

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Vanessa Marie Frierson,

Plaintiff,

-vs-

Judy A. Bloodworth, as sole beneficiary and as personal representative of the Estate of Jean Garris White, Debra Morse, Jackie McCoy, Christina Fightmaster, and John Doe and Mary Roe, fictitious names which represent any unknown heirs at law, devisees, widowers, executors, administrators, personal representatives, creditors, successors and assigns, firms or corporations of Jean Garris White (deceased), Junior Arch White (deceased), and any other unknown persons claiming any right, title, estate, or lien upon the real estate, which is the subject of this action,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL COURT

(In The Equity Division)

CASE NO: 2018-CP-18-01251

ORDER

(Declaration of Title & Partition by Allotment)

Heard before
James E. Chellis,
Master in Equity
Dorchester County
JANUARY 05, 2023 (DAY 1)
JULY 26, 2023 (DAY 2)
McArn Court Reporting

Appearances:
For the Plaintiff:
Timothy J. Vitollo, Attorney
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For the Defendant Bloodworth:
Andrew T. Shepherd, Attorney
Shepherd Law Firm, LLC
andrew@sheplawfirm.com

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May 28 2024

SC Court of Appeals

Plaintiff: Vanessa Marie Frierson
Defendant: Judy A. Bloodworth, et. al.
Case NO: 2018CP1801251

Final Order: Declaration of Title and Partition by Allotment

INTRODUCTION

The Honorable Maité Murphy referred this action to this Court pursuant to an Order of Reference entered July 30, 2019. Her Order directs this Court to take testimony and issue a final decree with any appeal to be directly to the South Carolina Supreme Court or Court of Appeals. See, Order, dated July 30, 2019.¹ The Court sees no limitations in the Order of Reference. Hence, this Court proceeds with findings of fact and conclusions of law to render this judgment.

In this action Plaintiff Vanessa Marie Frierson seeks to quiet title to the real property. The Plaintiff's also requests partition of a single-family residence in a residential subdivision in the Town of Summerville.

Defendant Judy A. Bloodworth agrees the current record title holders are the Plaintiff Vanessa Marie Frierson and the Defendant Judy A. Bloodworth. Unfortunately, the title has been obfuscated by the years that have passed since Plaintiff's father and Defendant Bloodworth's mother acquired their home in Summerville, and the time that the Plaintiff asserted an economic interest in the home. All of which this Court will sort out in its findings of fact and conclusions of law.

Plaintiff's rights, title and interest in her father's home comes through intestate descent from her father, Junior Arch White. Defendant Judy A. Bloodworth's right, title and interest in her mother's home is by testate devolution through her mother, Jean Garris White, a/k/a Jean G. White. Junior Arch White and Jean G. White once held fee simple marketable title to the real property as tenants in common. However, these seemingly equal interest as tenants in common - as co-tenants - are subject to the paramount right of partition each co-tenant has held since their respective interest vested. Thus, the central issue in this case comes down to the partition of the real property.

¹ Pursuant to Rule 53, SCRCP, a master has no power or authority except that which is given to him by the order of reference." *Bunkum v. Manor Props.*, 321 S.C. 95, 98, 467 S.E.2d 758, 760 (Ct.App.1996). "When a case is referred to a master, Rule 53(c) gives the master the power to conduct hearings in the same manner as the circuit court, unless the order of reference specifies or limits his powers." *Smith Cos. of Greenville, Inc. v. Hayes*, 311 S.C. 358, 360, 428 S.E.2d 900, 902 (Ct.App.1993). See, [Deep Keel, LLC v. Atl. Priv. Equity Grp., LLC](#), 413 S.C. 58, 75, 773 S.E.2d 607, 616, 86 UCC Rep. Serv. 2d 937, 2015 WL 3757751 (Ct. App. 2015)hs

The parties have joined the partition issues in the pleadings. They agree that this partition action is subject to the Clementa C. Pinckney Uniform Partition of Heirs' Property Act, S.C. Code Ann. § 15-61-310, et seq. But each party takes a different view of how the Court should partition the Property. The Plaintiff asks the court to direct a partition by sale (Complaint Paragraphs 37-47). Defendant counters, first by asserting the Complaint be dismissed, but alternatively praying that the partition should be by allotment or sale with an allotment². Each party, however, amended their respective pleadings at trial, asking for alternative relief. Plaintiff asks the Court, alternatively, to order rents and profits bottomed on ouster. The Defendant countered by asserting the alternative defense of possession. These amendments to the pleading were made at the opening of the trial of the case. Both parties consented to the others respective amendment.

