



The South Carolina Court of Appeals

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April 14, 2023

The Honorable Robert J. Harte
PO Box 583
Aiken SC 29802

REMITTITUR

Re: Mark Mitchell v. Donnita Harmon
Lower Court Case No. 2020CP0201173
Appellate Case No. 2022-000236

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink that reads "V. Claire Allen". The signature is written in a cursive style.

CLERK

Enclosure

cc: John W Harte, Esquire
Woodrow Grady Jordan, Esquire
Bradley A. Brodie, Esquire
The Honorable M. Anderson Griffith

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Mark B. Mitchell and Celine C. Mitchell, Plaintiffs,

v.

Ronald Joseph Albertelli and Mary Frances Snelling,
Trustees of the Mary Frances Snelling Living Trust;
Donnita C. Harmon and Jimmie Phillip Harmon,
Defendants,

Of Whom Mark B. Mitchell, Celine C. Mitchell, Ronald
Joseph Albertelli, and Mary Frances Snelling are the
Respondents,

And

Donnita Harmon and Jimmie Harmon are the Appellants.

Appellate Case No. 2022-000236

Appeal From Aiken County
M. Anderson Griffith, Master-in-Equity

Unpublished Opinion No. 2023-UP-113
Submitted March 1, 2023 – Filed March 22, 2023

AFFIRMED

John W Harte, of John W Harte Attorney At Law, LLC,
of Aiken, for Appellants.

Bradley A. Brodie, of Smith, Massey, Brodie, Guynn &
Mayes, LLC, of Aiken, for Respondents Ronald Joseph
Albertelli and Mary Frances Snelling.

Woodrow Grady Jordan, of Smith Jordan, P.A, of Easley,
for Respondents Mark B. Mitchell and Celine C.
Mitchell.

PER CURIAM: In this dispute involving competing claims for the right to purchase a parcel of real estate in Aiken County, Donnita and Jimmie Harmon (collectively, the Harmons) appeal an order of the Aiken County Master-in-Equity granting a request by Mark and Celine Mitchell (collectively, the Mitchells) for specific performance of their contract to purchase the subject property from Ronald Joseph Albertelli and Mary Frances Snelling, Trustees of the Mary Frances Snelling Living Trust (collectively, the Trust). On appeal, the Harmons argue the master erred in ruling their right of first refusal to purchase the subject property was unenforceable. We affirm pursuant to Rule 220(b), SCACR.

The master correctly found the Harmons' right of first refusal to purchase the subject property was unenforceable because the contractual language purportedly granting them this right did not specify any time limit within which the Harmons were to exercise this right once they had been informed of the Trust's intention to sell the property to the Mitchells. Accordingly, we affirm the grant of specific performance to the Mitchells. *See Clarke v. Fine Housing, Inc.*, ___ S.C. ___, ___, 882 S.E.2d 763, 769 (2023) (noting "courts often examine the time period within which [a right of first refusal] can be exercised after the owner decides to sell" because "[a]lienation can be substantially restrained when the holder of the right has an extended time to decide whether he will purchase the property"); *id.* at ___, 882 S.E.2d at 769 (indicating the complete absence of provisions delineating the procedural requirements the appellant was to follow to exercise a right of first refusal—including a limitation on the time within which he could exercise this right—supported the conclusion that the right was an unreasonable restraint on alienation).

AFFIRMED.¹

WILLIAMS, C.J, and GEATHERS and VERDIN, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.