

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
CHRIST FELLOWSHIP CHURCH, d/b/a)
a Church in St. Stephen, South Carolina)
)
Plaintiff,)
)
vs.)
)
WILLIAM H. JOHNSON and)
DUSTIN KYLE JOHNSON,)
)
Defendants,)
)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO. 2021CP0801441

RECEIVED
Jan 03 2024
SC Court of Appeals

FINAL ORDER

DATE OF TRIAL: October 23, 2023
TRIAL JUDGE: Dale Van Slambrook
PLAINTIFF'S ATTORNEY: Ernie L. Mixon
DEFENDANTS' ATTORNEY: Roman v. Hammes
COURT REPORTER:

This case came before me on October 23, 2023 for a final hearing. Present at the hearing were the parties and their respective attorneys. The Summons and Complaint were duly served and an Answer and Counterclaim was filed on August 5, 2021.

Testimony was presented by Ms. Evon Brown and Deacon William Middleton for the Church. Testimony was presented by William Johnson and Dustin Johnson as well as expert testimony from Andrew Duggan, CPA, senior Tax Management of Moore, Beauston, Woodham, LLP.

Based on testimony presented I make the following findings of fact and conclusions of law:

- (1) I find that this Honorable Court has jurisdiction over the parties and the subject matter.
- (2) The subject matter of this action is real property identified as:

All that certain piece, parcel or lot of land, together with any and all buildings and improvements thereon, situate, lying and being in or near the northern limits of the Town of St. Stephen, South Carolina, **MEASURING AND CONTAINING and BUTTED AND BOUNDED** generally as follows, to-wit: Beginning at the northwestern corner of said tract of land at the point at which said tract adjoins the right-of-way of U. S. Highway 52, and running South 43 ½ degrees west a distance of one hundred fifty (150') feet along lands now or formerly of Ruttenberg Corner; thence in an easterly direction a distance of seventy-five (75') feet along lands now or formerly of E. V. Stevens to a corner; thence north 43 ½ degrees west a distance of one hundred fifty (150') feet along lands now or formerly of E. V. Stevens to a corner located on the right-of-way of said U. S. Highway 52 to the point of beginning.

-ALSO-

ALL that certain piece, parcel or tract of land, together with any and all buildings and improvements thereon, situate, lying and being in the southwest side of the right-of-way of U. S. Highway 52 in or near the northern limits of the Town of St. Stephen, in First St. Stephen Tax District, Berkeley County, South Carolina, said lot **BUTTING AND BOUNDED** generally as follows, to wit: On the northeast by the right-of-way of U.S. Highway No. 52; On the Southeast by a paved street fifty (50') feet in width; and on the Northwest by Tract; said tract of lands being in form and shape of a parallelogram measuring seventy-five (75') feet on its northeastern and southeastern and northwestern boundary lines.

BOTH TRACTS ABOVE HAVING BEEN

COMBINED UNDER TMS#: 026-06-02-033

-ALSO-

ALL that certain piece, parcel or lot of land, together with any and all buildings and improvements thereon, situate, lying and being on the northwest side of Graham Street, in the Town of St. Stephen in First Tax District, Berkeley County, South Carolina, **MEASURING AND CONTAINING Eighty-Three Hundredths (0.83) of an acre, more or less, BUTTING AND BOUNDED** generally as follows, to-wit: On the Southwest by lands of B-L-S Construction Company, Inc.; and on the northwest by lands of Albert Cooper; having such shape, form, courses, distances, buttings, boundaries, and delineations, as are more fully shown on a plat captioned "Plat of Survey Land Owned by B-L-S Construction Company, Inc., St. Stephen, Berkeley County, South Carolina, About to be Conveyed to L & M Building Supply", dated March 14, 1970, which was prepared by E. A. Dennis, R.L.S. and reference is hereby craves to said plat and same is made a part and parcel of this description.

Such property was owned by William Johnson as life tenant and Dustin Johnson as remainder man.

(3) Plaintiff and William H. Johnson entered into a contract identified as “Rent with Delayed option to Buy” dated September 3, 2012.

(4) Defendant Dustin Kyle Johnson as remainder man acknowledged being bound by contract entered into by his father, William H. Johnson, as holder of the life estate.

