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Mar 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge
Teasa K. Weaver, Master-in-Equity

Case No. 2019-CP-46-00310
Case No.: 2020-CP-46-00549

Ex Parte, Ryan Powell Appellant,

In re LB PARK, LLC.....Respondent,

v.

San Juan Holdings, Brett Osborne trustee, et al. Respondents.

LB PARK, LLC Respondent,

v.

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; 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 abovenamed 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.

MOTION TO CONSOLIDATE

Pursuant to Rule 214, SCACR, LB PARK, LLC (“LB Park”) moves to consolidate these appeals. These two appeals stem from two civil actions filed by LB Park to clear its tax title to a single parcel of property. The 2019 action was dismissed upon remand from this Court, and the appeal was held in abeyance pending a final order in the 2020 action. (10/15/2019 Order and 5/20/2020 Order attached as Exhibits 1 and 2). The final order in the 2020 action is now also on appeal. A comparison of the Statements of Issues on Appeal in the Appellant’s initial briefs in each of the above captioned appeals reveals that the same or similar questions are presented so as to warrant consolidation. (Statements of Issues attached as Exhibit 3). Given the above, judicial economy is served by consolidation.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/ Sarah. P. Spruill

Sarah P. Spruill (SC Bar No. 68337)

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Attorneys for Respondent LB PARK, LLC

March 15, 2023

The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

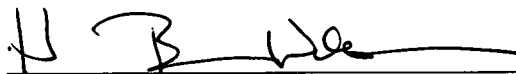
v,

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, Respondents.

Appellate Case No. 2019-000979

ORDER

LB PARK, LLC's motion to remand this case for the limited purpose of allowing LB PARK to file a motion to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCP, is granted. This appeal shall be held in abeyance pending the lower court's consideration of the motion. LB PARK shall provide this court with status updates every thirty days.



FOR THE COURT

FILED

October 15, 2019

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

v,

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, Respondents.

Appellate Case No. 2019-000979

ORDER

Appellant has filed a motion to revive this appeal, which we construe as a motion to allow the briefing in this appeal to proceed. The motion is denied. In the interest of judicial economy, Respondent's request to continue to hold this appeal in abeyance is granted, and this appeal shall be held in abeyance pending the circuit court's issuance of a final order in related case, C/A No. 2020-CP-46-00549. Respondent shall provide this court with status updates every thirty days.



FOR THE COURT

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

FILED
May 20 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge

Case No. 2019-CP-46-00310
Appellate Case No: 2019-000979

Ex Parte, Ryan Powell, ... Appellant.

In re LB PARK, LLC Respondent,

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INITIAL BRIEF OF APPELLANT

Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

Sarah P. Spruill
P.O. Box 2048 (29602)
Greenville, SC 29601
Appellate Attorney for Respondent LB PARK, LLC

Brett Osborne
190 Aviation Lane
Gold Hill NC 28071
Pro Se for Respondent San Juan Holdings, Brett Osborne, the trustee, and
Pro Se for Respondent Brett Osborne as Trustee of San Juan Holdings

STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err by refusing to hear and determine Appellant's "*Special Appearance Motion to Dismiss or Intervene*" until Appellant gave his consent to be under the authority of judge Hall?
2. Did the trial court err by refusing to dismiss the case for want of the subject matter jurisdiction needed to clear a void tax title, for a plaintiff that does not have a tax title, issued against land that has never been subjected to the jurisdiction of this State by its owner?
3. Does this State have territorial jurisdiction over Appellant's land?
4. Did the trial court abuse its discretion when it denied intervention to Appellant who is the actual owner of the land in dispute and is therefore a necessary and indispensable party, especially since there is no defendant in the action?
5. Did the trial court err by granting Respondent LB PARK'S motion to refer the case to a master-in-equity when the court is wanting subject matter jurisdiction to proceed and Appellant's rights to a jury trial were disregarded?