The facts, however, do not support either of these two (2) alternative amendments. But the facts do support a partition by allotment in favor of the Defendant Judy A. Bloodworth. The Court addresses the former and the latter below. First, however, the Court addresses facts that permit declaration of the title to the single-family residential property described below. Then the Court will address the issue of partition under the Clemente C. Pinckney Uniform Partition Act (Pinckney Act). Through the Court's deliberation process, the partition decision emerged as the more challenging question.

In the Court's deliberation of partition, it has been mindful that a court of equity's responsibility is to do full justice. The Pinckney Act overall embodies this principal. But in section S.C. Code Ann. § 15-61-390 (B) the legislature requires that "[t]he court may not consider any one factor in [[S.C. Code Ann. § 15-61-390](#)] (A) to be dispositive without weighing the totality of all relevant factors and circumstances when considering partition by allotment.

This Court will address each factor in [S.C. Code Ann. § 15-61-390\(A\)](#) that it must consider. But our State's common law maxims of equity inform this Court in this decision as well.

² Defendant Bloodworth's prayer asks for alternative relief of "directing partition of the Property by allotment subject to the protections of the law and granting unto the Defendant all just credits and offsets to which she may be entitled, or in the alternative by public sale with disbursement of net proceeds in accordance with law and granting unto the Defendant all just credits and offsets to which she may be entitled."

Since the declarations of title to real property, and partition of the real property are at issue, the Court notes that the Honorable Cheryl Graham, Clerk of Court for Dorchester County, designated and appointed David Low, Esquire, Guardian Ad Litem Nisi for the parties designated as John Doe and Mary Roe³. Ms. Graham designated and appointed Mr. Lowe as Guardian Ad Litem (GAL) Nisi for any other parties under any type of legal disability, including but not limited to minors, infants, prisoners, incompetents or those serving in the military as defined by the Soldiers and Servicemembers Civil Relief Act, resident or non-resident. Mr. Lowe's designation and appointment states he is to serve in his capacity unless and until any of these persons and/or entities, or someone on their behalf, should apply to the Court for such an appointment in the within action. See, Order, dated May 28, 2019.

As a final matter of introduction, the Court notes that Plaintiff published the Summons and the Complaint on all unknown parties, including those for whom the GAL Nisi was appointed, pursuant to this Courts order granting Plaintiff's request to serve these parties by publication. See, Order of Publication, dated August 9, 2019 and Affidavit of Publication, dated July 23, 2020, filed August 9, 2020⁴.

Declaration of Title

1. Plaintiff's interests in the title derives from Junior Arch White.
2. Defendant⁵ admitted the allegations relating to the title to the real property. Hence, the Court finds the issue of title to the real property is not controverted. Nonetheless, the Court makes findings concerning the title for the benefit of the parties, and likewise others in general.

³ I have addressed constitutional procedural due process many times. See, Guardian Tax SC, LLC, vs, Henrietta Sheppard, Deceased, et. al. Order dated February 16, 2021, C/A No.: 2019-CP-18-00173.

⁴ In this Order, I do not express an opinion whether the publication of the Summons meets the requirements of S.C. Code Ann. § 15-9-740, because it fails to state the time and place of filing. See, "In all cases in which publication is made the complaint must first be filed and the summons, as published, must state the time and place of such filing." *Id.* Notwithstanding, Defendant Bloodworth's siblings are not necessary parties. And, Plaintiff is the only surviving heir of Junior Arch White. Hence, the necessary parties are before the Court. Also, the publication of the full case caption, state, county, and case number may be sufficient facts to satisfy the notice requirement as stated above given the fact that the case is electronically available via the internet's world wide web. I am not aware of a case that states the Notice of Filing is jurisdictional. Conventional best practices suggest it be treated as jurisdictional. Hence, I regularly look for and appreciate a publication apart from the Summons, entitled "Notice of Filing" published with the Summons, Lis Pendens and where appropriate filings pertaining to the Guardian ad Litem Nisi.

⁵ If I refer to the Defendant without designating the named defendant, I'm referring to Judy A. Bloodworth.

