

The South Carolina Court of Appeals

RECEIVED

LB PARK, LLC, Respondent, Jun 13 2022

v.

SC Court of Appeals

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 250056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Defendants,

Of Whom Ryan Powell is the Appellant.

Appellate Case No. 2021-001192

---

ORDER

---

Appellant appeals the circuit court's orders: (1) denying Appellant's motion for judgment on the pleadings, motion to determine sufficiency of objections, and motion to compel discovery; (2) granting Respondent's motion for order of reference to the Master in Equity; and (3) finding Appellant was not entitled to a jury trial. After careful consideration, Respondent's motion is granted and this appeal is dismissed because the orders on appeal are not immediately appealable. *See Huntley v. Young*, 319 S.C. 559, 560, 462 S.E.2d 860, 861 (1995) (providing "generally the denial of a Rule 12(b)(6) motion is not directly appealable");

*Patterson v. Spector Broad. Corp.*, 287 S.C. 249, 249, 335 S.E.2d 803, 803 (1985) ("This appeal is from an order compelling discovery which is interlocutory and not directly appealable."); *Williford v. Downs*, 265 S.C. 319, 321, 218 S.E.2d 242, 243 (1975) ("Ordinarily the granting or refusal of an order of reference is not appealable unless the granting of the reference deprives a party of a mode of trial to which he is entitled by law, or the trial judge in refusing a reference did so upon the erroneous belief that the cause of action was a legal one."); *Rosenbaum v. S-M-S* 32, 311 S.C. 140, 142, 427 S.E.2d 897, 898 (1993) ("An action to clear title to real property is an action in equity."); *id.* at 141-42, 427 S.E.2d at 897 (affirming where the lower court "struck appellant's counterclaim and denied its motion for a jury trial holding that, in an action to set aside a tax deed under Section 12-61-10, *et seq.*, a defendant cannot 'earn' the right to a jury trial by asserting a counterclaim for trespass to try title"). The remittitur will be sent as required by Rule 221(b), SCACR.

---

FOR THE COURT

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

**FILED**  
**Dec 09 2021**