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Apr 06 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.

Amended Return To LB PARK, LLC's
Motion to Consolidate

Appellant Ryan Powell ("Ryan"), replaces his original Return To LB PARK, LLC's Motion to Consolidate that he filed on March 16, 2023 with this amended return. This amended return is made pursuant to Rule 240(e) SCACR to oppose Respondent LB PARK, LLC's ("LB PARK") Motion to Consolidate this appeal with the appeal having the Appellate Case No 2022-001650 ("2022 Appeal"). .

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.

Amended Return To Motion to Consolidate

First, it is fairly obvious that this Court and the Clerk of this Court ("Clerk") are working hand and hand with Respondent's attorney to manipulate both this appeal and the 2022 Appeal. Clerk has tried multiple times to defraud Ryan into making a mistake so that this appeal can be dismissed. For instance, Clerk has now **twice** pretended that this appeal is being held in abeyance, absent an order from this Court, hoping Ryan would fall for her fraud and miss a deadline which would have given Clerk the authority to dismiss this appeal. The latest attempt by Clerk is evidenced by a letter she sent to the parties recently pretending that this appeal is being held in abeyance, without a court order, pending a decision on LB PARK's Motion to Consolidate. A copy of that letter is attached as Exhibit B and is fully incorporated herein by reference.

Any thinking person would have to wonder why so many fraudulent attempts have been made to try to dismiss this appeal. Ryan wondered that too until he finally figured out the grand plan ("Grand Plan") that was crafted to manipulate both this appeal and the 2022 Appeal to achieve the desired goal. The desired goal of the Grand Plan is to ensure that LB PARK does not take any financial loss, that its own errors ensured it should take, by gifting Ryan's property to it. The evidence suggests the Grand Plan consists of at least the following:

1) Judge Weaver would knowingly enter a void final quiet title order that was made self-executing. The reason it was made self-executing was because the Grand Plan would only work if LB PARK could take possession of Ryan's property before the 2022 Appeal was decided.

2) Judge Weaver also set an extremely high bond amount if Ryan wanted to stay his dispossession. The bond amount was set so high with the hope that Ryan would either not be able, or willing to post such a high bond. This is the reason this Court absolutely refused to issue a supersedeas, adjust the appeal bond amount, or issue an injunction to stay the facially void "self-executing" final quiet title order.

3) Since Judge Weaver's final quiet title order was made without having subject matter jurisdiction, it is null and void. Accordingly, this Court's opinion for the 2022 Appeal will most likely be to "dismiss" the appeal since the order on appeal is a nullity. See for example "Because

the master had entered an order and retained only the power to execute his order (the judicial sale), the master did not have subject matter jurisdiction when he issued his order. Accordingly, this appeal is DISMISSED.", WACHOVIA BANK OF SOUTH CAROLINA v. Player, 512 SE 2d 129 (1999).

4) Since LB PARK will have taken possession of Ryan's property during the 2022 Appeal, the appeal's dismissal will give LB PARK the ability to immediately sell Ryan's property. That will make LB PARK financially "whole" even though it leaves Ryan losing his property on a null and void final quiet title order.

5) Since the 2022 Appeal will most likely be "dismissed", there will be no need for this Court to decide any other question raised in that appeal including, but not limited to, the fact that LB PARK's claims are not ripe since it did not have possession of the property at issue when it brought both of its defective cases.

6) Since this appeal does not suffer the issue of the order on appeal being null and void, as the 2022 Appeal does, LB PARK's attorney is now attempting to get these two disparate appeals consolidated so that this appeal can be dismissed along with the 2022 Appeal of Judge Weaver's null and void order (see #3 above). If this appeal is not consolidated, then this Court will have to rule on the ripeness, or lack thereof, of LB PARK's claims and that ruling should reverse the orders on appeal and should have LB PARK's claims dismissed with prejudice. However, that outcome does not fulfill the goals of the Grand Plan, so a consolidation will be ordered even though there are no similar questions raised in the two disparate appeals that would allow for a proper consolidation.