3. The Plaintiff's and Defendant Bloodworth's title derives from their respective parents, Junior Arch White, father of Plaintiff, and Jean Garris White, mother of Defendant Bloodworth.

4. The derivation of their respective interests trace to the deed of conveyance of George Romney, Secretary of Housing and Urban Development, of Washington, D.C., acting by and through the Federal Housing Commissioner (HUD), dated July 30, 1971, and recorded on September 11, 1971 in the ROD Office for Dorchester County in Deed Book 188, at page 152.

5. The HUD deed granted to Junior Arch White and Jean Garris White, fee simple title, in the co-tenancy of tenants in common. Hence, each owned a one-half (1/2) interest in the whole of the real property described as follows:

ALL that lot, piece or parcel of land situate, lying and being in the Town of Summerville, County of Dorchester, State of South Carolina, known and designated as Lot No. 19, Challedon Subdivision, Section 2, as shown on a plat made by William A. Whitworth, Reg. Land Surveyor, dated August, 1969, and recorded in the Clerk of Court's Office for Dorchester County in Plat Book 17, Page 221; said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

BEING the property conveyed to Junior A. White and Jean G. White, by deed of George Romney, Secretary of Housing and Urban Development, of Washington, D.C., acting by and through the Federal Housing Commissioner, such deed dated July 30, 1971, and recorded on September 11, 1971 in the Dorchester County, South Carolina ROD Office in Deed Book 188, at page 152.

COMMON ADDRESS: 249 Challedon Drive, Summerville, SC 29485
TMS Number: 137-12-06-012

Hereafter, the Court refers to this as "the Property." Plaintiff's Exhibit 7.

6. The chain of title thereafter requires further findings of fact by this Court, as follows:
- a. The Plaintiff, Vanessa Marie Frierson, formerly known as Vanessa Marie White, was born to Junior Arch White and Norma Grace Teter in the County of Randolph, State of West Virginia, in 1959. Plaintiff's Exhibit 1
 - b. Archie Ray White, died as an infant. He predeceased his father, Junior Arch White. Plaintiff's Exhibit 4.
 - c. On or about May 8, 1989, Junior Arch White procured an Order granting a divorce from the bonds of matrimony to Jean Garris White⁶.

⁶ See, footnote 4 of Plaintiff's Exhibit 6.

- d. Junior Arch White died July 18, 1992. Plaintiff's Exhibit 8.
- e. Plaintiff's Exhibit 6 includes a discussion of a land contract held by Junior Arch White and Norma White, as husband and wife, as purchasers. The inference drawn is that at the time of Junior Arch White's death he held himself out as being married to Norma White.
- f. Plaintiff does not produce sufficient evidence to sway the Court to find that Junior Arch White and Norma White were married, however, at the time of his death.
- g. Plaintiff's Exhibit 6 shows Jean White, as informant, for the completion of the Maryland Death Certificate. This infers that Junior Arch White, who died in a motor vehicle accident, had on his person at the time of his death information that led investigators of the accident to contact Jean White as his next of kin, specifically, as his wife. Jean White too held herself out as wife of Junior Arch White at the time of his death by being the informant relating to the details of Junior Arch White.
- h. A person cannot be married to two persons.
- i. Junior Arch White died without being survived by a wife.
- j. Plaintiff Vanessa Marie Frierson, therefore, is the sole surviving heir of Junior Arch White.
- k. Immediately upon the death of Junior Arch White his $\frac{1}{2}$ interest, as a tenant in common, in the Property vested in Vanessa Marie Frierson.
- l. The Defendant Jean Garris White, a/k/a Jean G. White, died on January 19, 2015, as a resident of Dorchester County, South Carolina.
- m. Defendant Jean Garris White had a Last Will and Testament of Jean Garris White, dated June 4, 2012 (the Will). Plaintiff's Exhibit 12.
- n. The Dorchester County Court Probate Court appointed Defendant Judy A. Bloodworth as Personal Representative of the Estate of Jean Garris White on or about March 6, 2015. Plaintiff's Exhibit 10
- o. The Dorchester County Probate Estate Case No. is 2015-ES-18-00146. Plaintiff's Exhibit 14

