

THE STATE OF SOUTH CAROLINA

In the Supreme Court

Appeal from Horry County

Cynthia Graham Howe, Master-in-Equity

Ralph P. Stroman, Special Referee

RECEIVED

JUN 27 2022

S.C. SUPREME COURT

Leticia, LLC, Movant,

In Re:

M&T Bank, Plaintiff,

v.

Tyrone Davis; Bobby J. Bellamy; BC Fund and

Management LLC d/b/a BC Fund, LLC, Defendants.

And

M&T Bank, Respondent, M

v.

Tyrone Davis, Bobby J. Bellamy, BC Fund and

Management, LLC d/b/a BC Fund, LLC, Defendants,

Of whom Bobby J. Bellamy is the Appellant,

And

Tyrone Davis is the Respondent.

And

Bobby J. Bellamy, Appellant,

v.

William O. Smith, Third Party Defendant.

Appellate Case No. 202-00065

**PETITIONER'S RETURN TO MOTION TO REMOVE RESPONDENT TYRONE
DAVIS**

Bobby J Bellamy
P.O. Box 1674
Little River, S.C. 29566
843 457-3625

Other Counsel of Record:

Cliff Moore III SC Bar # 4067
Adams and Reese LLP,
1501 Main Street 5th floor
Columbia, S.C. 29201
803 254-4190

Kirby Darr Shealy, III, SC Bar # 11556
Adams and Reese LLP,
1501 Main Street 5th floor
Columbia, S.C. 29201
803 254-4190

Ashley Zarrett Stanley SC Bar # 74854
Hutchens Law Firm
P.O. Box 8237
Columbia, S.C. 29201
803 726-2700

John B. Kelchner SC Bar # 13589
Hutchens Law Firm
P.O. Box 8237
Columbia, S.C. 29201
803 726-2700

Daniel J. Orvin SC Bar # 13744
Womble Bond Dickson LLP
5 Exchange Street
Charleston, SC 29401
843 722-3400

Matthew Tillman SC Bar # 70338
Womble Bond Dickson LLP
5 Exchange Street
Charleston, SC 29401
843 722-3400

Stephanie M. Huggins Esq. SC Bar # 101757
Riley, Pope and Laney LLC
2838 Devine St. Columbia SC 29205 803 799-9993

The bona fide purchaser for value, good-faith purchaser, innocent purchaser for value, purchaser in good faith. Innocent purchaser of property who purchases for value without notice of any other party's claim against the property. Those parties holding competing adverse claims may bring an action only against the party who fraudulently transferred the property to the bona fide purchaser. Respondent Tyrone Davis was not a bona fide purchaser because of the following facts:

Respondent Tyrone Davis may not assert a plea in equity of a bona fide purchaser for value, without notice of defect in his title, because (1) Respondent Tyrone Davis did not pay in full the purchase money (giving security for the payment is not sufficient, nor is past indebtedness a sufficient consideration); (2) Respondent Tyrone Davis did not purchase and acquire the legal title, or the best right to it; and (3) Respondent Tyrone Davis did not purchase bona fide, i.e., in good faith and with integrity of dealing, without notice of a lien or defect. The Respondent Tyrone Davis was not bona fide purchaser because he failed to show all three conditions – actual payment, acquiring of legal title, and bona fide purchase – he had notice of a title defect and other adverse claims. S.C. Tax Commn. v. Belk, 266 S.C. 539, 543, 225 S.E.2d 177, 179 (1976)

There are two basic forms of notice by which a purchaser may be charged with knowledge of the purchaser with actual knowledge; Walker v. Taylor, 104 S.C. 1, 15, 88 S.E. 300, 303-04 (1916) (where land buyer prior to sale had actual notice, orally and in writing, of stepdaughter's claim of one-third interest in property, buyer was not a bona fide purchaser for value without notice; the stepdaughter's claim "was of interest to him, and he is charged with all the knowledge he could have had that day for the asking. He is charged with this full and complete information in ordinary fairness as well as in law."). rights of another in real property

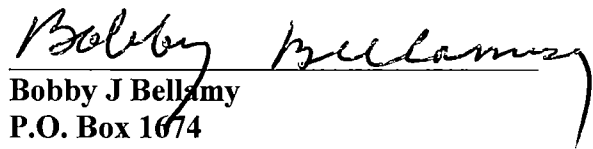
actual notice and constructive/inquiry notice. It is notice imputed to the respondent whose knowledge of facts is sufficient to put him on inquiry; if these facts were pursued with due diligence, they would lead to other undisclosed facts. Therefore, respondent has actual knowledge of the undisclosed facts.” Strother, 332 S.C. at 64 n.6., 504 S.E.2d at 122 n.6.

As between grantor and grantee, a properly drawn deed is valid and dispositive of their respective ownership and rights in the property regardless of whether the deed is publicly recorded. Epps, 139 S.C. at 497, 138 S.E. at 302; Martin v. Quattlebaum, 14 S.C.L. 205, 207 (3 McCord) (1825). Constructive or inquiry notice in the context of a real estate transaction often is grounded in an examination of the public record because it is the proper recording of documents asserting an interest or claim in real property which gives constructive notice to the world. The recording of a document alerts all future grantees of the rights of the recorder because the law assumes the grantee will search the index and discover the interest or claim. Epps, 139 S.C. at 499, 138 S.E. at 303 (“recording amounts to notice, whether known or unknown, because the means of information are at hand”); Franklin Bank, N.A. v. Bowling, 74 P.3d 308, 313 (Colo. 2003) (en banc) (constructive notice in real estate transaction essentially is record notice).

Respondent Tyrone Davis was a member of William O. Smith’s BC Fund and Management LLC. He was aware of the wrongdoing of fraud but chose to sign on a mortgage to purchase property knowing full well the property didn’t belong to William O. Smith or BC Fund and Management LLC. Secondly knowing he had not seen the property or spoken to the rightful owner and knowing that he couldn’t afford to pay for it. Lastly, Respondent Tyrone Davis trusted William O. Smith’s promise to protect his interest. Ignorance of the law is not grounds for innocence in fraud.

THEREFORE, for the stated reasons above, respondent Tyrone Davis should not be dismissed from this case.

Sincerely submitted,



Bobby J Bellamy

P.O. Box 1074

Little River, S.C. 29566

843 457-3625