

Court of Appeals of the State of Georgia

ATLANTA, June 3, 2003

The Court of Appeals hereby passes the following order:

A03A1750. YOHANNE T. AGBER, JR. v. DLJ MORTGAGE CAPITAL, INC.

DLJ Mortgage Capital, Inc. (DLJ) instituted this dispossessory proceeding against Yohanne T. Agber. After Agber answered, the State Court of DeKalb County issued an order granting DLJ a writ of possession. Over six weeks after Agber had filed a notice of appeal, DLJ filed a motion in the trial court requesting issuance of an order requiring Agber to pay rent into the court registry during the pendency of the appeal. The trial court granted the motion.

Agber has filed a petition for supersedeas relief, contending that the trial court lacks jurisdiction over DLJ's motion. We deny Agber's petition, because OCGA § 44-7-56 vests the trial court with jurisdiction to grant relief such as that requested by DLJ even after the case has been appealed. See *Thomas v. Wells Fargo Credit Corp.*, 200 Ga App 592, 594 (5) (409 SE2d 714) (1991).

In *Stephens v. Equity Management Co.* (MD 350; May 7, 2003), cited by Agber, we dismissed a motion asking this court to hold a hearing in a matter that was being appealed, because we do not have the authority to grant such relief. The appeal in that case was, however, allowed to proceed.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN - 3 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, III Clerk.