- p. The Defendant Judy A. Bloodworth,⁷ a resident of Dorchester County, South Carolina, is the sole beneficiary of the Estate of Jean Garris White, pursuant to the Will.
 - q. Jean Garris White was survived by her children, Defendants Debra Morse, Jackie McCoy, Christina Fightmaster, and Judy A. Bloodworth.
 - r. More than one year has passed since Jean Garris White's death and the informal probate of her Last Will and Testament.
 - s. No unresolved creditor claims, and no known biological heirs of Jean Garris White have initiated a proceeding to contest the validity of her Last Will and Testament.
 - t. This Court adjudged Defendants Debra Morse, Jackie McCoy, Christina Fightmaster⁸ in default of these proceedings by its Order, dated March 7, 2022.
 - u. These Defendants stated immediately above have no interest in the Property.
 - v. Immediately, upon the death of Jean G. White, her ½ interest, as a tenant in common, in the Property vested in Judy A. Bloodworth.
7. Based on the foregoing findings of the chain of title, Plaintiff Vanessa Marie Frierson and Judy A. Bloodworth hold fee simple marketable title in the Property as tenants in common subject to the paramount right of partition.

Partition

8. The Property is heirs' property pursuant to S.C. Code Ann. § 15-61-310, et seq., known as "Clementa C. Pinckney Uniform Partition of Heirs' Property Act." (The Act).
9. The Court conducted a determination heirs property hearing and determined the case is subject to the Act. See, Order dated March 4, 2021
10. On March 7, 2022, Court directed "Plaintiff is to obtain a Comparative Market Analysis to be prepared by Christine McDaid Garcia and to provide the same to the attorney for the Defendant Judy A. Bloodworth and the Guardian ad Litem, and that any disagreement as to the

⁷ Judy A. Bloodworth was formerly known as Judy A. Dominguez.

⁸ Jean Garris White had two children who predeceased her, namely Dale Larimer and Jimmy Garris. Dale Larimer died without any surviving issue. Defendant Christina Fightmaster is the only surviving issue of Jimmy Garris.

fair market value of the property will be resolved by way of such evidence as the parties may present at the final hearing.”

11. Christine McDaid Garcia made a Comparative Market Analysis (CMA).
12. Defendant Judy A. Bloodworth does not contest the fair market value of the Property.
13. The current value of the home based on the CMA is \$163,333. Plaintiff’s Exhibit 15, 48/14-21.
14. No financial liens or encumbrances are upon the Property.
15. The parties waived, and this Court agrees, the right to a writ of partition is inappropriate on the basis that it would involve unnecessary expense.
16. A partition in kind is not feasible.
17. A partition by allotment of all interest in the Property to the Defendant Judy A. Bloodworth does not manifestly prejudice or manifestly injure the Plaintiff Frierson taking into account the seven (7) enumerated factors set forth in Subparagraph A of [S.C. Code Ann. § 15-61-390](#) by weighing the totality of all relevant factors and circumstances set forth there.
18. The Court finds that [S.C. Code Ann. § 15-61-390](#) A (2) addresses “parcels” of land is does not apply to a single family residential property as the Property and this Court finds a Court ordered sale would do manifest prejudice to and manifest injury to the Defendant Bloodworth.
19. The Defendant Judy A Bloodworth has occupied the property since 1989. 90/7
20. Defendant Bloodworth recalled the circumstances of moving into the property: “That date is after Hugo, and my mom and Junior were back together and him asking us to move into the home for him and to take care of it for them to go to West Virginia, to the home in West Virginia.” 91/9-12
21. Plaintiff did not challenge this testimony.
22. Notably, Plaintiff’s father did not ask the Plaintiff to move into the property to take care of it.
23. Moreover, Defendant Bloodworth has continuously lived in the property the following periods:
 - a. Since Hugo (Fall of 1989) to Trial date approximately 30 years;
 - b. Since Hugo to the date of filing this lawsuit 25 years; and

Plaintiff: Vanessa Marie Frierson
Defendant: Judy A. Bloodworth, et. al.
Case NO: 2018CP1801251

Final Order: Declaration of Title and Partition by Allotment

c. Since Hugo to the date of the Plaintiff's Petition in the Probate Court, resulting in Plaintiff's Exhibit 6, 23 years.

