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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appellate Case No. 2021-000017

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

Gordon G. Cooper, Circuit Court Judge

Case No. 2020-CP-11-00040

Yvonne J. Robinson

Respondent,

v.

Donray Curtis Jones, Cynthia
Denise Jones, Emma Kelly
Washington, and Troy Eliazer
Washington

Appellants.

SUPPLEMENTAL RECORD ON APPEAL

Scott F. Talley
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Spartanburg, SC 29302

Attorney for the Respondent

Donray & Cynthia Jones
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Troy & Emma Washington
118 Hudnut Drive
Pacolet, SC 29372

Appellants

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Transcripts

Hearing held on October 13, 2020..... Supp. ROA1

1 got.

2 BY MR. TALLEY:

3 Q. Ms. Robinson, the property shown here,
4 if you would -- and I will hold it and do as best
5 we can so everybody can see -- does it purport to
6 divide the 3.84 acres into three separate parcels?

7 A. It does.

8 Q. And if you would, just by pointing out
9 on the plat, identify the three parcels and who
10 lives where.

11 A. The Washingtons. Mine. And the
12 Joneses.

13 Q. So the Washingtons live here?

14 A. Um-hum.

15 Q. You have this middle tract?

16 A. Yes.

17 Q. And the Jones live here?

18 A. Yes.

19 Q. The plat also shows a roadway identified
20 as Hudnut Drive; is that accurate?

21 A. It is.

22 Q. Is that the ingress and egress from
23 Highway 18 for all three parcels?

24 A. Yes.

25 Q. How long has Hudnut Drive been in

1 existence?

2 A. I can't tell you. All I know is the
3 first survey was done on file in 1994, so...

4 Q. Does that 1994 show Hudnut Drive?

5 A. Yes.

6 Q. Coming into this property?

7 A. Yes.

8 Q. Since you acquired the property in 2014,
9 has Hudnut Drive been used as the ingress and
10 egress for this property?

11 A. Yes.

12 Q. To your knowledge have the defendants
13 used Hudnut Drive to access their particular homes
14 on this property?

15 A. Yes.

16 Q. Does this plat depict what you thought
17 you were doing when you signed the deed in 2016?

18 A. It does.

19 Q. And as part of this action, are you
20 asking the Court to partition in kind your
21 property into these three separate parcels?

22 A. I am.

23 Q. You don't dispute that the Joneses would
24 own this particular parcel, do you?

25 A. No, I don't.

1 Q. When were the water meters installed?

2 A. I don't know when the original one was,
3 but I installed one this year in March.

4 Q. Now, prior to us commencing this action,
5 do you recall my office, at your direction,
6 sending correspondences to Ms. Washington and
7 Ms. Jones asking that this by signing, deeds to
8 comport with the plat entered as Exhibit 2?

9 A. I did.

10 Q. And they resolved to do so?

11 A. Correct.

12 Q. We had to bring this action to partition
13 amongst the owner the property as set forth in
14 Exhibit 2; is that correct?

15 A. Correct.

16 Q. And you understand it's the Court's
17 discretion and the partition, it can allocate cost
18 and fees if it grants the relief you are seeking?

19 A. Yes.

20 Q. Are you asking the Court to do that in
21 this matter?

22 A. I am.

23 Q. I am going to show you this fee
24 affidavit that reflects \$3,500 paid plus cost; is
25 that accurate?

1 and then divided it.

2 JUDGE COOPER: And all of these properties
3 are basically the same amount of property in each one?

4 THE WITNESS: Yes. And I am thinking like I
5 have the least amount, but that's okay.

6 JUDGE COOPER: Mr. Talley, anything further?

7 MR. TALLEY: Nothing. That's the plaintiff's
8 case.

9 JUDGE COOPER: Let's do this. Who wants to
10 speak for the Jones?

11 MS. JONES: I will.

12 JUDGE COOPER: And you are?

13 MS. JONES: Cynthia Jones.

14 JUDGE COOPER: If you would come up and take
15 the stand, please.

16 CYNTHIA JONES

17 being first duly sworn, testified as follows:

18 EXAMINATION

19 JUDGE COOPER: State your full name and
20 address for the record.

21 THE WITNESS: Cynthia Denise Jones.

22 125 Hudnut Drive, Pacolet, South Carolina.

23 JUDGE COOPER: And, Mr. Talley, if you will
24 help me.

25 MR. TALLEY: And I have other copies. You

1 on that parcel. Whose home is that?

2 A. That is my sister and I -- our mother.

3 Q. And does somebody live there now?

4 A. Our mother.

5 Q. Your mother lives there?

6 A. Yes.

7 Q. You said you wanted your family to have
8 a tract of land. My client is not a member of
9 your family, correct?

10 A. Correct.

11 Q. And you understand that the way the deed
12 is written if you and your family decide you want
13 to sell this land, you have to have my client's
14 consent?

15 A. Yes, sir. We understand that.

16 Q. And that if she wanted to sell her land,
17 she would have to have all of your consent?

18 A. Yes.

19 Q. Does that make sense to you?

20 A. Yes, sir.

21 Q. Explain that.

22 A. Because we aren't blood family. But at
23 the time, Ms. Robinson was a part of our family.
24 We are not blood related, but at that time we had
25 a relationship where we acted as family. We were

1 very close at that time.

2 Q. So if you improve the property around
3 your home, you are okay with Ms. Robinson getting
4 the benefits of those improvements?

5 A. Yes, sir.

6 Q. And you think it seems equitable if she
7 makes improvements around her home, the four of
8 you would get the benefits of those improvements?

9 A. The property around all of our homes
10 belong to all of us, so any improvements that were
11 done we would all benefit from it because it
12 belonged to all us.

13 Q. Regardless of who paid for it?

14 A. Yes, sir.

15 Q. Now, you testified -- I think you were
16 not present when the deed Exhibit 1 was signed,
17 correct?

18 A. Correct.

19 Q. Who reached out to set that appointment
20 so that people could go to the Hyde Law Firm?

21 A. I received information from
22 Ms. Robinson as to the law firm that we were going
23 to, that it would be in Greenville. I did not
24 reach out anywhere.

25 Q. You think this took place in Greenville?

1 interested in purchasing.

2 JUDGE COOPER: I saw that.

3 MR. TALLEY: Your Honor, I can certainly have
4 her testimony -- testify what I knew what she said --
5 she doesn't want to be hamstrung. The survey is drawn
6 the way it is. And the relief sought is what it is.
7 And the letters I mentioned earlier were sent at the
8 end of 2019, basically asking these defendants if they
9 would consent to the relief that we are seeking in this
10 action so she has no interest again. She can testify
11 that she has no interest in selling her share of this
12 property. The complaint lays out clearly that she is
13 asking it be partitioned in kind.

14 JUDGE COOPER: Mr. Talley, what I am going to
15 do in this case is I am going to step back -- not step
16 back -- but put this matter in kind of a nonruling
17 status for 30 days. And that's something I just made
18 up, but I want to make sure that Ms. Robinson and the
19 parties cannot agree as to a purchase price from
20 Ms. Robinson's interest if she wants to sell. So I am
21 going to leave it for 30 days, where that can be the
22 only matter to be considered for 30 days. After 30
23 days, if there is an impasse or the parties can't reach
24 or it's a situation where we just can't do it, she
25 doesn't want to do it, then I will make a ruling as to