PURCHASER: Purchaser shall pay for the preparation of the deed, deed stamps, and costs of recording the deed.

E. If Plaintiff is the successful bidder at sale (for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full), then Plaintiff may pay to the Master only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

F. Since a personal or deficiency judgment is demanded, bidding will remain open for thirty (30) days after the date of sale (as provided by law in such cases), unless Plaintiff withdraws its demand prior to sale pursuant to S. C. Code Ann. Section 29-3-660 (1976) as amended.

G. The Master in Equity will advertise according to law. The advertisement shall give notice of the time and place of such sale and the terms thereof. The Master in Equity will execute to the purchaser(s) a deed to the premises sold subject to Spartanburg County taxes and assessments (due on the day of sale), to existing easements of record, and to existing restrictions of record. Plaintiff, or any other party to this action, may become a purchaser at such sale. If, upon such sale being made, the purchaser(s) should fail to comply with the terms thereof within twenty (20) days after date of sale, then the Master in Equity may advertise the premises for sale on the next (or some other subsequent Sales Day) at the risk of the former highest bidder, (and so

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from time to time thereafter until a full compliance shall be secured). If Plaintiff is the successful bidder, then at its option (or the option of its 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.

H. The Master in Equity shall apply the proceeds of the sale as follows: a). First to payment of the costs of this action; b). Then, to payment of Plaintiff's debt, (including principal, interest, escrow deficits, and attorney's fees as herein-above provided); and, c). any balance shall be held pending a further order of this court.

I. If the successful bidder is other than Plaintiff in possession of the property, the Sheriff of Spartanburg County is ordered and directed to eject and remove the occupant(s) of the property sold, together with all personal property located thereon. The Sheriff of Spartanburg County shall put the successful bidder (or his assigns) in full, quiet and peaceable possession of the premises without delay and shall keep the successful bidder (or his assigns) in such peaceable possession. Any interference with the activities of the Sheriff, or any of his deputies, as herein authorized, may constitute contempt of this Court and subject the persons(s) causing or responsible for such interference to punishment for this offense. Certified copies of the deed and this decree shall constitute sufficient warrant and authority to permit the summary eviction and ejectment hereby authorized, without the need for a separate Writ of Assistance.

J. RCB (and all persons claiming under him, her, them, or it) are forever barred and foreclosed of all right, title, interest, and equity of redemption in the mortgaged premises sold (or any part thereof).

K. The deed of conveyance made pursuant to the sale shall contain the names of only

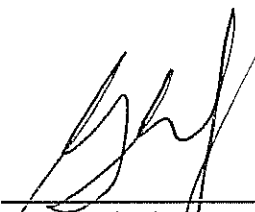
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the first-named Plaintiff and the named Defendant(s) who is/are the titleholder(s) of the mortgaged property (at the time of filing the notice of pendency of this action) and the name of the grantee(s). The Clerk of Court for Spartanburg County is authorized to omit from the indices pertaining to such conveyance the name(s) of all parties not contained in the deed.

L. The following is a description of the premises herein ordered to be sold:

All that certain piece, parcel or lot of land in Spartanburg County, State of South Carolina shown and designated as Lot No. 26 of Wildwood Estates Subdivision on a subdivision plat prepared for Mark III Properties, Inc. by Neil R. Phillips Company, Inc., dated August 25, 2005 and, recorded in plat Book 158, page 702, Office of the Register of Deeds for Spartanburg County. TMS#: 5-27-00 100.49
Address of Property: Lot 26, Wildwood Estates Subdivision, Spartanburg, SC 29301-8139

IT IS SO ORDERED.



Gordon G. Cooper
Master in Equity
Spartanburg, South Carolina

March 10, 2010.

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STATE OF SOUTH CAROLINA
SPARTANBURG COUNTY
COURT OF COMMON PLEAS

2009--CP--42--6251
EQUITY COURT SALE

Pursuant to Court Decree in Cornerstone National Bank, Plaintiff, vs. RCB Development Incorporated aka RCB Development, Inc., et. al., Defendant(s), I will sell at public auction to the highest bidder at the Master-in-Equity Office/Courtroom of the Spartanburg County Court House at 180 Magnolia St., Spartanburg, South Carolina on April 5, 2010 at 11:00 a.m. the following property:

All that certain piece, parcel or lot of land in Spartanburg County, State of South Carolina shown and designated as Lot No. 26 of Wildwood Estates Subdivision on a subdivision plat prepared for Mark III Properties, Inc. by Neil R. Phillips Company, Inc., dated August 25, 2005 and recorded in plat Book 158, page 702, Office of the Register of Deeds for Spartanburg County.

TMS#: 5-27-00 100.49

Address of Property: Lot 26, Wildwood Estates Subdivision, Spartanburg, SC 29301-8139

The property will be sold subject to any past due or accruing property taxes, assessments, existing easements, and restrictions of record and any other senior encumbrances.

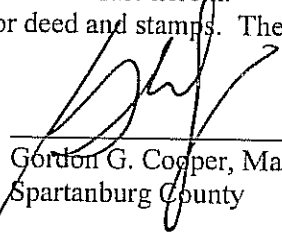
The successful bidder must pay interim interest from the date of sale through date of compliance at the rate of 7.25%.

Each successful bidder other than the Plaintiff at time bid is accepted will be immediately required to deposit with the Master-in-Equity as evidence of good faith, five (5%) percent of bid in cash or certified check at the time of the bid. In the event purchaser fails or refuses to comply with terms of sale within twenty (20) days, deposit shall be forfeited and applied first to cost and then to Plaintiff's debt, and the Master-in-Equity shall forthwith re-advertise and resell said property upon the same terms on some subsequent sales day at the risk of former purchaser until obtaining full compliance with sale.

Bidding will not close on sales day, but will remain open for a period of 30 days to close on June 2, 2010 at 11:00 a.m. The Plaintiff reserves its right to withdraw its demand for deficiency judgment at any time prior to the foreclosure sale herein.

Terms of Sale-Cash; purchaser to pay for deed and stamps. The sale will not take place unless Representative of Plaintiff is at the Sale.

John F. Wyatt
Attorney for Plaintiff
(864) 298-0084


Gordon G. Cooper, Master-in-Equity
Spartanburg County

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