

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS  
C/A NO.: 2009-CP-42-4298

Green Tree Servicing, LLC as successor in  
interest to Green Tree Financial Servicing  
Corporation,

Plaintiff,

vs.

Yeserina M. Arrassaenz a/k/a Yeserina  
Maribel Arrassaenz, Luis Diaz, Rosa  
Sanchez, Norfolk Financial Corporation, and  
South Carolina Department of Motor  
Vehicles,

Defendants,

JUDGMENT OF FORECLOSURE  
AND ORDER FOR SALE  
(Deficiency Demanded as to Defendant  
Yeserina M. Arrassaenz a/k/a Yeserina  
Maribel Arrassaenz only)  
(Non-eligible under the Home Affordable  
Modification Program)

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2009 NOV -5 PM 2:34  
MARC KITCHENS

Pursuant to Rule 53 SCRPC, 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 with appeal, if any, directly to the South Carolina Court of Appeals. Pursuant to the said Order of Reference, a hearing was held, attended by the attorney of record for Plaintiff, 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 July 27, 2009 and the Amended Lis Pendens was filed on August 5, 2009.
2. The Summons and Complaint were filed on August 5, 2009.
3. Service was made upon the Defendants, named in this order as is shown by the Proofs of Service filed herein.

The Mortgage was filed on April 7, 1999, and is of record in the office of the ROD for Spartanburg County in Mortgage Book 2193 at Page 486.

10. This Mortgage constitutes a first lien on the subject property.
11. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Defendant Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz who is the original mortgagor.
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 the attorney herein for collection.
13. The sum of \$3,500.00 is a reasonable fee to allow as attorney fees for 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 circumstances delaying conclusion beyond the normal time.
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 attorney's fee, secured by the Mortgage is as follows:

a.	Principal due as of November 5, 2009	\$68,016.30
b.	Interest from July 11, 2009 through November 5, 2009 at 8.500%	\$1,837.44
c.	Late Charges before being sent to attorney for collection	\$30.00
d.	Insurance	\$793.80
e.	Attorney's fee	\$3,500.00
f.	Costs of collection prior to hearing	\$876.46

Total Debt secured by Note and Mortgage,  
including interest to date shown

\$75,054.00

Per Diem at \$17.47

The amount due (shown above) shall accrue interest at the rate of 8.500% per annum and together with such interest shall constitute the total debt due the Plaintiff, pursuant to S.C. Code §29-3-630.

15. That the Plaintiff is seeking foreclosure of the Mortgage against all Defendants, and its right to a deficiency judgment against Defendant Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz is expressly demanded.
16. Upon information and belief, the Defendants Luis Diaz and Rosa Sanchez have or may claim to have an interest in the subject property by virtue of a Contract for Deed executed by Defendant Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz and Defendants Luis Diaz and Rosa Sanchez dated May 24, 2007 and recorded May 30, 2007 in the Office of the ROD for Spartanburg County in Book 88-R at Page 549.
17. However, any such interest of said Defendants Luis Diaz and Rosa Sanchez is junior and subordinate to Plaintiff's Mortgage.
18. Upon information and belief, the Defendant Norfolk Financial Corporation has or may claim to have an interest in the subject property by virtue of a Transcript of Judgment from the Spartanburg County Magistrate Court filed December 16, 2005 against Yeserina M. Arrassaenz in the Office of the Clerk of Court for Spartanburg County as Judgment Roll No. 285777 in the sum of \$2,746.38;

however, any such interest of said Defendant Norfolk Financial Corporation is junior and subordinate to Plaintiff's Mortgage.

19. Defendant South Carolina Department of Motor Vehicles is made a party hereto as it is the governmental agency responsible for issuing certificates of title for manufactured homes in South Carolina. The Plaintiff seeks an order requiring Defendant the South Carolina Department of Motor Vehicles to issue a certificate of title for the 1999 Fleetwood (28x60) Manufactured Home (VIN: GAFLX34AB29640SL12) located on the subject property and secured as part of the Plaintiff's loan, free and clear of any liens to the successful purchaser as the foreclosure sale.

### CONCLUSIONS OF LAW

I, therefore, conclude as follows:

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

### **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. The Defendant(s) named herein and all persons whosoever 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.
2. Plaintiff's Mortgage constitutes a first lien on the subject property.
3. There is due to the Plaintiff on the obligation and Mortgage set forth in the Complaint the sum of \$75,054.00 representing the total debt due Plaintiff as set out in the Findings of Fact *supra*.

4. The amount due in the preceding paragraph (the "Total Debt" as set forth hereinabove) shall accrue interest at the rate of 8.500% per annum and together with such interest shall constitute the total debt due the Plaintiff.

