

RECEIVED

Sep 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes, III, Circuit Court Judge

Appellate Case No. 2023-001519

James Reid and Sarania Reid,

Respondents,

v.

Carrie Gaston Henderson

Appellant.

MOTION TO STRIKE APPELLANT’S INITIAL BRIEF
AND/OR MOTION TO DISMISS APPEAL

COME NOW Respondents, by and through the undersigned and moving this honorable Court for an Order Striking Appellant’s Initial Brief and/or an Order Dismissing the instant appeal pursuant to Rules 208 and 240, SCACR.

BACKGROUND

Respondents purchased a roughly 33-acre parcel of land (the “Property”) in Beaufort County in 2016. (Exhibit A – May 31 Order granting Summary Judgment). The Property was formerly part of a 113-acre tract of heir’s property (the “original heirs parcel”) that was partitioned and deeded out by the Beaufort County Circuit Court in or around 2001. (Id.).

As owners of the Property, Respondents brought this action against Appellant in 2020 for trespass, permanent injunction and/or writ of ejectment because Appellant refused to remove a mobile home from the Property. (Exhibit B - Complaint). This mobile home is not Appellant's primary residence. Appellant answered the complaint via letter on September 21, 2020, in which she asserted an ownership interest in the property. (Exhibit C - Answer). Appellant appeared to argue there was a defect in Respondent's chain of title. Specifically, Appellant claimed that a 2004 deed to Cunningham Real Estate Management, Inc. (Respondent's predecessor in interest) was ineffective because an attorney named Louis Dore, who signed this deed as witness, allegedly had a conflict of interest. *See generally* (Appellant's Initial Brief).

PROCEDURAL POSTURE

This appeal concerns Respondent's Motion for Summary Judgement which the Circuit Court granted in an order dated May 31, 2023. (Exhibit A). Appellant's Motion to Reconsider was denied on July 23, 2023, and Appellant filed notice of appeal on September 22, 2023.¹ Appellant filed an Initial Brief on July 3, 2024 (which was served on Respondents on or about July 29, 2024). This motion follows.

ARGUMENT

Upon review of Appellant's Initial Brief, it is unclear the precise issue or allegation of error that Appellant asserts. The Initial Brief does not set forth any particular allegation of error made in the Order(s) on appeal. Instead, Appellant appears to take exception with the conduct of certain

¹ The following orders/documents were attached to the notice of appeal. First an Order issued on former Circuit Court Judge Ellis Drew on May 11, 2007 (nearly twenty years ago) in an unrelated case (Case No. 2006-CP-07-2435). Second an Order the July 27, 2023, denying Appellant's request for reconsideration in this case. Finally, the notice of appeal also included a copy of a title to certain real property dated 1908—presumably this title relates to the original heirs parcel.

attorneys and judges that were involved with various transactions and lawsuits related to the original heirs parcel over a very long period of time—*i.e.*, between 1954 and 2015.² Finally the Initial Brief does not seek reversal of the Order(s) on appeal. Instead, the conclusion section only asks that the heirs and distributees of the original heirs parcel be granted “all additional relief to which [this Court] finds them entitled to.” (Initial Br. p. 10).

It seems that Appellant is claiming there is some defect in Respondent’s chain of title, and is seeking to litigate/re-litigate issues of ownership in the Property, based on an ownership interest that Appellant claims as a purported heir of Cecil Gadsden. *See* (Exhibit A – Order). However, the issue of ownership of the Property was resolved by an order of issued by the Beaufort County Court of Common Pleas on February 20, 1998, in Case No. 90-CP-7-310. (Exhibit D). Importantly, this Order operated to find that Cecil Gadsden had no ownership interest in the original heirs parcel. (*Id.*). As a result, any claim or right that Appellant may have had in the Property, as an heir of Mr. Gadsden, was likewise divested in 1998. This ruling (right or wrong) has become the law of the case. Therefore, to the extent Appellant’s Initial Brief is intended to challenge Respondents’ ownership of the Property, Appellant has no standing to make such an argument, and this Court’s appellate jurisdiction does not permit it to grant such relief.

² Appellant’s Initial Brief makes the following allegations: On page 4 Appellant makes claims regarding the conduct of attorney Gary Brown in 1954 and 1955 and refers to payment of a mortgage in 1970. On page 5, Appellant references the involvement of an attorney named Louis Dore in a prior quiet title action related to the original heirs parcel. On page 6, Appellant alleges that Judge Kemmerlin abused his discretion in issuing an order directing partition of the original heirs parcel (this is believed to have occurred in either 1998 or 2000). Page 7 refers to events concerning evictions (seemingly related to Appellant’s mobile home being located on the property) in 2000 and 2007. On page 8, Appellant references to an order issued by Judge Dukes in 2015 in an separate case.

Accordingly, as set forth below, this Court should issue an Order Striking Appellant's Initial Brief and/or dismissing the instant appeal.

I. This Court should issue an Order Striking Appellant's Initial Brief for not complying with Rule 208, SCACR.

As threshold matter, Rule 208(b)(1), SCACR sets forth the requirements of initial brief, which include a Statement of the Issues on Appeal, an Argument, and a Conclusion.

