

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Adrian Mitchell, Personal Representative)
of the Estate of Jametta Ann Coles,)
)
Plaintiff,)
)
vs.)
)
Lee Floyd Snider, Sr.)
)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2024-CP-10-00293

ORDER

RECEIVED
OCT 11 2024
SC Court of Appeals

Pursuant to the Order of Reference, a hearing was held before Mikell R. Scarborough, Master-In-Equity for Charleston County, on September 5, 2024, on the merits of a Complaint filed by Plaintiff, Adrian Mitchell, Personal Representative of the Estate of Jametta Ann Coles, to declare the note and mortgage given by Jametta Ann Coles to the Defendant, Lee Floyd Snider, Sr., on her personal residence as null and void. The hearing was attended by the following:

Thomas H. Brush, Esq.	Attorney for the Plaintiff
Adrian Mitchell	Plaintiff
George Bishop III, Esq.	Attorney for Defendant
Lee Floyd Snider, Sr.	Defendant

PROCEDURAL HISTORY

On October 17, 2022, Adrian Mitchell was appointed as the Personal Representative of the Estate of Jametta Ann Coles.

On January 19, 2023, the Summons and Complaint was filed in this matter and the Defendant was personally served with the Summons and Complaint on February 22, 2024 as shown by the Affidavit of Service filed on February 28, 2024.

On April 8, 2024, the Plaintiff filed an Affidavit of Default with the Court and the case was referred to Mikell R. Scarborough, Master-in- Equity for Charleston County on April 9, 2024.

On May 24, 2024, the Plaintiff mailed Notice of the Final Hearing to be held on June 26, 2024 and filed same with the Court.

On June 24, 2024, the Defendant filed an Answer with the Court and on June 25, 2024 the Defendant filed a Motion to Set Aside the Default.

On July 11, 2024, a hearing was held on the Motion to Set Aside the Default before Mikell R. Scarborough, Master-in- Equity for Charleston County.

On July 11, 2024, the Defendant's Motion to Set Aside the Default was denied.

On August 14, 2024, the Plaintiff served the Notice of the Hearing as shown by the Certificate of Mailing filed with the Court.

PARTIES, JURISDICTION, AND VENUE

The Plaintiff Adrian Mitchell is the Personal Representative of Jametta Coles who died intestate in Charleston County and owning property that is the subject of this litigation in Charleston County, South Carolina. The Defendant is a resident of Berkeley County, South Carolina, and held a note and mortgage on the subject property. The real property affected by the note and mortgage which is the subject matter of this action (hereinafter "the Property") is located in Charleston County, South Carolina. Accordingly, this Court has personal jurisdiction over the interests of the parties in this action, *in rem* jurisdiction over the Property, and venue is proper because this matter involves ownership and title to real property located in Charleston County, South Carolina.

BACKGROUND FACTS

The Defendant, Lee Floyd Snider, Sr., and the Decedent, Jametta Ann Coles, had a relationship for more than fifteen (15) years.

The Defendant Lee Floyd Snider, Sr. had the Decedent Jametta Coles execute a note to him on January 21, 2019, for Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars and it was secured by a mortgage on the Property. The mortgage was recorded on January 28, 2019, in Book 0774, Page 518 in the Charleston County Register of Deeds Office. The note stated “This Note is due and payable upon the sale of the real property, if not paid sooner.”

The Plaintiff filed this action to declare the Note and Mortgage null and void on the following grounds: (1) the promissory note lacks sufficient consideration and (2) the note is non-negotiable.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the pleadings filed in this matter, along with the testimony and exhibits presented at the hearing, I make the following Findings of Fact and Conclusions of Law:

Ms. Coles owned property located at 1130 San Juan Avenue, Charleston, SC 29407 (TMS Number 418-06-00-041).

Defendant resided with Ms. Coles at this property and at his own residence in Berkeley County until her death.

The Defendant had the Decedent Jametta Coles execute a note to him on January 21, 2019, for Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars and it was secured by a mortgage on the Property. The Mortgage was recorded on January 28, 2019 in Book 0774, Page 518 in the Charleston

County Register of Deeds Office. The note stated “this Note is due and payable upon the sale of the real property, if not paid sooner.”

In order for there to be consideration, there has to be an underlying debt owed. Without a debt, the note and mortgage fail for lack of consideration. In *Duckworth v. McKinney*, 58 S.C. 418 (1900) the South Carolina Supreme Court held, “if the note was without consideration and if there is no debt, then there is no valid mortgage.” Without a debt, the note and mortgage fail. *Blackwell v. Blackwell* 346 S.E. 2d 731 (1986). The Defendant is in default and provided no proof of a debt.

The Uniform Commercial Code Section 3-104 (a)(2) sets forth that a “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in promise or order if it: (2) is payable on demand or at a definite time. In this instance, the due on sale of the real property clause in the note is not a definite time because it may never happen. Therefore, the note is non-negotiable.

The Defendant failed to establish a debt owed on the mortgage and therefore lacks sufficient consideration. Since the note lacks sufficient consideration and is also non-negotiable, the note and mortgage are not valid and therefore are null and void.

ORDER

The foregoing Findings of Facts and Conclusions of Law are incorporated herein and this Order shall be interpreted pursuant to those Findings of Fact and Conclusions of Law.

The Note from Jametta Coles to Defendant in the amount of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars dated January 21, 2019 is null and void.

The Mortgage from Jametta Ann Coles to Defendant in the amount of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars recorded on January 28, 2019 in Book 0774, Page 518 in the Charleston County Register of Deeds Office is null and void.

This Order shall be recorded in the Register of Deeds for Charleston County.

JUDGE'S SIGNATURE PAGE TO FOLLOW