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Mar 16 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

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

Ex Parte, Ryan Powell, . . . . . Appellant,

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

v.

San Juan Holdings, Brett 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 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, . . . Respondents.

Return To LB PARK, LLC's  
Motion to Consolidate

Appellant, Ryan Powell, ("Ryan") makes this return under Rule 240(e) SCACR to oppose Respondent LB PARK, LLC's Motion to Consolidate this appeal with the appeal of Respondent's 2020 case having the case #2020-CP-46-00549.

**Mandatory Judicial Notice**

All judges on this Court are to take mandatory judicial notice under 201(d) SCRE of the following fact: Ryan has registered his deed on February 23, 2023 in the York County Register of Deeds office in book 20628, page 278 ("Registered Deed") thereby putting his property under the jurisdiction of this State and giving him the right to use the courts of this State to protect and defend his property. A copy of Ryan's Registered Deed is attached as Exhibit A and is fully incorporated herein by reference.

### Return To Motion to Consolidate

First, Respondent's Motion to Consolidate does not comply with Rule 240(c) SCACR because the caption does not comply with Rule 267(a) SCACR. But the clerk of this court has never, and will never, issue a deficiency letter to Respondent's attorney, Sarah P. Spruill. On the other hand, the clerk of this court has issued multiple deficiency letters to Ryan whether or not they were warranted. For example, the clerk issued a deficiency letter within 24 hours of a motion that Ryan filed by email stating she had not yet received his filing fee. And the clerk just issued another deficiency letter correcting the caption on Ryan's initial brief that he filed three years ago upon which he made a typo and put a period when a comma should have been used. Those are just two of the many examples of indisputable bias and prejudice against Ryan.

Second, Respondent's attorney waited until the very day her initial brief was due to move for consolidation. After making two motions for an extension of time to file her initial brief, Ms. Spruill is clearly making her Motion to Consolidate at this time just to cause unnecessary delay and provide another opportunity for her to not have to file a response brief. However, pursuant to Rule 240(b) SCACR the appeal timelines are not stayed pending the ruling on Respondent's Motion to Consolidate so Respondent has now missed their response brief deadline.

Third, Respondent's attorney states the grounds for her Motion to Consolidate is "that the same or similar questions are presented so as to warrant consolidation". That is an untrue statement. Not only are the questions presented entirely different between this appeal and the appeal of Respondent's 2020 case, but in this appeal the only question that this Court will need to decide is whether or not it was error to deny Ryan intervention into Respondent's now dismissed 2019 case. But since the underlying case for this appeal was dismissed three years ago, and since Ryan was named as a party in Respondent's 2020 case, the question of intervention is now **moot**. Nonetheless, before that decision can be decided, this Court is required to determine if Respondent's case is justicible, i.e. standing, mootness, and ripeness. The decision on justicibility of Respondent's claims will be the same for the two appeals as Respondent's non-justicible claims were the same in its two cases on appeal. However, justicibility is not a valid basis for consolidating two appeals with entirely different questions presented because justicibility is a common decision that must be made in every appeal this Court hears and decides.

Fourth, the issue of justicibility will be decided differently for the two appeals if they are not consolidated. That is because Ryan's unrecorded property was outside the jurisdiction of this State so

Ryan could not use the courts of this State to protect his private property. Since Ryan was not a party to the case in this appeal, this Court cannot construe their finding of Respondent's claims being non-justiciable as assisting Ryan since he was not a party. On the other hand, if the two appeals are consolidated, since Ryan will be a named party in the consolidated appeal, the decision that Respondent's claims are not justiciable will be construed as assisting Ryan so that opinion will not be issued.

Fifth, the consolidation of the two appeals does not reduce costs or time of either appeal but it absolutely helps Respondent prevail in an appeal that they should lose and it greatly harms Ryan at the same time that this Court now has a duty to protect Ryan's rights to his property.