Rule 208(b)(1)(B), SCACR requires the initial brief provide a concise and direct Statement of the Issues on Appeal. Here, pages 4-5 of the Initial Brief appear under the heading "Issue Presented." However, these pages set forth a history of alleged conduct related to the Property dating back to 1954. *See* (Initial Br. pp. 4-5). Page 6 of the Initial Brief appears under the heading "Miscarriage of Justice." (Id. at p. 6). However, the discussion under this heading seems directed at Judge Kemmerlin who issued the 1998 Order which divested Mr. Gadsden of any ownership in the original heirs property. Because Judge Kemmerlin's order is not the subject of this appeal, this claim, even if correct, is not relevant to the Order(s) on appeal.

Secondly, Rule 208(b)(1)(E), SCACR requires an initial brief contain argument(s) and citation to legal authority in support of the issues on appeal. Here, upon review of the initial brief, there is no clear statement or argument to suggest the trial court erred in granting Respondent's Motion for Summary Judgment.

Finally, Rule 208(b)(1)(E), SCACR requires a short conclusion stating the precise relief requested. Here, the conclusion section of the Initial Brief does not seek reversal of the trial court's grant of summary judgment. Instead, it asks for broad and non-specific relief to be granted to all the heirs of the original heirs parcel. However, as stated above, the rights of those heirs was resolved by Judge Kemmerlin's order in 1998.

Here the Initial Brief does not set forth any specific reason or argument why the trial court erred in granting summary judgment. Not only does this violate Rule 208, SCACR, it leaves Respondents unable to articulate a response. Therefore, this Court should issue an Order striking Appellant's Initial Brief.

II. This appeal should be dismissed because this Court lacks appellate jurisdiction to reverse the 1998 Order which renders this appeal moot.

Appellant's claim to an ownership interest as an heir of Cecil Gadsden is inconsistent with the Circuit Court's 1998 Order which determine Mr. Gadsden had no ownership interest in the Property. It appears that Appellant is seeking to use this appeal as a means to challenge the 1998 Order. This is improper.

The time to appeal the 1998 Order expired 30 days after it was issued. *See* Rule 203(b)(1), SCACR (setting forth a 30-day deadline for filing a notice of appeal from the circuit court). Similarly, under South Carolina law the time for Appellant to assert any purported ownership interest in the Property expired in 2008—10 years after her ancestor (Mr. Gadsden) was found to have no ownership interest by the 1998 Order. *See* S.C. Code Ann. §15-3-340 (“No action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within **ten years** before the commencement of the action.”).

This Court has no appellate jurisdiction to review the propriety of the 1998 Order settling ownership of the original heirs parcel. *See e.g., First Carolina Nat'l Bank v. A & S Enters., Inc.*, 272 S.C. 339, 340, 251 S.E.2d 762, 762 (1979) (finding that where the appellant failed to timely appeal the controlling order, “the appeal must be dismissed **for want of jurisdiction.**”) (emphasis added); *accord Toal*, Appellate Practice in South Carolina (3ed.) at p. 121 (explaining that where

notice of appeal is not timely filed, the appellate court lacks jurisdiction over the matter) *citing* Rule 205, SCACR; *see also*, *Allison v. W. L. Gore & Assocs.*, 394 S.C. 185, 188, 714 S.E.2d 547, 549 (2011) (“We now clarify that the question of compliance with rules, regulations, and statutes governing an appeal is one of appellate jurisdiction”).

Because this Court lacks appellate jurisdiction over the 1998 Order, this Court lacks the authority to issue relief that is inconsistent with that Order. Whether right or wrong, the finding that Mr. Gadsden (and by extension Appellant as his heir) had no ownership interest in the Property is the law of the case.³ Therefore, even if this Court were to accept Appellant’s allegations of misconduct affecting the title to the Property (which Appellant denies), it remains that this Court would nonetheless be powerless to grant Appellant the relief she requests—*i.e.*, a determination regarding the rights of her (and maybe other heirs) as it relates to the Property. Accordingly, the matter is quintessentially moot. *See S.C. Ret. Syst. Inv. Comm'n v. Loftis*, 402 S.C. 382, 384, 741 S.E.2d 757, 758 (2013) (“A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.”); 15 S.C. Jur. *Appeal and Error* § 19 (Supp. 2014) (“[M]oot appeals result when intervening events prevent a decision on appeal from having an immediate impact on the parties.”); *Linda Mc Co., Inc. v. Shore*, 390 S.C. 543, 558, 703 S.E.2d 499, 506 (2010) (“Appellate court[s] will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.”)

³ This doctrine provides that “[A]n unappealed ruling, right or wrong, is the law of the case.” *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012).

Therefore, this Court lacks appellate jurisdiction over Appellant's claims, and it should issue an Order dismissing the instant appeal.

CONCLUSION

For the reasons stated above, this Court should issue an Order striking Appellant's Initial Brief, or dismissing the instant appeal, or both.