(5) The contract entered into by the parties was at best inartfully drawn and easily subject to misinterpretation and misunderstanding. Plaintiff claims that the agreement was a contract to purchase real property and sought enforcement of the agreement. Defendant asserted the agreement was initially an agreement to purchase, but due to Plaintiff’s breach it became a rental agreement.

(6) I find that the contract entered into by the parties agreement is an installment contract. That termination of the contract as requested by the Defendants would constitute a penalty and forfeiture. I find that Plaintiff is entitled to an equitable right of redemption. As a Court of equity this Court may relieve the defaulting purchaser from the strict forfeiture provision in the contract and provide the opportunity for redemption when equity demands. *Lewis v. Premium Investment Corporation* 351 S.C 167, 568 S.E. 2d 361 (2002)

(7) I find that the essence of the agreement was that Plaintiff pay \$250,000.00 in installments and thereafter to receive title to the real property. Plaintiff made substantial payments pursuant to the contract. However, Plaintiff is in default for failure to make timely payments. Further, Plaintiff is in default of its obligation to pay the taxes on the subject real property.

(8) I find that based upon Defendant's expert witness's testimony the Plaintiff has paid to Defendant a total amount of \$232,745.00. This amount has substantially paid the parties contract price. I find therefore Plaintiff is entitled to pay the remaining balance along with any other amounts due under the contract to claim the right of equitable redemption.

(9) I find that Plaintiff, as required by the parties agreement, has failed to pay property taxes in the total amount of \$9,156.88.

(10) Defendants' assert that Plaintiff failed to pay insurance as required by the parties agreement. However, the evidence presented by the Defendant in this regard is contradictory and not credible therefore will not be considered.

(11) The parties agreement provided that Defendant is entitled to claim a charitable deduction of \$250,000.00 in addition to the contract sale price. Defendants' claim that Plaintiff failed to provide the benefit of a tax deduction. Based on the testimony Defendants did not appear to have sought a tax deduction as contemplated in the contract. Defendants did not show it was claimed, rejected or disallowed. The contract merely allows the Defendants to claim a deduction over five (5) years. Defendants did not establish a specific amount of loss resulting from the purported inability to claim such a deduction. Therefore, the Court will not consider such a loss as part of the redemption amount.

(12) I find that the redemption amount is the sales price \$250,000.00 less \$232,745.00 the amount paid plus \$9,156.00 tax amounts which Plaintiff is responsible therefore, the total amount due to Defendants from Plaintiff is \$26,411.68.

THEREFORE, It is **ORDERED** that the Plaintiff's redemption amount is established as \$26,411.68, and such amount shall be paid by Plaintiff to Defendants within 30 days of this Order, it is further;

ORDERED upon payment of the redemption amount of \$26,411.68 by the Plaintiff the Defendants shall execute a quit claim deed unto the Plaintiff, further;

It is **ORDERED** that failure to pay the amount necessary to claim the right of equitable redemption will entitle Defendants to request sale of the property to satisfy such indebtedness, further;

It is **ORDERED** that this Court reserves jurisdiction to enforce the terms of this Order.

IT IS SO ORDERED!

Dale E. Van Slambrook
Master in Equity for Berkeley County

November 8, 2023
Moncks Corner, South Carolina

FORM 4

**STATE OF SOUTH CAROLINA
 COUNTY OF BERKELEY
 IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2021 -CP-08-1441

CHRIST FELLOWSHIP CHURCH d/b/a a Church in
 St. Stephen, South Carolina

WILLIAM H. JOHNSON and DUSTIN KYLE
 JOHNSON

PLAINTIFF(S)

DEFENDANT(S)

Ernie Mixon 107 Live Oak Drive Moncks Corner, SC 29461	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN** (*CHECK REASON*): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: _____

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the		

order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

(Signature Page to Follow)

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney’s box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Ernie Mixon

Roman Vincent Hammes

107 Live Oak Drive

215 W. 2ND South Street

Moncks Corner, SC

Summerville, SC

29461

29483

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:



Berkeley Common Pleas

Case Caption: Christ Fellowship Church VS William H. Johnson , defendant, et al

Case Number: 2021CP0801441

Type: Master/Order/Other

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079