

IN THE SUPREME COURT OF NORTH CAROLINA

No. 276PA15

Filed 21 December 2016

IN THE MATTER OF FORECLOSURE by Rogers Townsend & Thomas, PC, Substitute Trustee, OF A DEED OF TRUST EXECUTED BY JULIA WESKETT BEASLEY dated February 12, 2007 and recorded on February 16, 2007 in Book 1211, Page 169 of the Carteret County Registry, North Carolina

On discretionary review pursuant to N.C.G.S. § 7A-31 of a unanimous decision of the Court of Appeals, \_\_\_ N.C. App. \_\_\_, 773 S.E.2d 101 (2015), reversing an order entered on 25 September 2013 by Judge Phyllis M. Gorham in Superior Court, Carteret County. Heard in the Supreme Court on 11 October 2016.

*Nelson Mullins Riley & Scarborough, L.L.P., by Donald R. Pocock and D. Martin Warf, for petitioner-appellee FV-I, Inc. in trust for Morgan Stanley Mortgage Capital Holdings, LLC.*

*Shipman & Wright, LLP, by Gregory M. Katzman, W. Cory Reiss, and Gary K. Shipman, for respondent-appellant.*

PER CURIAM.

Because the trustee effectively withdrew its notice of non-judicial foreclosure hearing, thus terminating the proceeding, there was no pending case on which the clerk of court could act. *See In re Foreclosure of Lucks*, \_\_\_ N.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (Dec. 21, 2016) (No. 162A16). As a result, we hereby vacate the clerk of court's order and that of the superior court, as well as the opinion of the Court of Appeals.

VACATED.