Respectfully submitted,

THURMOND KIRCHNER & TIMBES, P.A.



THOMAS J. RODE, Bar No. 77480

15 Middle Atlantic Wharf

Charleston, South Carolina 29401

Phone: 843-937-8000

Fax: 843-937-4200

Email: thomas@tktlawyers.com

Attorney for Respondents

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT	)	CIVIL ACTION NO. 2020-CP-07-01507
)	
JAMES REID AND SARANIA REID	)	NON-JURY
)	
Plaintiff(s),)	
)	
vs	)	ORDER GRANTING
	)	PLAINTIFFS' MOTION FOR
CARRIE GASTON HENDERSON	)	SUMMARY JUDGMENT
)	
Defendant(s).)	
)	

THIS MATTER CAME BEFORE THE COURT for a hearing on May 15, 2023, on the Plaintiff's motion for summary judgment filed on September 16, 2022, which seeks a judgment against Defendant for trespass and an order compelling Defendant to remove Defendant's mobile home from Plaintiffs' property. Present at the hearing was Plaintiff, Sarania Reid and her attorney, Chereese T. Handy, and Defendant Carrie Gaston Henderson, appearing Pro-Se.

PROCEDURAL HISTORY

James Reid and Sarania Reid ("Plaintiffs") brought this action for trespass against Carrie Gaston Henderson, ("Defendant"), seeking an order from this Court compelling Defendant to remove Defendant's mobile home from Plaintiffs' property.

On July 27, 2020, the Plaintiffs filed their Summons and Complaint. In their Complaint, Plaintiffs allege causes of action for 1) trespass, stating that Defendant's mobile home unreasonably remains on Plaintiffs' property after Plaintiffs have demanded that Defendant remove the mobile home from their property; 2) a permanent injunction, stating that Defendant's intentional actions will constitute a continuing trespass until the Defendant's mobile home and personal property are removed from Plaintiffs' property, and 3) as an alternative relief, Plaintiffs request an Order issuing a Writ of Ejectment.

On September 21, 2020, Defendant filed a “complaint,” purporting to be a response to Plaintiffs’ Complaint, alleging, among other things, that 1) “The deed that James Reid and Sarania Reid have, cannot be a legal deed because Attorney Dore forged information on said deed”; 2) “The deeds were illegally altered”; 3) “I asked the court to remove Dore from this case and my request was granted because of conflict of interest”; and 4) “Dore had already changed the deed and sold the land...”

On March 28, 2022, Defendant filed a document stating, among other things, that “James and Sarania Reid bought this land from Herman Cunningham and Mr. Leon Goodrum Real Estate Management Inc April 19, 2016,” and alleging a conflict of interest in a previous case concerning the 113-acre tract.

On September 6, 2022, Plaintiffs filed their Motion to Refer this action to this Court. Plaintiffs’ Motion to Refer was granted on January 3, 2023. On September 16, 2022, Plaintiffs filed their Motion for Summary Judgment. On September 26, 2022, Defendant filed a response to Plaintiffs’ Motion for Summary Judgment, stating, among other things, that 1) “There is conflict of interest, fraudulent, misrepresentations, frame and cover up within this case”; 2) “My mother told me to put my mobile home on this land in the year 1995”; and 3) “My land was stolen from me.”

Now, therefore, from viewing the pleadings and the relevant evidence presented in the light most favorable to the Defendant, Plaintiffs’ motion for summary judgment **IS GRANTED** for the reasons set forth below:

FINDINGS OF UNDISPUTED FACTS

1. I find that the real property which is the subject of this action is situated in Beaufort County, South Carolina, described as 22.961 acres, more or less, and shown on a plat prepared for

Beaufort Jasper Comprehensive Health Services and Cunningham Real Estate by Zyad A, Khalil, RLS, dated July 15 2010 and recorded with the Register of Deeds Office for Beaufort County, South Carolina in Plat Book 131 at Page 10.

2. I find that the subject property is derived from a tract of land containing 113 acres, more or less of land in the Cheechessee-Lowbottom area in Beaufort County.

3. As set forth in Civil Action No. 90-CP-07-0310, in a quiet title action against Cecil Gaston, Jr. A/K/A Cecil J. Gaston, Jr. A/K/A Cecil J. Gadsden, Jr. (“Cecil Gaston”)¹ concerning the 113 acres, I find that this Court rendered several Orders as follows:

a. By an Order dated June 18, 1991, this court made the following conclusions:

i. Cecil J. Gadson, Jr. owns a one-half interest in the real property and the timber;

ii. That the remaining heirs, Eliza Gadsden Tremble, Emily Mitchell, Alice Gadsden Perry and Doris Gadsden Green, Lisa Roacher, Linda Mason, Herbert Mason, Herman Gaston, and Louise Gadsden Floyd Williams, collectively own one-half interest; and

iii. Cecil Gaston defrauded the heirs and converted the timber proceeds to his use

b. As set forth in an Order dated April 8, 1995, this Court issued an order against the heirs of Cecil Gaston (Cecil Gaston died intestate on February 15, 1993), awarding plaintiffs in that action additional lands representing \$151,146.27.

