

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
OF THE SEVENTH JUDICIAL CIRCUIT

Annie Gray aka Gary, Sadie Jackson, )  
M. Diane Jackson, William Jackson, Sr., )  
Eric Caldwell, Renee Rose, formerly & aka )  
Renee Caldwell, and Bobby L. Rookard )  
Plaintiffs, )

CASE NO: 2022-CP-42-03465

V. )

ORDER

Lorine Jackson aka Lorene Jackson, )  
 )  
Defendant. )  
 )  
 )

**RECEIVED**  
**Oct 15 2024**  
**SC Court of Appeals**

Presiding Judge: Honorable Grace Gilchrist Knie  
Date and time of trial: September 5, 2024, at 10:30 A.M.  
Location: Spartanburg County Courthouse  
Court Reporter: Lora McDaniel  
Appearances by Counsel: Rolf M. Baghdady, Attorney for Plaintiffs  
Johnny E. Watson, Sr., Attorney for Defendant

Appearances by Parties: Plaintiff Dr. Sadie Jackson  
Plaintiff M. Diane Jackson  
Plaintiff William Jackson, Sr.  
Plaintiff Bobby L. Rookard  
Defendant Lorine Jackson

Witnesses called for Plaintiff: Plaintiff Dr. Sadie Jackson  
Plaintiff M. Diane Jackson  
Reverend Gary Burgess (sequestered)  
Joey Jackson (sequestered)  
Sonya Pulliam (sequestered)  
Plaintiff Bobby L. Rookard  
Plaintiff William Odell Jackson, Sr.

Witnesses called for Defendant: James A. Cheek (sequestered)

### **PROCEDURAL HISTORY:**

This matter was initiated in this Court by the filing of a Summons, Complaint and Lis Pendens by the Plaintiffs on September 13, 2022, in which they requested an order of this Court:

1. Finding an express trust declaring the property is held as an express trust for the benefit of all of the Plaintiffs and the Defendant in their respective interests;
2. Finding a resulting trust declaring the property is held as a resulting trust for the benefit of all of the Plaintiffs and the Defendant in their respective interests;
3. Finding a constructive trust declaring the property is held as a constructive trust for the benefit of all of the Plaintiffs and the Defendant in their respective interests;
4. Entering judgment for an accounting and for money damages; and
5. Requiring the Defendant to pay the costs and expenses of this litigation.

The Defendant filed a timely Pro-se answer in which she made a general denial of the allegations of the Plaintiffs. Thereafter, the Defendant retained legal counsel to represent her interests.

### **FINDINGS OF FACT:**

The parties in this case are the children, and grandchildren of the deceased children of Irene Hardy Jackson and John C. Jackson. All of John C. and Irene Hardy Jackson's living children and the heirs of their deceased children instigated this action against their sibling, Lorine Jackson, to determine ownership of the family homestead in which Lorine Jackson claims sole ownership.

On December 15, 1962, Irene Hardy Jackson, gained possession of the subject property of this action, when the property was deeded to her for \$1.00 dollar with love and affection by Carrie H. King, Julius Hardy, Rosa Hardy and Gettys Murray.

Thereafter Irene Hardy Jackson and her husband John C. Jackson deeded the property to their daughter, M. Diane Jackson on March 15, 1985, for \$10.00 and love and affection when ownership of the property by them was in jeopardy due to loans from creditors. M. Diane Jackson thereafter put the property up for the bond of her husband which again put the property at risk of loss to the family. That act prompted a meeting where M. Diane Jackson, her son, her parents Irene Hardy Jackson, John C. Jackson, and Lorine Jackson met and the property was deeded to Lorine Jackson to “keep the property in the family” since Lorine had resources to maintain ownership of the property in spite of Lorine residing in Maryland. It is stipulated by the parties that a title search would show only the Defendant, Lorine Jackson, as the current owner of the property.

It is contested between the parties as to how the current deed was drafted and executed. M. Diane Jackson alleges that at the meeting Reverend Gary Burgess notarized a deed which deeded the property in trust to Lorine Jackson. Dr. Burgess testified that he notarized a document, but he could not testify as to whether the document purported to transfer the property in trust as the Plaintiffs allege. M. Diane Jackson further alleges that her signature appears on the final deed but that she signed a different document and that her signature must have been transferred to the deed using the document that she signed. She further alleges duress as to any signing of any deed. Defendant contends that Defendant and M. Diane Jackson were at office of James A. Cheek and that the deed was drafted and executed at the office of attorney James A. Cheek where the deed was witnessed and notarized by attorney Cheek and a law school graduate who clerked for attorney Cheek at the time on May 4, 1989.

Thereafter, Lorine Jackson assumed ownership of the property and rented the property back to her sibling M. Diane Jackson for \$300.00 per month. Lorine Jackson paid the property taxes on the property from 1989 to the present. M. Diane Jackson and Lorine Jackson contend that they each paid for the upkeep of the property and maintenance on the property. In 2021, Defendant commenced eviction proceedings against M. Diane Jackson to eject her from the property. The Magistrate granted the eviction request. The following year, on September 13<sup>th</sup>, 2022, the Plaintiffs initiated this action.