24. The Plaintiff lived at the Property only a couple of years when she was a teenager. 93/4

25. The Plaintiff left the property as a teenager. The testimony of this occurrence is as follows:

8 Do you recall in the prior trial testifying
7 that Junior and Jean made you leave the home at 249
8 Challedon?
9 A When I got pregnant with my child, yes. 68/6-9

15 How did Vanessa come to leave the property at
16 Challedon?
17 A In a fight with my mom and Junior when she
18 was young over being pregnant and other things.

19 Q Did they make her leave?
20 A Yes. 93/15-20

26. The evidence of the collective duration of possession of the property by Defendant Judy A. Bloodworth and her mother, Jean M White, supports a finding that Defendant Judy A. Bloodworth has been in possession of the property all her life saving a few years after she was married until she returned at the Plaintiff's father's request.

27. The inferences drawn from those who occupied the Property from its acquisition by Junior Ash White and Jean M. White is that Plaintiff lived at the property, as a guest, for a couple of years when she was teenager.

28. The Plaintiff sought advice of a lawyer after her father died in 1992. Plaintiff did not act on her lawyer's advice. Plaintiff's father's estate was never administered. 69/9

29. As sole heir of Junior Ash White, Plaintiff failed to administer her father's estate in 1992 or at any time after he died.

30. The Plaintiff sought advice of an attorney in West Virginia for a wrongful death suit. 70/8

31. The Plaintiff testified she did not know her father had a real property interest in the Property until after Jean M. White died. This Court finds this testimony lacks credibility. Plaintiff admits she saw an attorney in West Virginia for purposes of investigating a wrongful

death suit. The inferences drawn from this testimony are manifold. The complexity of wrongful death lawsuits reaches far beyond determination of the likely underlying tort. Plaintiff would have been advised about estate administration, domicile, conflicts of law, venue, and jurisdiction. Moreover, a lawyer would have advised her that the wrongful death action would likely include filing a lawsuit by the Personal Representative of her father's estate in the domicile of the at fault driver⁹. Therefore, the Plaintiff knew or should have known she would have had to marshal her father's assets wherever they were. Hence, she knew or should have known she would have to investigate whether her father had property in South Carolina, where he had lived at a minimum of 18 years with his wife, Jean M. White.

32. At a minimum, Plaintiff was on notice to look into what assets her father owned at the time of his death.

33. The Plaintiff has no sentimental attachment to the Property because it was a property in which her father lived with his wife, Plaintiff's stepmother. The Plaintiff admits she did not get along with her stepmother. 68/4-5. Hence, Plaintiff has no sentimental, ancestral, unique, or special interest in the Property. At best this Court finds the Plaintiff's emotional attachment to the Property derives out of painful memories.

34. Defendant Bloodworth's does have a sentimental attachment to the property. She has lived there almost her entire life. It was her home as a child, as a teenager, as a young adult, and as a married woman. She has lived at the Property since 1989. In that time her subjective attachment to the Property is palpable. It is where she has made her home.

35. The Property is Defendant Judy A. Bloodworth's home. She has lawfully resided in and on the Property without the least interest from the Plaintiff except for her interest in exacting an economic benefit through litigation. Plaintiff's interest in this Property, being economic through lawful process, is much like the proverbial gun to one's head making a demand for payment. Plaintiff's action contemplates a disposition of the Property that, if allowed, would be an

⁹ The record does not support the basis of the wrongful death suit. Whether the suit would be a motor vehicular case, or a products liability case, is not presented. Nonetheless, a lawyer would have explained the jurisdictional challenges involved in a wrongful death suit occurring in a state in which the decedent did not reside. The death certificate establishes her father's domicile was West Virginia. Moreover, the basic responsibilities of an administrator of an estate would likely have been discussed in an initial interview.

absolutely destructive power against the Defendant's home, which she has built over a 30 year period, the last 8 of which have been under the distress of lawsuits. Plaintiff has a throttle held upon the peaceful existence of another human being. This does not commend itself to the favorable consideration of the court. Equity will not countenance such a stranglehold. See, [Guignard v. Corley, 147 S.C. 12, 144 S.E. 586, 591, 62 A.L.R. 533 \(1928\)](#). Accordingly, the Plaintiff comes to this Court with unclean hands.

36. The evidence is uncontroverted that the Plaintiff has not made any contribution to maintain the Property. The property taxes, insurance, and other expenses associated with maintaining ownership of the property have been at the expense of the Defendant Bloodworth and her mother.