c. I find, pursuant to an Order dated February 20, 1998:

i. that the judgment against Cecil Gaston had accrued to \$209,718.47;

ii. that “After being advised of [the] offer, the Gadsden heirs who were present rejected the offer. After they rejected the offer it was pointed out to them that they would receive nothing.” I find that the Order further stated that “The Court reached this determination because the judgement, \$209,718.47, is more than one-half of the value of the whole, \$399,000.00, and therefore this Court has determined that

¹ All references herein regarding Cecil Gaston are made using that name, but on several pleadings and court documents Cecil Gaston is also referred to as, Cecil Gaston, Jr., Cecil J. Gaston, Jr. or Cecil J. Gadsden, Jr.

Plaintiffs, named below, are entitled to ownership of the whole 113 acres, less those acres belonging to ‘Simmons’...’; and

- iii. that fee simple title in the 113 acres, as shown on a plat made by Gasque & Associates on 2/9/95, attached to said order, is vested in the following persons: Louise Floyd Williams, Eliza Gaston Tremble, Heirs of Emily Mitchell, Alice Green Perry, Doris Gaston Green, Lisa Roacher, Linda Mason, Herbert Mason, and Herbert Gaston.
4. I find further that this Court awarded none of the 113 acres of land to the Heirs of Cecil Gaston.
5. I find that the persons awarded the 113 acres entered into a voluntary partition and settlement agreement, and the terms of the said agreement were reduced to an Order dated October 15, 2001. Pursuant to said Order, the Court signed all deeds of conveyance in accordance with the Order to effectuate an orderly and timely transfer of title to the properties pursuant to the stipulated agreement. To wit, the Master-in-Equity, Thomas Kemmerlin, Jr., executed the following deeds transferring property shown on a survey prepared by David E. Gasque dated February 9, 1995, last revised on August 9, 2001, and recorded in Plat Book 84 at Page 43:
 - a. A deed dated December 25, 2001, conveying to Carolyn Tremble and Anthony Keith Murrell Green title to the parcel designated as “HAROLD GREEN” containing 22 acres; Said deed is recorded in Record Book 1520 at Page 162, and a corrective deed is recorded in Record Book 1579 at Page 1037.
 - b. A deed dated December 25, 2001, conveying to Robert James Erkhart, III, title to the parcel designated as “DORIS GREEN” containing 11 acres; said deed is recorded in Record Book 1520 at Page 160, and a corrective deed is recorded in Record Book 1579 at Page 1039.
6. I find that Carolyn Trimble and Anthony Keith Murrell Green sold the 22-acre parcel to Cunningham Real Estate Management, Inc. and Leon Goodrum by deed dated December

20, 2004 and recorded in Record Book 2079 at Page 466. The 22-acre parcel is designated as “HAROLD GREEN” and shown on a plat prepared by Gasque and Associates, Inc, dated February 9, 1995, last revised on December 17, 2004, and recorded in Plat Book 103 at Page 182.

7. I find that Robert James Erkhart, III, sold the 11-acre parcel, designated as “DORIS GREEN” as shown on the aforementioned plat, to Cunningham Real Estate Management, Inc. and Leon Goodrum, by deed dated December 20, 2004, recorded in Record Book 2079 at Page 462.

8. I find that boundary lines of the 22-acre and 11-acre parcels belonging to Cunningham Real Estate Management, Inc. and Leon Goodrum were reconfigured and adjusted by a survey prepared by Ziad A. Khalil dated July 15, 2010 recorded in Plat Book 131 at Page 10.

9. I find that Plaintiffs purchased the Property from Cunningham Real Estate Management, Inc. and Leon Goodrum for \$182,500.00 by deed dated April 5, 2016, recorded in Record Book 3476 at Page 3028.

10. I find that Defendant is claiming title to the Property as an heir of Cecil Gaston and Defendant’s mobile home is located on Plaintiffs’ property.

11. Defendant’s mobile home is registered in the State of South Carolina and identified by Beaufort County Assessor’s office as a 1996 Mirage/Horton/Gray-Navy/A Ser# H202086/HUD-876059/76x16. I find that the mobile home is not Henderson’s primary residence.

12. I find that on September 17, 2019, Plaintiffs demanded that Defendant remove her mobile home from Plaintiffs’ property, which Defendant refused to do so.

CONCLUSIONS OF LAW

13. Summary judgment is available when “there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Henderson v. Allied Signal, Ins., 37 S.C. 179, 644 S.E. 2d 724 (2007). “Summary judgment is completely appropriate

when a properly supported motion sets forth facts that remain undisputed or *contested in a deficient way*.” David v. McLeod Reg. Med. Ctr., 367 S.C. 242, 250, 626 S.E. 2d 1,5 (2006) (emphasis added). Further, summary judgment is appropriate when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ” USAA Prop. And Cas. Ins. Co. v. Clegg, 377 S.C. 643, 661 S.E. 2d 791 (2008).

