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Aug 26 2024
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-in-Equity

Appellate Case No. 2024-000062

Roy Williams,..……..…….....…...Respondent,

v.

Jamma L.W. Bradford……...……..……Appellant.

INITIAL REPLY BRIEF OF APPELLANT

Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
Post Office Box 6903
Columbia, South Carolina 29260
(803) 500-0891
drew@radekerlaw.com
Attorney for Appellant

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STATEMENT OF ISSUES

I. Did the master-in-equity err reversibly in ruling that the Respondent has an interest in the property subject of this partition action?

II. Did the master err reversibly in finding against Appellant on her counterclaim, when she proved that Respondent had made unauthorized use of her property?

III. Did the master lack subject matter jurisdiction of this case?

The Appellant, Jamma L. W. Bradford ("Bradford"), submits this brief in reply to arguments raised in the brief submitted by Roy Williams ("Williams"), the Respondent.

ARGUMENT IN REPLY

I. Williams' reasoning, like the master's below, is speculation that defies the law of how we interpret deeds.

Bradford will not repeat her brief here, but she calls the court's attention to this state's law that a deed should be interpreted based on the content of the deed (its "four corners," as often stated) where possible, with extrinsic evidence admitted only when applying intra-deed interpretation fails to provide a logical answer. Edgewater on Broad Creek Owners Assn., Inc. v. Ephesian Ventures, LLC, 430 S.C. 400, 409-10, 845 S.E.2d 211 (Ct. App. 2020). Where "the intention of the parties as to the legal effect of the [deed] may be gathered from the four corners of the instrument itself[,]" a court is usually not permitted to look to extrinsic evidence to interpret an ambiguity. Id. (internal quotation marks omitted, brackets in original).

As described in Bradford's brief, the law of deed interpretation provides a perfectly sensible interpretation of the content of the deed from Williams to Young, that interpretation being indeed exactly what that deed says it has done: Williams conveyed to Young all of his interest in the area described in that deed, including the area subject of this case. (R. pp. ___; exhibit – deed from Williams to Young.) The deed took no measures to exclude the subject property from the ambit of what was described as being conveyed. (And, given that the separating boundary would have been a road, writing a description to reflect that would have been very easy.)

"The intention of the grantor must be found within the four corners of the deed." Vista Del Mar Condominium Assn. v. Vita Del Mar Condominums, LLC, 441 S.C. 223, 892 S.E.2d

532 (Ct. App. 2023) (quoting Gardner v. Mozingo, 293 S.C. 23, 25, 358 S.E.2d 390, 392 (1987)). Rather than conform to the law in this regard, the master's decision was founded on speculation about what Williams' deceased lawyer might have been thinking. (R. pp. ___; amended partition order.) That is what Williams continues to ground his argument upon. That speculation is about secret intentions that may or may not be at the root of the acreage amount given in the deed, but "[i]t is of course a proposition too elementary for any citation of authority that boundaries govern acreage and inaccuracies relating to the area of a tract are generally immaterial." Brownlee v. Miller, 208 S.C. 252, 260, 37 S.E.2d 658 (1946). Also, "[t]he master is without authority to consider parties' secret intentions[,] and words cannot be read into a deed to impart an intent unexpressed when the deed was recorded." Edgewater, 430 S.C. at 406-07 (quotation marks omitted).

Williams is not entitled to have a court ignore deed interpretation law to reach an interpretation favorable to him. He is not entitled to have a court construe any ambiguity in his favor at all.[1] The deed in question was his own document, a deed from him. (R. pp. ___; exhibit – deed from Williams to Young.) "Ambiguous language in a contract should be construed liberally and most strongly in favor of the party who did not write or prepare the contract and is not responsible for the ambiguity; and any ambiguity in a contract, doubt, or uncertainty as to its meaning should be resolved against the party who prepared the contract or is responsible for the verbiage." Myrtle Beach Lumber Co., Inc. v. Willoughby, 276 S.C. 3, 8, 274 S.E.2d 423, 426 (1981) (quoting 17A C.J.S. Contracts § 324). If there is ambiguity, Bradford, not Williams, gets the benefit of it. Id.

[1] If there even is any ambiguity, and there does not appear that there actually is. Williams writes that "[a]mbiguity of the deed was stipulated by Williams' counsel" (Respondent's Brief p. 4 n. 4), but it was not stipulated by Bradford.

II. A defect of subject matter jurisdiction cannot be waived.

This is not a situation involving a mode of trial issue. No one demanded a jury trial in this case, so no one was arguably deprived of trial of the type to which he or she was entitled. The cases cited by Williams for the idea that Bradford should have appealed the order of reference at some undefined earlier point are inapplicable.

Rather, what we have here is a situation in which the supposed basis of the master-in-equity's subject matter jurisdiction – the order of reference – was void. Tryon Fed. Sav. & Loan Assn. v. Phelps, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992); Deep Keel, LLC v. Atl. Private Equity Grp., LLC, 413 S.C. 58, 74-75, 773 S.E.2d 607, 616 (Ct. App. 2015); Normandy Corp. v. S.C. Dept. of Transp., 386 S.C. 393, 688 S.E.2d 136, 142 (Ct. App. 2009); Bunkum v. Manor Properties, 321 S.C. 95, 99, 467 S.E.2d 758, 761 (Ct. App. 1995); Bonney v. Granger, 292 S.C. 308, 322, 356 S.E.2d 138, 147 (Ct. App. 1987). This is explained in Bradford's appellant's brief.

The lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by this court. Anderson v. Anderson, 299 S.C. 110, 115, 382 S.E.2d 897, 900 (1989). The law of the case is that Bradford had appeared and was not in default at the time Williams secured a purported order of reference through *ex parte* means. See Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009); Ross v. Med. Univ. of S.C., 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997). The master found that Bradford timely "served an Answer and a Counterclaim" (R. pp. ___; amended partition order), and Williams did not appeal or otherwise challenge that ruling. For a case to be referred to a master-in-equity, the order of reference must be valid, and that requires notice of the application for the order of reference to be provided to all parties who have appeared in the case. See Tryon Fed., 307

S.C. at 362; Rule 5(a)&(b)(3). That was not done. This defect in – really, absence of – the master's subject matter jurisdiction could not have been waived by Bradford. Anderson, 299 S.C. at 115.

CONCLUSION

Reversal is required here. If the court determines – as it seems it must – that the order of reference was void, the case must be remanded to the "regular" circuit court. If the court determines the master had subject matter jurisdiction, this court must reverse and either a) make its own findings that comport with the law and the evidence or b) remand for a new trial.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
Post Office Box 6903
Columbia, South Carolina 29290
(803) 500-0891
drew@radekerlaw.com
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PROOF OF SERVICE

I certify that I have served the foregoing initial reply brief on the date given below by emailing it to the other counsel of record in this appeal at the address(es) noted below.

Leonard R. Jordan, Jr., Esq., at ljordan@ljordanlaw.com

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
Post Office Box 6903
Columbia, South Carolina 29290
(803) 500-0891
drew@radekerlaw.com
Attorney for Appellant

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