

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

RAH1 REAL ESTATE HOLDINGS, LLC,	:	
Appellee	:	
vs.	:	
	:	No. 10-2427
DENISE C. REX,	:	
Appellant	:	

Chrisovalante P. Fliakos, Esquire
Robert T. Yurchak, Esquire

Counsel for Plaintiff
Counsel for Defendant

MEMORANDUM OPINION

Webb, S.J. – January 6, 2012

This action in Ejectment was filed as a result of the granting of Plaintiff’s Motion for Summary Judgment in a Mortgage Foreclosure.¹ The instant Appeal is the most recent dilatory tactic in the long life of this litigation. After the late Judge Addy granted Summary Judgment on April 30, 2008 in the mortgage foreclosure action, Appellant filed for bankruptcy in September of the same year. The proceedings were stayed pending the bankruptcy action, which was dismissed in April 2010, due to Appellant’s failure to respond. On May 17, 2010, Appellant filed a Petition to Open or Strike Judgment. On June 7, 2010, Appellant’s Petition was stricken due to failure to pay filing fees. On June 11, 2010, Appellee purchased the property at Sheriff’s Sale. On August 23, 2010, the Complaint in Ejectment was filed. On January 26, 2011, Appellant filed Preliminary Objections; and on February 16, 2011, an Amended Complaint in Ejectment was filed. On March 3, 2011, another Petition to Open or Strike Judgment was filed in the mortgage foreclosure action. A hearing was scheduled for April 21, 2011. On April 19, 2011, Appellant filed a Motion for a Continuance, stating that her counsel did not receive notice

¹ Docket #07-3344.

of the hearing.² The hearing was rescheduled for June 17, 2011. On June 16, 2011, Appellant filed a Praecipe to Withdraw the Petition to Open or Strike Judgment. On August 31, 2011, Appellee filed a Motion for Summary Judgment, which was granted on October 27, 2011. Judgment was entered accordingly, and on November 21, 2011, Appellant filed both a Petition for Stay as well as the instant appeal. Argument on the Petition for Stay was held on January 5, 2012 before the Honorable Joseph J. Matika. At that time, counsel for Appellant indicated that Appellant had found another dwelling and was hoping to stay in the property in question until the end of the month. Judge Matika granted the Stay conditioned upon Appellant's posting bond with the Prothonotary's Office on or before January 25, 2012 in the amount of \$219,329.41.

Based on the foregoing factual and procedural history, we believe that this appeal is frivolous. It is clear that Appellant's intention is to remain in her home as long as possible; and we believe that Plaintiff, as the record owner of the property, will be prejudiced by further delaying its ability to occupy the premises.

BY THE COURT:

Richard W. Webb, S.J.

² Notice was sent by mail to Appellant's two previously retained attorneys, both of whom later withdrew from the case. Appellant's current attorney did not formally enter his appearance in 07-3344.