**Conclusion**

As evidenced by the mandatory judicial notice above, Ryan has recently registered his deed. Thus Ryan now has the right to use the courts of this State to protect his property and the courts of this State now have the duty and obligation to protect Ryan's rights to his property. Therefore, Respondent's Motion to Consolidate must be denied and Respondent's must not be given yet another opportunity to file a brief as they knew the timelines were not stayed by their motion and they made the decision to miss their briefing deadline anyhow.

March 16, 2023

          /s Ryan Powell            
Ryan Powell, Appellant  
c/o 25056 Timberlake Dr.  
Fort Mill, SC 29708



recorded in Deed Book 3173 at page 343, in the Office of the Clerk of Court for York County.

The property is conveyed free and clear of all security interests, liens, claims and encumbrances from any entity or person whatsoever.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.


TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, his heirs and assigns forever.

AND THE GRANTOR does hereby bind the Grantor, and the Grantors' heirs executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, his heirs and assigns, against the Grantor or the Grantors' heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

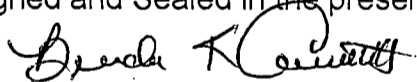
After filing for record mail to Grantee: Ryan Whitney  
[not a residence address] c/o: 25056 Timberlake Drive  
Tega Cay, South Carolina  
Without the United States

WITNESS our Hand and Seal this the 20th day of December in the year of our Lord Two Thousand and Twelve and in the two-hundred and thirty-sixth year of the independence of the United States of America.

Grantor, SAN JUAN HOLDINGS:  
  
\_\_\_\_\_  
By: Brett Osborn, Trustee (Seal)

Grantee:  
**With Reservation of All Rights**  
  
\_\_\_\_\_  
Ryan Whitney of the Powell family, a  
free inhabitant, without the United  
States

Signed and Sealed in the presence of:

  
\_\_\_\_\_  
Witness #1 Signature

Brenda K. Callicutt  
\_\_\_\_\_  
Witness #1 Printed Name

  
\_\_\_\_\_  
Witness #2 Signature

D. Aaron Simms  
\_\_\_\_\_  
Witness #2 Printed Name

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-name Grantor sign, seal and, as his act and deed, deliver the within written Deed to the within-name Grantee who then as his freewill act and deed did sign and seal the instrument and that (s)he, with the other witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this  
20<sup>th</sup> day of December, 2012

Brenda K. [Signature]  
Witness #1

Joy M. Uter

Notary Public for State of South Carolina  
My Commission Expires: ~~12/20/12~~ April 27, 2017

Joy M. Uter  
NOTARY PUBLIC  
State of South Carolina  
My Commission Expires  
April 27, 2017.

STATE OF NORTH CAROLINA )  
COUNTY OF Durham )

Affidavit For Taxable Transfers

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property transferred bears York County Tax Map Number 643-10-01-023 and was transferred by San Juan Holdings, Brett Osborne, trustee to Ryan Whitney Powell on December 20, 2012.
- 3, The deed is subject to the deed recording fee as a transfer for consideration paid in money or money's worth.
- 4, The fee should be computed on the consideration I paid in money or money's worth which at the time the transfer was made was \$225,000.00.
5. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as the Grantee.
6. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Ryan Powell  
Ryan Powell

SWORN to and subscribed before me this  
21 day of February, 2023

Ashley E. Amerson  
Notary Public for North Carolina

My Commission Expires: 9-21-2027

<p><b>ASHLEY E. AMERSON</b> Notary Public Wake Co., North Carolina My Commission Expires Sept. 21, 2027</p>
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Certificate of Service For Return to LB PARK, LLC's Motion to Consolidate

I certify that I served Respondents with a copy of my Return to LB PARK, LLC's Motion to Consolidate by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown addressed as follows:

Sarah P. Spruill  
P.O. Box 2048 (29602)  
Greenville, SC 29601

Brett Osborne  
190 Aviation Lane,  
Gold Hill NC 28071

03/16/2023  
Date

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