14. The Property that is the subject of this litigation is located in Beaufort County, South Carolina, and this Court has jurisdiction to hear the matters set forth herein.

15. A valid judgment has already determined that the heirs of Cecil Gaston did not retain any property from 113-acre tract. Therefore, Defendant does not own any interest in the Property by virtue of being an heir of Cecil Gaston. See Hilton Head Ctr. of South Carolina, Inc. v. Pub. Serv. Commn of South Carolina, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987); *accord* Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 512 S.E.2d 106 (1999). Accordingly, I conclude that the issues raised in Defendant’s responses are barred by the doctrine of Collateral Estoppel and Res Judicata.

16. Defendant failed to make a showing sufficient to establish fraud because Defendant has neither established the essential elements of fraud with particularity nor has Defendant offered any evidence in the record to support a fraud claim. See Rule 9(b) SCRCP; Charleston Development Company, LLC v. Alami citing Hansson v. Scalise Builders of S.C., 374 S.C. 352, 357-58, 650 S.E. 2d 68,71 (2007). See also Tommy L. Griffin Plum. & Heat Co. v. Jordan, Jones, & Goulding, Inc., 351 S.C. 459, 570 S.E. 2d 197 (Ct. App 2002) (Movant may rely on lack of evidence in the record.). Accordingly, I find that Defendant failed to establish a sufficient claim that Plaintiffs’ deed was “forged.”

17. Defendant has offered no valid evidence in the record to rebut the presumption of validity of Plaintiffs' deed. See Lewis v. Pope, 86 S.C. 285, 296 (S.C. 1910). Accordingly, I find that Plaintiffs' deed is presumed to be valid in all respects.

18. Defendant's occupation of Plaintiffs' property is without Plaintiffs' permission, consent or authority, thereby constituting trespass on Plaintiffs' property.

19. For reasons set forth above, there exists no genuine issue of material fact, and Plaintiffs are entitled to a judgment in their favor as a matter of law.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant shall, within sixty (60) days from the date of this Order, remove her mobile home from the Property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if Defendant fails to remove the mobile home within the 60-day period, storage charges shall be assessed, in the amount of \$25.00 (Twenty Five Dollars), per day, until such time that the mobile home is removed from the Plaintiffs' property. Additionally, the court shall enter a judgment against Defendant for the outstanding storage charges, which may include additional legal costs and fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if after ninety (90) days from the date of this Order, a Writ of Ejectment shall be issued without further delay for the Sheriff of Beaufort County, South Carolina, to proceed to Plaintiffs' property to gain access and forthwith remove the mobile home and its contents from the Plaintiffs' property, and deposit the said mobile home and personal property at or near, but not obstructing, the nearest public roadway, or otherwise disposing of said mobile home and personal property as allowed by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall have continuing jurisdiction in this matter for the enforcement of the within Order or any other Order issued by this Court.

AND IT IS SO ORDERED.

[JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW]

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2020-CP-07-01507

JAMES REID AND SARANIA REID

CARRIE GASTON HENDERSON

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Cherese T. Handy

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
JAMES REID AND SARANIA REID	CARRIE GASTON HENDERSON	\$N/A
		\$



Beaufort Common Pleas

Case Caption: James Reid , plaintiff, et al VS Carrie Gaston Henderson

Case Number: 2020CP0701507

Type: Order/Form 4

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2023-05-31 13:40:28 page 12 of 12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT	)	CIVIL ACTION NO. 2020-CP-07-_____
)	
JAMES REID AND SARANIA REID	)	NON-JURY
)	
Plaintiff(s),)	
)	
vs	)	SUMMONS
)	
CARRIE GASTON HENDERSON)	
)	
Defendant(s).)	

TO THE DEFENDANT NAMED ABOVE:

YOU ARE HEREBY SUMMONED AND REQUIRED TO ANSWER the Complaint in the above entitled action, the original of which has been filed in the Office of the Clerk of Court for Beaufort County, South Carolina and a copy attached hereto, and to serve a copy of your Answer to said Complaint on the undersigned subscriber at Eversole Law Firm, P.C., 1509 King Street, Beaufort, South Carolina, 29902, within thirty (30) days after service hereof, exclusive of the day of such service, whichever period is longer, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that should you fail to Answer the foregoing Summons, the Plaintiff will move for an Order of Reference of this cause to the Master in Equity for this County, which Order shall, pursuant to the South Carolina Rules of Civil Procedure, Rule 53 specifically provide that the said Master in Equity is authorized and empowered to enter a final judgment in this cause with appeal only to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

EVERSOLE LAW FIRM, P.C.