37. Based on testimony taken before this Court a partition by allotment among the parties is practicable and expedient.

38. Defendant Judy A. Bloodworth shall be allotted all the rights, title and interests in the Property as this is the most practical result. It is also the only fair and just result given the Plaintiff's failure to show the slightest interest in the property other than exacting a monetary sum from the Defendant Judy A. Bloodworth. The earliest this interest became evident was 23 years after her father's death.

39. The Defendant Judy A. Bloodworth is entitled to an award of attorney's fees and statutory costs. She must petition this Court for attorney's fees and statutory costs on or before ten (10) days from the entry of this Order.

40. The Plaintiff did not produce sufficient evidence that the Defendant Judy A. Bloodworth turned her out from the Property.

41. Further, The Plaintiff did not produce sufficient evidence that the Defendant Judy A. Bloodworth kept the Plaintiff excluded from the property. The only evidence of being ousted from the property arises by inference of the possession of Judy A Bloodworth of the Property following the request of Junior Ash White, as stated above. Plaintiff's only attempt to even assert a right of possession or interest in the Property derives from her process of instituting litigation, first in the Probate Court, then in this Court. Under the circumstances of this case, this Court does not find sufficient evidence that the current possessing co-tenant, Judy A. Bloodworth, is a

possession attended with such circumstances as to evince a claim of exclusive right and title and a denial of a right to participate in profits because defending a lawsuit cannot be bootstrapped into a co-tenant's ouster. The Plaintiff produced no evidence she sought to participate in profits except through the process of this litigation.

42. The Plaintiff's never asserted any right, title, or interest in the Property until proceeding in the Courts.

43. Hence, the possessing co-tenants, Defendant Bloodworth and her mother, could have never put the Plaintiff on notice that they were adversely possessing the property with the intent to oust Plaintiff from her co-tenancy. *Fender v. Heirs at L. of Smashum*, 354 S.C. 504, 510–11, 581 S.E.2d 853, 856–57, 2003 WL 21000924 (Ct. App. 2003)

Conclusions of Law

44. Plaintiff Vanessa Marie Frierson is the sole heir at law of Junior Ash White.

45. Plaintiff Vanessa Marie Frierson and Defendant Judy A. Bloodworth hold fee simple marketable title in the Property as tenants in common subject to the paramount right of partition. *Ex parte Johnson*, 147 S.C. 259, 145 S.E. 113, 115 (1928).

46. The Clementa C. Pinckney Uniform Partition of Heirs' Property Act, S.C. Code Ann. § 15-61-310, et seq., provides the standards of partition of heirs' property.

47. No manifest prejudice or manifest injury shall result from an allotment of the entire fee simple estate in the Defendant Judy A. Bloodworth. S.C. Code Ann. § 15-61-380 applying the standards set forth in S.C. Code Ann. § 15-61-390.

48. All the lawful right, title and interest in the Property shall be allotted to Defendant Judy A. Bloodworth. Defendant Judy A. Bloodworth shall be vested in fee simple marketable title in and to the Property to the exclusion of the Plaintiff Vanessa Marie Frierson.

49. The Court shall issue a Master's Deed conveying all right, title, and interest in and to the Property to Judy A. Bloodworth.

50. All right, title and interest of Plaintiff Vanessa Marie Frierson that lawfully vested in Vanessa Marie Frierson immediately upon the death of her father, Junior Ash White, shall be terminated, and of no force and effect.

51. One who seeks equity must do equity. 30A C.J.S. Equity § 102; See, *Burch v. Burch*, 395 S.C. 318, 331, 717 S.E.2d 757, 764, 2011 WL 5137777 (2011), “[one] who seeks equity must do equity.” Citing, *Provident Life & Accident Ins. Co. v. Driver*, 317 S.C. 471, 479, 451 S.E.2d 924, 929 (1994); *Ingram v. Kasey's Assocs.*, 340 S.C. 98, 107, 531 S.E.2d 287, 291 (2000).

52. In a court of equity, the conduct of the plaintiff must be scrutinized with the utmost care, to ascertain the Plaintiff has done everything which ought to have been done to secure the action requested.

