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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Robert J. Bonds, Circuit Court Judge

Case No. 2023-CP-07-01102

Appellate Case No. 2023-001968

Michael G. Matthews and Laurie Matthews.....Appellants,

v.

Strecansky and Company of the Lowcountry, Inc.....Respondent,

APPELLANTS' RETURN TO RESPONDENT'S MOTION TO DISMISS

Appellants respectfully submit this Return in reply to Respondent's Motion to Dismiss on the basis that this Appeal should remain with the Court of Appeals because it falls under S.C. Code Ann. § 14-3-330 and in the interests of judicial economy, the Court of Appeals would decide this matter in the most efficient manner.

Appellants do not dispute any of the procedural history referenced in Respondent's Memorandum in Support of Motion to Dismiss filed with this Court on December 27, 2023. However, according to S.C. Code Ann. § 18-9-10, an Appeal may be made to the Court of Appeals in cases mentioned in S.C. Code Ann. § 14-3-320 and -330.

1. This Appeal Should Not be Dismissed as it falls under S.C. Code Ann. § 14-3-330.

The authority for the present appeal is rooted in S.C. Code Ann. § 14-3-330, conferring appellate jurisdiction upon the Court of Appeals for the correction of errors of law in law cases. Notably, S.C. Code Ann. §14-3-330 states that the Court of Appeals shall have appellate jurisdiction for correction of errors of law in law cases and shall review upon appeal: (4) [a]n interlocutory order or decree in a court of common pleas granting, continuing, modifying or **refusing** an injunction (emphasis added).

As stated by the Respondent in its motion, the subject matter of this appeal emanates from the denial of a Motion to Dismiss or in the alternative, Motion for Summary Judgment. However, it is pivotal to recognize that the trial Court's Order effectively determined the injunctive relief sought by Appellants. Specifically, the Order determined whether the Plaintiff would be enjoined from filing a lawsuit.

Central to the Appellants' argument is the applicability of S.C. Code Ann. §40-11-370 (C), which states:

. . . An entity that enters into a contract to engage in construction in a name other than the name that appears on its license **may not bring an action either at law or in equity to enforce the provisions of the contract.**

The statutory provision explicitly bars such entities from bringing an action, either at law or in equity, to enforce provisions of the contract.

The Appellants, through filing the Motion to Dismiss or in the alternative, Motion for Summary Judgment, sought the ultimate objective of enjoining the Plaintiffs from having the

ability to file a lawsuit. This appeal, therefore, goes beyond the mere contestation of a summary judgment denial and assumes a more significant argument concerning the ability to file a lawsuit, i.e., enjoining the Respondent from filing suit. Furthermore, this Appeal should stay in the interest of Judicial Economy.

2. This Appeal Should Not be Dismissed in the Interest of Judicial Economy.

In the interest of judicial economy, this Court should undertake the valuation rather than remand it to the Circuit court. See, e.g., *Buist v. Huggins*, 367 S.C. 268, 275, 625 S.E.2d 636, 639 (2006) (deciding to address the merits of an issue in the interest of judicial economy when the trial court had already heard arguments and addressed the issue, and the record on appeal provided sufficient evidence to make a finding of fact); *Southern Bell Tel. and Tel. Co. v. Hamm*, 360 S.C. 70, 75, 409 S.E.2d 775, 778 (1991) (electing to address an issue on appeal in the interest of judicial economy after both parties had fully briefed the issue).

With the language in S.C. Code Ann. §40-11-370 (C) being so clear on its face, the Court of Appeals should hear this decision now as opposed to allowing the Appellants to spend their precious resources, including the Court's resources, in litigating a case that should not have been allowed to be brought in the first place. The Court of Appeals has enough information from the briefs the Parties presented to the Lower Court to make a proper determination on this matter and should do so in the interests of judicial economy.

Considering the foregoing reasons, the Appellants respectfully request the Court deny the Respondent's Motion to Dismiss and allow the appeal to proceed.

Respectfully submitted,

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