#### **ARGUMENTS OF COUNSEL:**

The Plaintiffs argue that the property was transferred to the Defendant for ten (\$10,00) dollars and love and affection. Therefore, there is a lack of consideration for the transfer of ownership. Defendant argues that is the same manner in which the property was transferred to Irene Hardy Jackson who had several siblings, but the property was deeded to her alone and she treated it as her own.

Further the Plaintiffs point to the fact that the Defendant would be unjustly enriched with the resulting ownership of the property. Defendant argues that it is uncontroverted that Defendant alone has paid the annual property taxes associated with the property that averaged approximately \$2,100 per year for the property for the past 35 years. Further Defendant argues she has been responsible for repairs and maintenance to the property except for the \$300.00 per month paid by M. Diane Jackson under their rental contract before she was evicted. Plaintiffs contend that some maintenance and improvements were made by Plaintiffs.

### APPLICABLE LAW:

An express trust is created when the property owner explicitly declares that the property is to be held in trust for the benefit of another party. See S.C. Code § 62-7-401, an express trust may be created by “(i) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death...(2) To be valid, a trust of real property, created by transfer in trust or by declaration of trust, must be proved by some writing signed by the party creating the trust... (b) A trust that arises by act or operation of law does not require the existence of a writing.”

The South Carolina Court of Appeals described the law of constructive trust in The Estate of Tucker v. Tucker, as follows:

"A constructive trust arises entirely by operation of law without reference to any actual or supposed intentions of creating a trust." McNair v. Rainsford, 330 S.C. 332, 356, 499 S.E.2d 488, 501 (Ct. App. 1998). "It is resorted to by equity to vindicate right and justice or frustrate fraud." *Id.* Because an action to declare a constructive trust is in equity, this Court may find the facts in accordance with its own view of the evidence. Lollis v. Lollis, 291 S.C. 525, 530, 354 S.E.2d 559, 561 (1987).

"A constructive trust will arise whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title." Lollis, 291 S.C. at 529, 354 at 561. "A constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution." *Id.* "A constructive trust arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty." SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 500, 392 S.E.2d 789, 793-94 (1990).

The burden is on the plaintiff to establish a constructive trust by clear and convincing evidence. McNair, 330 S.C. at 357, 499 S.E.2d at 501; see also Lollis, 291 S.C. at 530, 354 S.E.2d at 561 ("In order to establish a constructive trust, the evidence must be clear, definite, and unequivocal."). Although fraud is generally cited as an element to establish a constructive trust, a party need not show actual fraud. McNair, 330 S.C. at 357, 499 S.E.2d at 501. Further, "equity is less than

demanding and quite flexible in prescribing the elements essential to a constructive trust." Whitmire v. Adams, 273 S.C. 453, 458, 257 S.E.2d 160, 163 (1979).

The Estate of Tucker v. Tucker, 2008-UP-284 (S.C. App. Jun 04, 2008).

"Constructive Trusts may... be imposed based on other conduct or circumstances including ... mistake in the transaction that originates the problem... other circumstances suggesting unjust enrichment, or other improper method by which one, in any way, either obtained or holds the legal right to property which he or she ought not hold and enjoy." 76 Am. Jur. 2d Trusts § 170 (2016). "Where one mistakenly retains property or money which rightfully belongs to another, a constructive trust is the proper remedial device to correct the situation." 76 Am. Jur. 2d Trusts § 201 (2016).

#### **CONCLUSIONS AND ORDER:**

The Court acknowledges and appreciates the amount of research and preparation for the hearing by Counsel, as well as, the professionalism of Counsel in their presentations to the Court. After consideration of the record, the testimony and evidence presented, arguments of Counsel, and the applicable law, it is the order of the Court that:

The Plaintiffs have failed to carry their burden of proving an implied/constructive trust in this case and in proving that the property has been held in trust by the Defendant regarding the property located at 23, 25A, and 25B Blackstock Road, Inman, South Carolina, more particularly described in the Lis Pendens in this action.

IT IS HEREBY ORDERED that:

- 1) The legal title to 23, 25A, and 25B Blackstock Road, Inman South Carolina, more particularly described in the Lis Pendens in this action is vested in the Defendant, and
- 2) The Defendant, Lorine Jackson is the sole owner of the property.

**IT IS SO ORDERED.**

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The Honorable Grace Gilchrist Knie  
Resident Judge, Seventh Judicial Circuit

Spartanburg, South Carolina  
This 8th day of October, 2024.



Spartanburg Common Pleas

**Case Caption:** Annie Gray , plaintiff, et al VS Lorine Jackson

**Case Number:** 2022CP4203465

**Type:** Order/Other

IT IS SO ORDERED.

S/GRACE GILCHRIST KNIE - 2760