ELECTRONICALLY FILED - 2024 May 30 9:22 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2300194

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Blue Ridge Plantation Property Owners Association, Inc. Plaintiff, v. Hernan Guerrero and Yasmiye Guerrero Defendant(s).	IN THE COURT OF COMMON 2024-CP-23-00194 **JUDGMENT OF FORECLOSURE AND SALE** **(Deficiency Judgment Waived)**

20816.22

A hearing was held via Zoom on 05/28/2024. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Notice of Lien was filed on 09/19/2023 in Book 5749 at Page 4897.
2. The Lis Pendens was filed on 01/11/2024.
3. The Summons and Complaint were filed on 01/11/2024.
4. Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein.
5. The Defendant(s) are in default.
6. The Defendant(s) are not in the Military Service of the United States of America, as contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. seq. as shown by affidavit, certificate or order filed herein.
7. Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011.
8. All Pro Se Defendant(s) and all attorneys of record were notified of the time, date, and place of the hearing by letter and certificate of mailing of record herein.
9. On 05/07/2020 the Defendant(s) took title to the subject property located at 54 Mossycup Road. The Defendant(s), by taking title to the subject property agreed to the governing documents for Plaintiff, which are of record herein.
10. The titleholder(s) of record in and to the subject property as of the filing of the lis pendens in this action is/are Hernan Guerrero and Yasmiye Guerrero.
11. Payment of the assessment has not been made as provided for by the Declaration, and the Plaintiff has elected to require immediate payment of the entire amount due thereon.

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Plaintiff has placed it in the hands of the attorney herein for collection by filing a Notice of Lien for unpaid assessments and initiating a foreclosure of that lien.

12. The sum of $1,625.00 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 Declaration.

13. Specifically, the Plaintiff's attorney is entitled to $475.00 for services performed in filing a Notice of Lien for delinquent assessments. This service required the Plaintiff's attorney to research public real property records to identify the subject property, research court records to determine if there are any pending actions against the subject property, prepare and coordinate filing and service of the Notice of Lien, coordinate any payoff requests or payment plans with the Defendant, and eventually satisfy the Notice of Lien upon payment by the Defendant.

14. Plaintiff's attorney is further entitled to the additional sum of $1,150.00 for prosecuting the foreclosure action. This service required the Plaintiff's attorney to obtain and review a title abstract for the subject property, prepare and file a lis pendens, summons and complaint for foreclosure, arrange for personal service of the initial pleadings, review the file to determine whether service was properly achieved and whether the Defendant is in default, and prepare and file an Affidavit of Default when the Defendant failed to respond. The Plaintiff's attorney also had to prepare and file a proposed order of reference for this case. Once the court set a final hearing date, Plaintiff's attorney had to send notice to the Defendant at least ten days prior to the final hearing. Prior to this hearing, Plaintiff's attorney was responsible for drafting a proposed transcript of testimony, an affidavit of costs, an affidavit of attorney's fees, a certification that this case is not subject to Administrative Order 2011-5-02-01, a proposed order, and a proposed notice of sale. Upon execution of this Judgment, Plaintiff's attorney will be responsible for ensuring the foreclosure sale is properly advertised, bidding on her client's behalf at any foreclosure sale, and preparing post-sale documents if her client should be the highest bidder at the sale. If her client takes title to the property at the foreclosure sale, Plaintiff's attorney will also be responsible for prosecuting any eviction proceedings necessary to clear the property for Plaintiff's possession.

15. The sum of $1,625.00 is reasonable based on the time necessarily devoted to representation of the Plaintiff during the several-month course of these proceedings. The services of counsel performed for the Plaintiff, including the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case, also support the amount awarded. The fees are also reasonable given the professional standing of the Plaintiff's counsel and her experience in handling assessment lien foreclosure matters. The fees awarded herein are also reasonable since they are less than the fees customarily awarded by this court for similar services in this county.

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Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and do not include exceptional circumstances delaying conclusion beyond the normal time.

16. After all payments received by the Plaintiff have been credited, the amount due and owing with interest at the rate provided in the Declaration, and other costs and expenses of the within action, including an attorney's fee, secured by the Declaration, is as follows:

(a)	Assessments	$1,570.00
(b)	Interest from January 1, 2021 through May 22, 2024 at 7.50% per annum	$70.10
(c)	Collection Charges	$30.00
(d)	Costs of collection prior to hearing (service, filing, etc.)	$590.56
(e)	Attorney's fee	$1,625.00
(f)	Payments	($650.00)
+		
TOTAL debt secured by the Declaration, including interest to date shown		$3,235.66

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 7.50% per annum (pursuant to the terms of the Declaration) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the Declaration through the date to which such interest is computed.