By: s/Cherese T. Handy
Alysoun M. Eversole, Esq. SC Bar No. 60811
Cherese T. Handy, Esq. SC Bar No. 103184
ATTORNEYS FOR THE PLAINTIFFS
1509 King Street
Beaufort, South Carolina 29902
Phone: (843)379-3333
chandy@eversolelaw.com

July 26, 2020
Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT	)	CIVIL ACTION NO. 2020-CP-07-_____
)	
JAMES REID AND SARANIA REID	)	NON-JURY
)	
Plaintiff(s),	)	COMPLAINT
	)	For
vs	)	Trespass, Ejectment,
	)	and
CARRIE GASTON HENDERSON	)	Injunctive Relief
)	
Defendant(s).)	
)	

The Plaintiffs herein, complaining of the Defendant would respectfully show unto the honorable Court:

JURISDICTION

1. Plaintiffs, James Reid and Sarania Reid, are the owners of the real property in Beaufort County, South Carolina, which is the subject of this action.
2. Upon information and belief, Defendant Carrie Gaston Henderson is a resident of Savannah, Georgia.
3. Upon information and belief, Defendant is the owner of the mobile home that forms the bases of this cause of action.
4. Defendant’s mobile home is registered in the State of South Carolina and identified by Beaufort County Assessor’s office as a 1996 Mirage/Horton/Gray-Navy/A Ser# H202086/HUD-876059/76x16 (hereinafter, “mobile home”).
5. Defendant’s mobile home is situated on the real property described herein, which is located at 60 Gaston Plantation Road in Bluffton, South Carolina.
6. For the foregoing reasons, this Court has jurisdiction to hear the matters set forth herein and venue is proper.

BACKGROUND

7. The real property mentioned and referred to in this Complaint is more specifically described as follows (hereinafter, "Plaintiffs' property"):

ALL that certain piece, parcel or lot of land situate, lying and being in Beaufort County State of South Carolina and containing 22.961 acres, more or less, and being shown ad designated on that certain plat entitled Property Line Adjustment R600 009 000 0112 0000 and R600 009 000 0115 0000 prepared for Beaufort Jasper Comprehensive Health Services and Cunningham Real Estate by Zyad A, Khalil, RLS, dated July 15 2010 and recorded with the Register of Deeds Office for Beaufort County, South Carolina in Plat Book 131 at Page 10, attached hereto as **Exhibit 1**.

R600 010 000 0115 0000

8. Plaintiffs acquired the Property from Cunningham Real Estate Management, Inc. and Leon Goodrum by deed dated April 5, 2016, recorded in Record Book 3476 at Page 3028. **Exhibit 2**

9. Plaintiffs have paid all taxes assessed against the Property ever since Plaintiffs acquired the Property in 2016.

10. Defendant's mobile home is located on Plaintiffs' property, as shown on the Assessor's 2019 Aerial map of Plaintiffs' property at address point "60 Gaston Plantation Road" attached hereto as **Exhibit 3**.

11. Upon information and belief, the Defendant has never lived in the mobile home, the mobile home is vacant and unoccupied, and Defendant is intentionally and unlawfully using Plaintiffs' property as storage for Defendant's mobile home.

12. On September 17, 2019, Plaintiffs demanded the Defendant to remove her mobile home from Plaintiffs' property and Defendant refuses to do so. **Exhibit 4**.

FOR A FIRST CAUSE OF ACTION Trespass

13. Plaintiffs reiterate every allegation set forth in Paragraphs 1 through 12 as if repeated verbatim.

14. Defendant's mobile home unreasonably remains on Plaintiffs' property after Plaintiffs have demanded that Defendant remove the mobile home from the Property.

15. Defendant's occupation of Plaintiff's property is without Plaintiffs' permission, consent, or authority, thereby constituting trespass on Plaintiffs' property.

16. Plaintiffs are informed and believe that they are entitled to an Order from this Court requiring the Defendant to remove from Plaintiffs' property, the mobile home, and any other personal property owned by the Defendant or Defendant's guests and invitees.

17. Plaintiff respectfully requests that this Court have continuous jurisdiction for the enforcement of any Order issued by this Court or otherwise.

FOR A SECOND CAUSE OF ACTION
Permanent Injunction

18. Every allegation contained in Paragraphs 1 through 17 is reiterated as set forth verbatim herein.

19. The Defendant's intentional actions will constitute a continuing trespass until the mobile home, and the Defendant's personal property are removed from Plaintiffs' property. Unless the Defendant is compelled to remove the mobile home, the Plaintiffs will suffer irreparable injury, in that title to Plaintiffs' property is defective so long as the Defendant continues to occupy and trespass.

20. Plaintiffs are concerned that without the issuance of a permanent injunction, a continuation of the Defendant's trespass could ripen into an adverse possession to Plaintiffs property.

21. The Plaintiffs have demanded that Defendant remove her mobile home and personal property from Plaintiffs' property to no avail, and therefore Plaintiffs have no other remedy at law or in equity to protect their rights other than to bring this action.

FOR A THIRD CAUSE OF ACTION
Writ of Ejectment

22. Plaintiffs reiterate every allegation set forth in Paragraphs 1 through 21 as if repeated verbatim.

23. As an alternative relief, Plaintiffs are informed and believe that they are entitled to an Order from this Court issuing a Writ of Ejectment directing the Sheriff of Beaufort County to proceed to Plaintiffs'

property to gain access to the premises and to remove Defendant's mobile home, and all items belonging to the Defendant.

