

RENDERED: August 14, 1998; 10:00 a.m.  
NOT TO BE PUBLISHED

# Commonwealth Of Kentucky

## Court Of Appeals

NO. 97-CA-0933-MR  
consolidated with  
NO. 97-CA-0934-MR

RAYMOND A. CRAWFORD, JR.,  
and CHERYL CRAWFORD

APPELLANTS

v.

APPEAL FROM CAMPBELL CIRCUIT COURT  
HONORABLE LEONARD L. KOPOWSKI, JUDGE  
ACTION NOS. 95-CI-45 and 93-CI-1357

WILLIE C. STACEY  
and CONNIE STACEY

APPELLEES

### OPINION AFFIRMING

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BEFORE: HUDDLESTON, KNOPF, and MILLER, Judges.

MILLER, JUDGE. Raymond A. Crawford, Jr., and Cheryl Crawford bring Appeal No. 97-CA-0933-MR from a March 17, 1997 order of the Campbell Circuit Court. They bring Appeal No. 97-CA-0934-MR from a March 17, 1997 order of the Campbell Circuit Court. We affirm.

In Civil Action No. 93-CI-1357, the Campbell Circuit Court entered an order directing appellants to convey certain real property commonly known as 95 Covert Run, Ft. Thomas, Campbell County, Kentucky, to appellees/Willie C. Stacey and Connie Stacey upon payment of \$69,890.38. The court determined that appellants held the property upon constructive trust for appellees. Appellants pursued an appeal (No. 95-CA-0555-MR) to this Court. Meanwhile, they filed in the Campbell Circuit Court a separate action (No. 95-CI-00045), seeking to "foreclose" upon the aforementioned real estate (the foreclosure action). They asserted that appellees failed to make mortgage payments for the months of November and December 1994 and January 1995. Appellants claimed to somehow hold a lien upon the property. The foreclosure action was "abated" until disposition of the appeal in Civil Action No. 93-CI-1357.

On October 4, 1996, the Court of Appeals, in No. 95-CA-0555-MR, affirmed the Campbell Circuit Court's imposition of a constructive trust in Civil Action No. 93-CI-1357. Thereafter, the circuit court referred the foreclosure action to the Master Commissioner (commissioner). The commissioner recommended that appellants' complaint for foreclosure be dismissed. On March 17, 1997, the circuit court adopted the Findings of Fact, Conclusions of Law and Recommendations of the commissioner and dismissed the action. Appellants bring Appeal No. 97-CA-0933-MR therefrom.

In Civil Action No. 93-CI-1357, appellants filed a motion on February 25, 1997, seeking reimbursement of monthly

mortgage payments from appellee. The motion was overruled by the Campbell Circuit Court on March 17, 1997. Appellants bring Appeal No. 97-CA-0934-MR from that order.

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Appellants contend that the circuit court committed reversible error by dismissing the foreclosure action. We disagree. This Court's opinion in Appeal No. 95-CA-0555-MR clearly established that appellants held the subject property in constructive trust for appellees and that the appellants were not entitled to recover mortgage payments from appellees. Considering such opinion, we are baffled by the instant appeal and by appellants' attempt to "foreclose" upon the subject property. See Board of Education of Covington v. Gray, Ky. App., 806 S.W.2d 400 (1991). In short, we view the foreclosure action as lacking cognizant legal basis and bordering upon frivolity.

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Appellants assert that the circuit court committed reversible error by failing to award them reimbursement for mortgage payments. The above issue has been decided by this Court in Appeal No. 95-CA-0555-MR, and, as such, we are of the opinion that the doctrine of issue preclusion bars re-litigation of same. Id.

For the foregoing reasons, the orders of the Campbell Circuit Court are affirmed.

ALL CONCUR.

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