17. Plaintiff is seeking the usual foreclosure of the property and has expressly waived the right to a personal or deficiency judgment.

IT IS THEREFORE ORDERED THAT:

1. There is due the sum of $3,235.66, as set out in the Findings of Fact *supra*, together with interest at the rate provided herein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective Declaration rate per annum and together with such interest shall constitute the total judgment debt due the Plaintiff.

3. The amount of the judgment shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction

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over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit.

4. The Defendant is liable for the aforesaid judgment debt including interest at the rate of 7.50% per annum shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

5. On default of payment at or before the time herein indicated, the premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity at public auction, at the Greenville County Courthouse, in the City of Greenville, 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 the next business day succeeding such holiday), on the following terms, that is to say:

a. For cash: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent) same to be applied to 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 either make the required deposit at time of bid or comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent Sales Day, but at the risk of the defaulting bidder(s).

b. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 7.50%.

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. Specifically, this sale is subject to a senior mortgage held by MERS for Apex Home Loans, Inc. recorded in Book 5538 at Page 1144.

d. Purchaser to pay for any statutory commission on sale from the proceeds of the final bid amount.

e. Purchaser to pay for deed preparation, costs of recording the deed, and transfer taxes on the deed.

6. The bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

7. Plaintiff may waive any of its rights, including its right to a deficiency judgment in accordance with Rule 71, South Carolina Rules of Civil Procedure, prior to sale.

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8. The Master in Equity will, by advertisement according to law, give notice of the time and place of such 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 if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity 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.

9. If Plaintiff be 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 Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

10. The Master in Equity will 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.

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 should be held pending further Order of this court.

11. The Defendant named herein, and all persons whosoever claiming under Defendant, are forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said premises so sold, or any part thereof.

12. In accordance with Rule 77(d), SCRCP, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear herein.

13. The deed of conveyance made pursuant to said sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the property at the time of the filing of the notice of pendency of the within action, and the name of the grantee; and the Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

14. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

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

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Greenville, State of South Carolina, being shown and designated as Lot No. 79, on a plat entitled, "Survey for Blue Ridge

Plantation Development, LLC," prepared by Site Design, Inc., dated February 27, 2018 and recorded in Plat Book 1306 at Page 10, in the ROD Office for Greenville County, South Carolina. Reference is hereby made to said plat of record for a more complete and accurate description as to the metes and bounds, courses, and distances as appear thereon.

This being the same property conveyed to Yasmiye Guerrero and Hernan Guerrero by deed of SK Builders Inc. dated May 7, 2020 and recorded May 22, 2020 in Book 2594, Page 2558 in the Office of the Register of Deeds for Greenville County, South Carolina.

Property Address: 54 Mossycup Road
TMS: 0633110130400

JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW

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FORM 4
JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-00194

BLUE RIDGE PLANTATION PROPERTY OWNERS ASSOCIATION, INC.	HERNAN GUERRERO AND YASMIYE GUERRERO
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	**Attorney for :** Plaintiff
Ashley N. Green (SC Bar 101741) 4500 Fort Jackson Blvd Suite 335 Columbia, SC 29209	

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): __ Rule 12(b), SCRCP; ____ Rule 41(a), SCRCP (Vol. Nonsuit); _____ Rule 43(k), SCRCP (Settled); Other :_____

☐ **ACTION STRICKEN** (*CHECK REASON*): Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow).

ORDER INFORMATION

This order ends the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

Property Address: 54 Mossycup Road Taylors, SC 29687
TMS: 0633110130400

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Master in Equity **Judge Code** **Date**

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Greenville Common Pleas

Case Caption: Blue Ridge Plantation Property Owners Association, Inc. vs. Hernan Guerrero , defendant, et al

Case Number: 2024CP2300194

Type: Master/Order/Foreclosure & Sale and Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Rec'd Date:	05/30/2024
Matter ID:	20816.22
Type:	Pleading
Attorney(s):	AG
Paralegal:	ATC
Notes:	