PRAYER

WHEREFORE, the Plaintiffs respectfully request that this Court:

- a. Find that the Defendant is trespassing on Plaintiffs' property;
- b. Issue a permanent injunction compelling the Defendant to remove Defendant's mobile home and any other personal property belonging to the Defendant or Defendant's guests and invitees from Plaintiffs' property;
- c. In the event the Defendant does not remove the mobile home from Plaintiffs' property within (30) days of the Court's Order, issue a Writ of Ejectment directing the Sheriff of Beaufort County to proceed to Plaintiffs' property to gain access to the premises and to remove Defendant's mobile home, and any items belonging to the Defendant, in order to effectuate the ejectment;
- d. Issue an Order declaring that this Court shall have continuing jurisdiction to enforce any Other issued by this Court or otherwise; and
- e. For such other and further relief in favor of Plaintiffs as the Court may deem just and proper.

EVERSOLE LAW FIRM, P.C.

By: s/Cherese T. Handy
Alysoun M. Eversole, Esq. SC Bar #60811
Cherese T. Handy, Esq. SC Bar #103184
ATTORNEYS FOR THE PLAINTIFFS
1509 King Street
Beaufort, South Carolina 29902
Phone: (843)379-3333
Fax: (843)379-5558
chandy@eversolelaw.com

Beaufort, South Carolina
July 26, 2020

316 East 35th Street

Savannah, GA. 31401

Sept. 5. 2020

To the Court of Commom Pleas

Civil Action No. 2020-CP-0701507

This is a complaint concerning land that I, Carrie Gaston Henderson, own and there is an attempt to illegally take my land away from me. The land in question is 60 Gaston Plantation Road, Okatie, S.C 29910. I have the original deed to this land and I am sending a copy.(See Enclosed).

The deed that James Reid and Sarania Reid have, cannot be a legal deed because Attorney Dore forged information on said deed.

My great grand parents, Cain Knox and Sinda Knox bought the 41, plus 74 acres of land in question and this land has been in my family every since. I have the original deeds and I am sure that someone other than me knows that the deeds were illegally altered and sold to make a profit. That someone is Attorney Dore and others who illegally altered the deed and sold land.

Attorney Louis O. Dore was my father, Cicil J. Gaston's attorney on the quiet title Action during the years of 1981-1982. (During this time timber was cut and sold.) As Attorney Dore was my Father's attorney, he should not have been allowed to work with Cunningham Real Estate. Dore was also the attorney for my three cousins, Doris Green, Willis Floyd and Joe Louis Green, Jr. Fact remain how can Dore move from one person to another so quickly. When I realized this, I asked the court to remove Dore from this case and my request was granted because of conflict of interest. (See copy of this request and copy of judge's request was granted) Nevertheless, Dore had already changed the deed and sold the land and now I am trying to save my land with very little help from the court system because of previous illegal actions.

I want an impartial attorney to review my case and do the right thing so that all parties will have justice and peace.

Sincerely,

Carrie Gaston Henderson



tabbler

ELECTRONICALLY FILED - 2023-Apr-05 11:18 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0701507

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 ALICE G. G. PERRY, EMILY)
 MITCHELL, ELIZA TREMBLE)
 AND DORIS GREEN,)
)
 Plaintiffs,)
)
 -versus-)
)
 Heirs at Law and Distributees of)
 CHARLES GADSDEN,)
 C. H. GADSDEN and others,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 CASE NO. 90-CP-7-310

ORDER

APR 05 2023 11:18:57
 CLERK OF COURT
 BEAUFORT, S.C.

This matter came before me on November 13, 1997.

C. Scott Graber, representing Plaintiffs herein as well as Louise Williams and the heirs of Estella Gadsden; Abel O. Gray, representing the heirs of Cecil J. Gaston, Jr. or Cécil J. Gadsden; and James Hale representing certain individuals (hereinafter denominated as "Simmons") who claim ownership in the below-described tract by virtue of adverse possession were present at this hearing. This Court has previously found that Plaintiffs collectively own a one-half (1/2) interest in the 113 acres. This Court has previously found the Plaintiffs have a judgement against Defendants Gadsden for the proceeds of the sale of timber. This judgement is now in the amount of Two Hundred Nine Thousand Seven Hundred Eighteen and 47/100 (\$209,718.47) Dollars. The Court has further determined that the entire property is worth Three Hundred Ninety-Nine Thousand and No/100 (\$399,000.00) Dollars.

On November 13, 1997 the Court was advised that a settlement offer had been made to the various heirs of Cecil J. Gadsen. At the hearing C. Scott Graber again repeated the offer and the Court also reiterated the Order. That offer was as follows:

- (a) The Court is advised that various heirs of Gadsden or Gaston shall retain one (1) acre around the old homestead which is currently occupied by Catherine Gaston or Gadsden. This acre shall encompass the house and shall also involve a non-exclusive easement to reach the said acre.
- (b) The Court is further advised that the mobile homes fronting S-7-790, owned, occupied or rented by Gadsden or Gaston shall be relocated to what is shown as Parcel "D" on the plat prepared by Gasque and Associates on 2/9/95 a

T.K.M.

copy of which has been previously filed with the Court. If there is insufficient room within parcel "D" to relocate said mobile homes then the owners of these relocating mobile homes shall have no more than two (2) acres, contiguous with and located immediately to the East of Parcel "D" on which to place their mobile homes.

