

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Kennedy Funding, Inc., as predecessor-in-interest, and
BNP Paribas, Respondents,

v.

Pawleys Island North, LLC, Will Darwin Wheeler,
Peggy Wheeler-Cribb, and J. Mars Sapp, Defendants,

Of Whom Pawleys Island North, LLC, Will Darwin
Wheeler, and Peggy Wheeler-Cribb are Respondents,

and J. Mars Sapp is Petitioner.

Appellate Case No. 2015-001125

**ON WRIT OF CERTIORARI TO THE
COURT OF APPEALS**

Appeal From Georgetown County
Joe M. Crosby, Master-in-Equity

Memorandum Opinion No. 2015-MO-061
Submitted October 8, 2015 – Refiled May 11, 2016

VACATED IN PART AND REMANDED

Daniel T. Brailsford, Thomas Whatley Bunch, II, and Paul Hamilton Hoefer, all of Robinson McFadden & Moore, PC, of Columbia, for Petitioner.

Robert H. Gwin, III, of Gwin Law Office, LLC, of Myrtle Beach; and Robert Hope Jordan and Merritt Gordon Abney, both of Nelson Mullins Riley & Scarborough, LLP, of Charleston; all for Respondents.

PER CURIAM: Petitioner sought a writ of certiorari to review the decision of the court of appeals in *Kennedy Funding, Inc. v. Pawleys Island N., LLC*, Op. No. 2015-UP-138 (S.C. Ct. App. filed March 11, 2015). We granted the petition and issued an opinion on October 14, 2015. Respondents filed a petition for rehearing, which we granted. We now withdraw our previous opinion and substitute this opinion. We grant the petition for a writ of certiorari; dispense with further briefing; vacate the holding of the Court of Appeals that because the mortgage between Pawleys Island North, LLC, and Kennedy Funding, Inc. was not fraudulent, petitioner's lien did not have priority; and remand this matter to the court of appeals to rule on the issue raised by petitioner.

Section II of the court of appeals' opinion fails to address petitioner's argument in Question B of his brief to the court of appeals that *the fraudulent conveyance between Will Darwin Wheeler and Pawleys Island North, LLC*, rendered the mortgage void and, therefore, petitioner's lien is superior to respondents' lien. Accordingly, we vacate section II of the court of appeals' opinion and remand the matter for the court of appeals to rule on that argument.

VACATED IN PART AND REMANDED.

PLEICONES, C.J., BEATTY, KITTREDGE, HEARN, JJ., and Acting Justice Jean H. Toal, concur.