STATEMENT OF THE CASE

Nature of the Case

This case presents multiple novel issues of law. The plaintiff, Respondent LB PARK LLC ("LB PARK" hereinafter), requested the trial court clear a tax title but LB PARK admits in its complaint that it has a quitclaim deed, not a tax title. The tax title that LB PARK's quitclaim deed derives from, that it wants cleared, was issued in December 2018 against land that has been owned by Appellant since December of 2012 ("Owner's Private Property" hereinafter). The tax title was issued in the name of the previous owner of Owner's Private Property making it void *ab initio* and unenforceable. Owner has not been named as a party in this case even though he is the actual owner of the land at issue. Owner attempted to intervene in the action but was denied intervention. The trial court also denied dismissing the case for want of subject matter jurisdiction and then ordered the case referred to a Master-in-Equity.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master In Equity

Case No. 2020-CP-46-00549
Appellate Case # 2022-001650

LB PARK, LLC, ... Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; 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 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, 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.

AMENDED INITIAL BRIEF OF APPELLANT

Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

Sarah P. Spruill
P.O. Box 2048 (29602)
Greenville, SC 29601
Appellate Attorney for Respondent LB PARK, LLC

STATEMENT OF ISSUES ON APPEAL

1. Was It Error To Hear And Decide The Merits Of A Case Without First Determining If The Case Presents An Actual Case Or Controversy?
 - A. Can A Plaintiff Have Standing To Bring A Clear Tax Title Claim Under S.C. Code of Laws §§ 12-61-10 to 60 When That Plaintiff Admits It Does Not Hold A Tax Title?
 - B. Is A Quiet Title Action Ripe When The Plaintiff Admits That It Does Not Have Possession Of The Property At Issue?
2. Was It Error To Find Facts, Make Conclusions Of Law, And Enter An Order When The Order Of Reference Only Gave The Master Subject Matter Jurisdiction To Receive Evidence?
3. Was It Error To Exercise Subject Matter Jurisdiction Over Private Property Which Has Never Been Subjected To The Jurisdiction Of The State By Its Owner?
4. Was It Error To Exercise Territorial Jurisdiction Over Private Property That Does Not Have A Situs Within This State?
5. Was It Error To Assert Personal Jurisdiction Over A Non-Resident Defendant Served Outside The Limits Of The State Without The Plaintiff Making A *Prima Facie* Case Showing Personal Jurisdiction And Without The Plaintiff Entering Any Evidence To Support Personal Jurisdiction?
6. Was It Error To Confiscate And Seize Private Property?
7. Was It Error To Take Private Property For Private Use Without The Owner First Giving His Consent?
8. Do Multiple Serious Violations Of A Party's Due Process Rights Deprive The Court Of Jurisdiction?
 - A. Was It A Deprivation Of Appellant's Due Process Rights To Deny His Several Motions to Dismiss That Raised The Issue Of Lack Of Personal Jurisdiction Over Him?
 - B. Was It A Deprivation Of Appellant's Due Process Rights To Order His Dispossession From His Private Property In A Quiet Title Order?
 - C. Was It A Deprivation Of Appellant's Due Process Rights To Refuse To Hear And Decide Appellant's Motion For Continuance Before The Final Hearing?
 - D. Was It A Deprivation Of Appellant's Due Process Rights To Find Ryan Was Not Entitled To Be Given Any Notice By York County That His Property Was Going To Be Affected By Their Tax Sale?
 - E. Was It A Deprivation Of Appellant's Due Process Rights For The Trial Judge To Act Partially And Unfairly?
9. Was It Error To Deny Appellant's Motion For New Trial Or To Alter Or Amend?
 - A. Was It An Error To Not Grant A New Trial After Receiving Evidence That Appellant Is The True Owner Of The Property?
 - B. Was It An Error To Not Provide Equal Protection Of The Law To Appellant?