After being advised of this offer, the Gadsden heirs who were present rejected the offer. After they rejected the offer it was pointed out to them that they would receive nothing.

The Court has reached this determination because the Judgement, \$209,718.47, is more than one-half the value of the whole, \$399,000.00, and therefore this Court has determined that Plaintiffs, named below, are entitled to ownership of the whole 113 acres less those acres belonging to "Simmons" as described herein.

Thereafter the Court was advised that an agreement had been reached between the Plaintiffs and those parties known collectively as "Simmons", who by affidavits, without objection, have provided evidence that they are entitled to owning portions of the property based on adverse possession. Attorneys for the Plaintiffs and Simmons have stipulated that the Simmons have acquired these two (2) properties by adverse possession. That settlement agreement would give the various parties known as Simmons--to include the people who occupy the three (3) mobile homes in the extreme Eastern corner of the tract ownership of a parcel of land that includes all three (3) mobile homes. The boundary line defining this acreage shall pass two feet to the West of a shed on the Western boundary; and two feet to the South of a second shed on the Southern boundary. However, this land is better described by a plat which is attached hereto and made a part hereof.

The Court is further advised that Mammie or Mamie Simmons occupies a house within Parcel "D" and she shall continue to occupy or own that house along with land around that house. This land is now included within Parcel "D" and Mamie or Mammie Simmons shall be entitled to one (1) acre within this 4.26 acre parcel.

The Court is further advised that the various heirs of Simmons shall pay over \$6,000.00 to the Plaintiffs.

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

1. IT IS THE FINDING OF THIS COURT that fee simple title in the 113 acres, as shown on the attached plat*, is vested in the following persons in the following percentages:

Louise Floyd Williams	1/2
Eliza Gaston Tremble	1/10
Heirs of Emily Mitchell	1/10
Alice Green Perry	1/10

*made by Gasque & Associates on 2/9/95.

Tik 91

Doris Gaston Green	1/10
Lisa Roacher	1/40
Linda Mason	1/40
Herbert Mason	1/40
Herman Gaston	1/40

2. HOWEVER, IT IS THE FINDING AND CONCLUSION OF THE COURT that Rudolph Simmons shall take by virtue of adverse possession and settlement the land immediately surrounding the three (3) mobile homes located on S-7-790 and situate in the extreme Northern and Eastern corner of the property. The Western boundary of this parcel shall pass two (2) feet behind an existing shed; and two (2) feet South of an existing shed. This parcel is better described by a plat attached hereto and made a part hereof. This finding confirms the settlement between Plaintiffs and "Simmons".

3. IT IS THE FURTHER FINDING AND CONCLUSION OF THIS COURT that Mamie Simmons shall have by virtue of adverse possession and settlement one (1) acre in Parcel "D" which shall be an acre around her house together with an easement for access, egress and utilities as is necessary, said property being described on the attached plat.

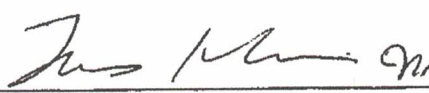
4. IT IS THE FURTHER FINDING AND CONCLUSION OF THIS COURT that the mobile homes and other housing located on S-7-790, and mobile homes or housing located anywhere else on the property, shall be removed within sixty (60) days of this Order. If the said housing and mobile homes are not removed within sixty (60) days the Sheriff of Beaufort County is ordered to of upon the property and to remove those persons still residing on the property. This applies to all persons other than the various "Simmons" people who are provided for herein.

IT IS THE FURTHER FINDING AND CONCLUSION that the Simmons shall pay Plaintiff \$6,000.00.

AND IT IS SO ORDERED

2/20/98

Tikm



5. This Order shall be posted upon all mobile homes and other homes on the premises above described within fifteen (15) days of the date of this Order. And, notice of the filing of this Order and a copy of this Order shall be sent to all known heirs of Cecil J. Gadsen, Jr. or Gaston at the last known address of such heirs as furnished by Mr. Ralph E. Tupper, Esq. to Mr. Scott Graber on December 1, 1994.

Tikm

RECEIVED

Sep 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes, III, Circuit Court Judge

Appellate Case No. 2023-001519

James Reid and Sarania Reid,

Respondents,

v.

Carrie Gaston Henderson

Appellant.

PROOF OF SERVICE

I, hereby certify that the enclosed was served on the parties stated below by depositing a copy of the same in the U.S. Mail:

Carrie G. Henderson *pro se*
316 East 35th St.
Savannah, GA 31401

This 23rd day of September, 2024.

THURMOND KIRCHNER & TIMBES, P.A.

BY: Kaitlyn Nobles
Kaitlyn Nobles
paralegal to Thomas J. Rode