Nonetheless, the Grand Plan has one major weak point, that being if Ryan wised up and came to understand what was going on he could record his deed and bring an independent action to get relief from Judge Weaver's void order. Ryan did wise up, he did record his deed, and he did bring an independent action to be relieved of Judge Weaver's null and void final quiet title order. Ryan was only able to bring an independent action because Judge Weaver acted without having subject matter jurisdiction and the reason she did not have subject matter jurisdiction is because of LB PARK's incompetent attorney, Andrew Rawl. This weak point in the Grand Plan is the reason why Mr. Rawl was fired from his law firm and is also the reason why LB PARK sought new counsel to represent it and the other defendants after Ryan filed and served his independent action (2023-CP-46-00607). LB PARK had been a client of that law firm for at least the last

seven years. Clients do not usually leave law firms that just produced a 300% return on the client's investment (i.e., that law firm cleared a title that was void *ab initio*, that was granted to a non-existent entity, in a case that the plaintiff did not have standing, in a case that was not ripe, and on property that has a present market value worth almost 300% of the amount of bid monies paid for the property).

Second, LB PARK'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, LB PARK's attorney is clearly making her Motion to Consolidate at the time she filed it to cause more unnecessary delays. Three unnecessary delays are sanctionable behavior which should cause this Court to strike LB PARK's Motion to Consolidate but that will never happen.

Third, LB PARK'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 outright lie. Not only are the questions presented entirely different between this appeal and the 2022 Appeal, 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 in LB PARK's 2019 case. But before that decision can be decided, this Court must determine if LB PARK's 2019 case is justicible, and when it does that analysis it will find that LB PARK's claims are not ripe. The decision on justicibility of LB PARK's claims will be the same for the two appeals as its non-ripe claims are the same in its two cases on appeal. However, the issue of ripeness is not a valid ground for consolidating two disparate appeals with entirely different questions presented because justicibility is a common analysis that must be done in every appeal this Court hears and decides.

Finally, the consolidation of the two appeals does not reduce costs or time of either appeal but it absolutely facilitates LB PARK illegally and unlawfully taking Ryan's property when this Court now has the duty and obligation to protect Ryan's rights to his property.

Conclusion

For all the above reasons shown, LB PARK's Motion to Consolidate must be denied.

April 6, 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.

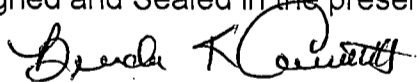
Grantor, SAN JUAN HOLDINGS:


By: Brett Osborn, Trustee (Seal)

Grantee:
With Reservation of All Rights


Ryan Whitney of the Powell family, a
free inhabitant, without the United
States (Seal)

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
20th 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>ASHLEY E. AMERSON Notary Public Wake Co., North Carolina My Commission Expires Sept. 21, 2027</p>



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
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March 21, 2023

Ryan Powell
25056 Timberlanke Drive
Fort Mill SC 29708

Re: Ex Parte Ryan Powell (LB Park, LLC v. San Juan Holdings)
Appellate Case No. 2019-000979

Dear Mr. Powell:

The Court is in receipt of the exhibit that you wish to attach to your appellant's initial reply brief. If you would like for your exhibit to be considered by the Court, the document will need to be listed in the designation of matter. Briefs cannot have attachments to them.

The record on appeal was filed before the appellant's initial reply brief and is considered premature, therefore, it will not be considered. Both parties' designations of matter must be included in the record on appeal, pursuant to Rule 210, SCACR.

The timelines for perfecting this appeal will be held in abeyance pending a ruling on the motion to consolidate.

Very truly yours,

A handwritten signature in blue ink, appearing to read "V. Claire Allen".

CLERK

cc: A. Parker Barnes, III, Esquire
Sarah P. Spruill, Esquire
Brett Osborne

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Certificate of Service For
Amended Return to LB PARK, LLC's Motion to Consolidate

I certify that I served Respondents with a copy of my Amended 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

04/6/2023
Date

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