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Jan 09 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas/Magistrate
Craig L. LaCross, Magistrate Judge

Appellate Case No. 2023-000546

Stephanie McAnuff,Appellant,

v.

ASIP Town Park, LLC,Respondent.

RETURN ON MOTION TO REINSTATE APPEAL

On January 2, 2024, the undersigned received correspondence from the clerk’s office advising counsel that the Appellant filed a “motion to reinstate.” The Respondent has not received a motion to reinstate from Appellant. However, upon review of the public index, it appears that Appellant’s Response to Respondent’s Motion to Dismiss has been indexed as a motion to reinstate.

Respondent filed its Motion to Dismiss based, in part, on mootness in that Appellant had transferred title to the property (mobile homes) at issue. Appellant did not timely file a return to the Motion to Dismiss as required under Rule 240(e) nor did Appellant request an enlargement of time. On November 14, 2023, this Court issued an Order dismissing the appeal for mootness.

On November 20, 2023, Appellant filed her “Response to Motion to Dismiss.” In her filing, among other things, Appellant argues that two mobile homes remain on the property. She chooses the words in her argument very wisely. However, the issue is ownership/occupancy of the homes

– not their location. The fact remains that Appellant no longer owns/occupies the homes, and she has failed to prove otherwise; therefore, she has vacated the property – having no interest in the mobile homes nor the real property upon which they sit. Appellant has failed to rebut Respondent’s Motion to Dismiss based on mootness.

In addressing the issue of reinstating the appeal, Rule 240, SCACR provides that the Appellant had fifteen days from November 14, 2023, to file a Motion to Reinstate her appeal. While she untimely filed a return to Respondent’s Motion to Dismiss, she did not file a Motion to Reinstate pursuant to Rule 240 and, as such, this Court’s Order dismissing the appeal must remain the law of the case. Furthermore, assuming the Court views Appellant’s untimely response as a motion to reinstate, the Appellant has failed to show good cause why the appeal should be reinstated. Rule 240, SCACR. This court said it best (and as harsh as it may sound) “rules are rules, and due dates matter. Jordan v. Hartford Fin. Grp., Inc., 435 S.C. 501, 505 (Ct. App. 2021). The rules and due dates are no different for Appellant.

WHEREFORE, the Respondent respectfully prays that this Honorable Court does not reinstate the above-appeal.

January 9, 2024

s/ Edward A. Love
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Attorney for Respondent

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PROOF OF DELIVERY

The undersigned hereby certifies that on January 9, 2024, Respondent’s Return on Appellant’s Motion for Reinstatement was served on Appellant by mailing a copy of same by United States Mail, postage prepaid, to the following address:

STEPHANIE MCANUFF
PO BOX 691228
MINT HILL, NC 28227

January 9, 2024

s/ Edward A. Love
EDWARD A. LOVE
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Attorney for Respondent