- C. Was It An Error To Find/Conclude That The Tax Title Purchaser Was A Existing Legal Entity Based Entirely On Evidence Presented Showing That York County Has A Character Limit On Bidder Names?
- D. Was It An Error To Hear And Decide Any Of Appellant's Counterclaims After Determining That Appellant Had Abandoned Them Because He Did Not Appear At The Final Hearing?
- E. Was It An Error To Find/Conclude That The Two Year Statute Of Limitation Applies To This Case Or To Appellant's Counterclaims?
- F. Was It An Error To Find/Conclude That Appellant Does Not Have Standing To Make Any Counterclaims?
- G. Was It An Error To Find/Conclude That Appellant Is Barred From "Re-litigating" Whether He Has An Interest In The Property At Issue?
- H. Was It An Error To Find/Conclude That The Recording Act Applies To This Case Or To Appellant's Unrecorded Deed?
- I. Was It An Error To Dismiss With Prejudice Appellant's Counterclaim Of Declare Void And Set Aside Tax Deed?
- J. Was It An Error To Find/Conclude That SB MUNI's Tax Title Is Valid And To Quiet It?
- K. Was It An Error To Find/Conclude That Respondent's Quitclaim Deed Is Valid And To Quiet It?

STATEMENT OF THE CASE

Since Ryan's "Motion To Extend Page Limit For Initial Brief" was denied by this Court in its February 16, 2023 order, this Court is precluded from affirming the Final Order on the basis that Ryan failed to raise or properly argue **any issue** that he has been prevented from doing, by the denial of his motion.

Nature of the Case

LB PARK brought its case under S.C. Code of Laws § 12-61-10 to 60 requesting the court quiet its quitclaim deed and the tax title that its quitclaim deed derives from that was granted to a non-party named SB MUNI CUST % LBSC-11, LLC ("SB MUNI" hereinafter) [ROA, Complaint, #10]. While quieting a tax title is an action in equity, the nature of LB PARK's [defective] equity case transformed into a law title dispute case when Ryan answered LB PARK's Complaint and raised a defense of having a paramount title to LB PARK. When the pleadings are considered as a whole, it is clear that this case is a law title dispute case as both

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Case No. 2019-CP-46-00310
Case No.: 2020-CP-46-00549

Ex Parte, Ryan Powell Appellant,

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LB PARK, LLC Respondent,

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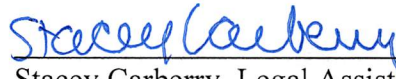
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of whom Ryan Powell is the Appellant.

PROOF OF SERVICE

I certify that I have served *Motion to Consolidate*, on all parties of record by depositing a copy of the same in the United States Mail, postage prepaid, on March 15, 2023, addressed to:

Brett Osborne
San Juan Holdings, Brett Osborne, the trustee
Brett Osborne as Trustee of San Juan Holdings
190 Aviation Lane
Gold Hill, NC 28071

Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, SC 29708


Stacey Carberry, Legal Assistant
HAYNSWORTH SINKLER BOYD, P.A.
864.240.3223

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SC Court of Appeals

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sspruill@hsblawfirm.com

March 15, 2023

VIA EMAIL & U.S. MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Ex Parte, Ryan Powell, In re LB PARK, LLC v. San Juan Holdings, Brett Osborne trustee, et al.*; C.A. No.: 2019-CP-46-00310
Appellate Case No.: 2019-000979

LB Park, LLC v. San Juan Holdings (2); C.A. No. 2020-CP-46-00549
Appellate Case No. 2022-001650

Dear Ms. Kitchings:

This firm represents the Respondent in the above-captioned matters. Enclosed for filing, please find a *Motion to Consolidate*, together with our Proof of Service for the same. Also enclosed is our firm's check to cover the cost of the filing fee (w/ mailed copy).

Thank you for your assistance in this matter.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/sac
Enclosure

cc: Ryan Powell
Brett Osborne
A. Parker Barnes, III (pbarnes@hsblawfirm.com)