

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Frank Holtham, as Trustee of the Holtham)
SC Realty Trust, dated April 12, 2022,)
)
Petitioner,)

C/A No.: 2023-CP-10-00665

v.)

Glenn F. Keyes and Glenn Keyes)
Architects LLC,)
)
Respondents.)

**ORDER
RECEIVED**

APR 19 2023

SC Court of Appeals

THIS MATTER is before the Court on a Verified Petition for a Rule to Show Cause why this Court should not dissolve the Respondent’s Mechanic’s Lien, filed November 4, 2022, and order the return of the Petitioner’s bond posted on November 23, 2022. The matter came before the Court on March 2, 2023 and was taken under advisement for the parties to submit proposed orders. The Court, upon review of the authority cited, herein enters its ruling.

Under the authority of Sea Pines Co. v Kiawah Island Co., 268 S.C. 153, 232 S.E.2d 501 (1977), this Court has the authority to rescind a lien of record if there is no legal basis for the lien. This can be done prior to discovery and the Rule is treated similar to a motion for summary judgment, i.e., granted if there is no genuine issue of material fact.

The Court looks to the Mechanic’s Lien statute which allows for the filing of a lien by “a person to whom a debt is due where . . . labor is performed in the alteration of a building . . . by virtue of an agreement with the owner.” S.C. Code Section 29-5-10. Here, there is no question of fact that the Respondent Architect Glenn Keyes and his firm provided services to Petitioners in the renovation of work at the historic home purchased at 89 Smith Street, Charleston, SC.

There is a significant amount of disagreement over the meaning of “10% of construction costs” which forms the basis for payment for the services performed for the owner. Keyes contends the basis for the fee is the amount of square footage of the structure (over 5,000 feet) multiplied by a square foot price of \$300-\$400 per foot. Petitioner contends the contract price is 10% of actual construction costs paid, which amounted to just under \$42,000.00 -- despite the fact Petitioner had already paid Keyes \$30,000.00. Furthermore, while Respondent claims to have performed a majority of the architectural work contemplated by the parties, Petitioner halted the construction project after receiving an estimate of over two million dollars for renovation costs.

I find, based upon this, that the contract is ambiguous in terms of how the fee was to be determined and, accordingly, deny the petition for the Rule to Show Cause. *See Bluestein v. Town of Sullivan’s Island*, 429 S.C. 458, 839 S.E.2d 879 (2020).

Accordingly, rather than make specific findings of fact in this contested matter, the Court concludes that the Petition should be, and hereby is, respectfully DENIED and the Rule dismissed.

AND IT IS SO ORDERED.

[JUDGE’S ELECTRONIC SIGNATURE ON FOLLOWING PAGE]



Charleston Common Pleas

Case Caption: Frank Holtham , plaintiff, et al VS Glenn F Keyes , defendant, et al
Case Number: 2023CP1000665
Type: Master/Order/Other

So Ordered

s/Mikell R Scarborough