5. The amount due shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

6. That on or before the date of sale of the property hereinafter described, Plaintiff or Plaintiff's attorney, is to be paid the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

7. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the undersigned Master in Equity for Spartanburg County at public auction, at the Spartanburg County Courthouse, 180 Magnolia Street, Spartanburg, County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on some other day appointed by the Court), on the following terms, that is to say:

A. FOR CASH: The undersigned Master in Equity for Spartanburg County will require, at the time of the bid, a deposit of five (5%) percent on the amount of the bid (in cash or equivalent) same to be applied on the purchase price if compliance is made; but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at the time of bid or comply with the

other terms of the bid within twenty (20) days, then the property may be re-sold on the same terms and conditions on some subsequent sales day, but at the risk of the defaulting bidder(s).

B. Interest on the bid shall be paid through the day of compliance at the rate of 8.500%.

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

D. Purchaser to pay for any statutory commission on sale from the proceeds of sale, deed preparation, costs of recording the deed and deed stamps.

8. A personal or deficiency judgment being demanded, the bidding will remain open after the date of sale for thirty (30) days.

9. That the undersigned Master in Equity for Spartanburg County, will by advertisement according to law, give notice of the time, and place of 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 that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within twenty (20) days after date of sale, then the undersigned Master in Equity for Spartanburg County may advertise the said 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.

10. That the undersigned Master in Equity for Spartanburg County will apply the proceeds of 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.

**NEXT:** To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same.

**NEXT:** Any surplus will be held pending further Order of this Court.

11. That Plaintiff shall have judgment of foreclosure against Defendant Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz. That Plaintiff shall have immediate personal judgment against Defendant Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz for the full amount found to be due Plaintiff on the Note and Mortgage, which judgment shall be reduced by the net proceeds of sale pursuant to S.C. Code Ann §29-3-650, as amended, as determined by this Court in a subsequent order for deficiency. Plaintiff may waive any of its rights prior to sale, including its right to a deficiency judgment in accordance with Rule 71, South Carolina Rules of Civil Procedure. Plaintiff's waiver shall be made in writing.

12. 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 Plaintiff in full, Plaintiff may pay to the undersigned Master in Equity for Spartanburg County only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

13. Should the Plaintiff, Plaintiff's attorney or agent fail to appear on sales day, the property shall not be sold, but shall be readvertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney or agent is present.

14. In the event the successful bidder is other than the Plaintiff in possession herein, the Sheriff of Spartanburg County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in such peaceable possession.

15. That the deed of conveyance made pursuant to this sale shall be indexed in the grantor index by the Clerk of Court or Register of Deeds in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the undersigned Master in Equity for Spartanburg County, who executes such deed as grantor.

16. The Master in Equity for Spartanburg County, shall direct the Clerk of Court/Register of Deeds to release of record the mortgage lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which mortgage lien is described as follows:

That certain Mortgage given by Yeserina M. Arrassaenz a/k/a Yeserina Maribel Arrassaenz to Green Tree Financial Servicing Corporation dated March 31, 1999 and recorded in the Office of the Clerk of Court/Register of Deeds for Spartanburg County on April 7, 1999 in Book 2193 at Page 486.

17. The undersigned Master in Equity for Spartanburg County will retain jurisdiction to do all the necessary acts incident to this foreclosure including, but not limited to, the issuance of a Supplemental Order to evidence additional debt incurred if the sale of the property is delayed by the filing of a bankruptcy petition, transfer of service of the Note and Mortgage by the Plaintiff, or an attempt of the parties to reach a settlement, the issuance of a Supplemental Order to correct a harmless error in the action that does not substantially affect the rights of the parties, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRCF, and hearing any issues involving appraisal proceedings under §29-3-680 et seq of the South Carolina Code of Laws (1976) as amended.

18. Mortgaged property to be sold by Master in Equity for Spartanburg County:

*All that certain piece, parcel or lot of land lying, situate and being in the County of Spartanburg, State of South Carolina, being shown and designated a Lot No. 84 on a plat entitled "Wilkins Hill Subdivision, Section 3", prepared by Huskey &*

Huskey, Inc. dated January 24, 1997 and recorded in Plat Book 137, Page 11 in the Office of the RMC Office for Spartanburg County, South Carolina. For a more complete description, reference is hereby made to the above described plat.

This being the same property conveyed to Yeserina M. Arrassaenz by deed of Galen Stalter dated March 31, 1999, recorded April 7, 1999 in Book 69-S at Page 159.

Together with that certain 1999 Fleetwood (28x60) Manufactured Home (VIN: GAFLX34AB29640SL12).

TMS No.: 1-23-00-200.05 (land and MH)  
Address: 470 Wilkins Road, Campobello, South Carolina 29322

19. The Note as described hereinabove is secured by the 1999 Fleetwood (28x60) Manufactured Home (VIN: GAFLX34AB29640SL12), located on the subject property and that said manufactured home is part of the real property.

20. The Defendant South Carolina Department of Motor Vehicles is ordered to issue a new Certificate of Title for the 1999 Fleetwood (28x60) Manufactured Home (VIN: GAFLX34AB29640SL12), free and clear of any liens to the successful bidder and/or bidders after the foreclosure sale.



Gordon G. Cooper  
Master in Equity for Spartanburg County

11/5, 20\_\_  
Spartanburg County, South Carolina

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