

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
 Ronald L. Jones,)
)
 Plaintiff,)
)
 vs.)
)
 Gary A. Jones, Sr., Becky J. Jones,)
 Ima Lee Jones, and Shelley Allsbrooks,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

CASE NUMBER: 2020-CP-43-00734

ORDER

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Sep 11 2024

SC Court of Appeals

This matter came before me on January 29, 2024 pursuant to a Notice of Motion and Motion to Amend Complaint filed by the Plaintiff Ronald L. Jones.

The Plaintiff was represented by Richard L. Whitt, Esquire of the Whitt Law Firm, LLC. The Defendants Gary A. Jones, Sr., Becky J. Jones and Shelley Allsbrooks were represented by Marvin E. McMillan, Jr., Esquire and Thomas E. Player, Jr., Esquire of the law firm of Player & McMillan, LLC.

I have reviewed the Court’s file in regard to this matter, considered arguments of counsel, reviewed exhibits filed for use in Motion and memorandums, pleadings and documents presented to the Court by counsel at the hearing and I make the following findings of fact and conclusions of law.

1. That this Court has jurisdiction over the parties hereto and the subject matter herein.
2. That the Plaintiff, in his Motion, attached as Exhibit A a proposed Summons and Complaint which would represent the Plaintiff’s Third Amended Complaint and thus overall fourth Complaint filed in this action.

3. That the Plaintiff seeks to amend by adding a cause of action for unjust enrichment and states in his Motion the basis is that the Plaintiff seeks to add the cause of action for unjust enrichment because the deposition of the Defendant Shelley Allsbrooks, which was taken on March 16, 2021, reveals that the Defendant Shelley Allsbrooks intended to profit by unjust enrichment.

4. That the Plaintiff's proposed Third Amended Complaint also contains almost exact allegations which were stricken by this Court by Order dated September 22, 2021.

5. That the Plaintiff acknowledges in his Motion to Amend that the deposition of Shelley Allsbrooks was taken on March 16, 2021 and subsequent thereto the Plaintiff did amend his Complaint (Second Amended) dated April 23, 2021.

6. That the Plaintiff's Second Amended Complaint and proposed Third Amended Complaint allege that the subject property is owned by Gary A. Jones, Sr., Becky J. Jones and Ima Lee Jones but does not allege that Shelley Allsbrooks is an owner of the subject property.

7. That any allegations of unjust enrichment, as alleged by the Plaintiff, if appropriate, could have been alleged in the Plaintiff's Second Amended Complaint dated April 23, 2021.

8. That after the Plaintiff's filing of the Second Amended Complaint the Defendants Gary A. Jones, Sr., Becky J. Jones and Shelley Allsbrooks moved to strike certain allegations of the Plaintiff's Second Amended Complaint and by Order dated September 22, 2021 this Court specifically ruled that any immaterial, redundant and impertinent allegations of the pleadings should be stricken and that pleadings should contain a short statement of facts showing that the pleader is entitled to relief.

9. That by Order to Strike dated September 22, 2021 this Court specifically ordered the first paragraph numbered 13 as well as paragraphs 30 and 31 of the Plaintiff's Second Amended Complaint be stricken based upon the fact that they appear to allege evidentiary facts.

10. That the Plaintiff, after his Motion to Reconsider my Order dated September 22, 2021 was denied, did appeal the September 22, 2021 Order to the South Carolina Court of Appeals which was dismissed by the Court of Appeals. Further, the Plaintiff then filed a Writ of Certiorari to the South Carolina Supreme Court which was denied and Remittitur from the Court of Appeals was filed with the Clerk of Court for Sumter County on April 26, 2023. It appears that the Plaintiff now seeks to file a Third Amended Complaint alleging unjust enrichment and a proposed Summons and Third Amended Complaint which contains some of the exact language that this Court ordered stricken in its Order to Strike dated September 22, 2021.

11. That the Defendants Gary A. Jones, Sr., Becky J. Jones and Shelley Allsbrooks oppose the Plaintiff's Motion to Amend and the proposed Third Amended Complaint. The Defendants, through counsel, argued in Court that the Plaintiff's Motion and proposed Summons and Complaint are prejudicial due to the lack of basis for the filing of a Third Amended Complaint and the failure to amend for unjust enrichment in the Plaintiff's Second Amended Complaint when filed.

12. That the proposed Third Amended Complaint contains numerous evidentiary facts as opposed to ultimate facts as well as almost identical language in paragraphs 13, 30 and 31 from the Plaintiff's Second Amended Complaint which were stricken by this Court's Order dated September 22, 2021 (as shown in paragraph 12 and paragraph 30 of the proposed Third Amended Complaint). To permit the proposed amendment would sanction the violation of the Court's

previous Order. The Plaintiff's Appeal was dismissed and the Plaintiff is precluded from re-pleading matters previously stricken.

13. That this action was filed by the Plaintiff on May 4, 2020 and to allow the amendment would prejudice the Defendants in that the Defendants would be required to file Motions or take other necessary actions resulting in further and needless delays in regard to this matter.

NOW, THEREFORE, based upon the foregoing, it is

ORDERED that the Plaintiff's Notice of Motion and Motion to Amend is denied.

AND IT IS SO ORDERED!

R. Ferrell Cothran, Jr.
Circuit Court Judge
Third Judicial Circuit

April _____, 2024
Sumter, South Carolina



Sumter Common Pleas

Case Caption: Ronald L Jones VS Gary A Jones Sr , defendant, et al

Case Number: 2020CP4300734

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144