53. The conduct of the Plaintiff shows the Plaintiff comes into this Court with unclean hands.

54. When providing an equitable remedy, the court may not ignore statutes, rules, and other precedent for this reason the Court followed the directives provided to it from the legislature following The Clementa C. Pinckney Uniform Partition of Heirs’ Property Act, S.C. Code Ann. § 15-61-310, et seq.

55. Equity considers as done that which should be done.

56. Equity delights to do justice, and that not by halves. *First Nat. Bank of Holly Hill v. Hair*, 200 S.C. 36, 20 S.E.2d 219, 225 (1942)

57. “Ouster” is the actual turning out or keeping excluded a party entitled to possession of any real property. *Grant v. Grant*, 288 S.C. 86, 340 S.E.2d 791 (Ct.App.1986) Actual ouster of a tenant in common by a cotenant in possession occurs when the possession is attended with such circumstances as to evince a claim of exclusive right and title and a denial of the right of the other tenants to participate in the profits. *Woods v. Bivens*, 292 S.C. 76, 354 S.E.2d 909 (1987); *Brevard v. Fortune*, 221 S.C. 117, 69 S.E.2d 355 (1952). The acts relied upon to establish an ouster must be of an unequivocal nature, and so distinctly hostile to the rights of the other cotenants that the intention to disseize is clear and unmistakable. *Felder [v. Fleming]*, 278 S.C. [327] at 330, 295 S.E.2d [640] at 642 [(1982)]. Only in rare, extreme cases will the ouster by one cotenant of other cotenants be implied from exclusive possession and dealings with the property, such as collection of rents and improvement of the property. *Id.*, 278 S.C. at 331, 295 S.E.2d at 642. Citing, *Freeman v. Freeman*, 323 S.C. 95, 99–100, 473 S.E.2d 467, 470 (Ct.App.1996). [Fender v. Heirs at L. of Smashum, 354 S.C. 504, 513, 581 S.E.2d 853, 858, 2003 WL 21000924 \(Ct. App. 2003\).](#)

Plaintiff: Vanessa Marie Frierson
Defendant: Judy A. Bloodworth, et. al.
Case NO: 2018CP1801251

Final Order: Declaration of Title and Partition by Allotment

58. “Ouster is presumed from possession only if it is continued for a period of twenty years. Title by ten years' adverse possession by a cotenant against another may be acquired only after actual ouster of which the latter has notice, or should have in the exercise of a reasonable diligence and vigilance.” Citing, *Watson v. Little*, 224 S.C. 359, 364, 79 S.E.2d 384, 387 (1953).
Id.

59. The court of common pleas may fix attorneys' fees in all partition proceedings and, as may be equitable, assess such fees against any or all of the parties in interest. S.C. Code Ann. § 15-61-110. Defendant Judy a. Bloodworth must petition this Court for an award of attorney’s fees and costs within ten (10) days of the entry of this Order or it shall be deemed she waives the fees and costs forever. NOW, THEREFORE, IT IS

60. ORDERED, ADJUDGED AND DECREED that Plaintiff Vanessa Marie Frierson and Judy A. Bloodworth hold fee simple marketable title in the Property as tenants in common subject to the paramount right of partition. FURTHER, IT IS

61. ORDERED, ADJUDGED AND DECREED that Defendant Judy A. Bloodworth shall be allotted all of the interest in the Property to the exclusion of the Plaintiff Vanessa Marie Frierson. FURTHER, IT IS

62. ORDERED, ADJUDGED AND DECREED that this Court shall issue a Master’s Deed conveying all right, title, and interest in and to the Property, even which that lawfully vested in Vanessa Marie Frierson immediately upon the death of her father, Junior Ash White, to Judy A. Bloodworth. FURTHER, IT IS

63. ORDERED, ADJUDGED AND DECREED that all right, title and interest of the Plaintiff Vanessa Marie Frierson in the Property shall be, and his hereafter, deemed void and of no force and effect.

64. IT IS SO ORDERED!

Signature of the Master in Equity follows:

Plaintiff: Vanessa Marie Frierson
Defendant: Judy A. Bloodworth, et. al.
Case NO: 2018CP1801251

Final Order: Declaration of Title and Partition by Allotment



Dorchester Common Pleas

Case Caption: Vanessa Marie Frierson VS Judy A Bloodworth , defendant, et al

Case Number: 2018CP1801251

Type: Master/Order/Other

So Ordered

s/James E. Chellis, Master in Equity, SCJD#3078