

RECEIVED

Oct 28 2024

SC Court of Appeals

THE SOUTH CAROLINA COURT OF
APPEALS

The Honorable James O. Spencer

Lexington County

Case No. 2024-001080

Glenn A Zeigler, individually
and as Personal
Representative of the Estate of
Leon Zeigler and Lula Mae
Zeigler,

Respondent,

v.

Deatrix Zeigler,

Appellant.

INITIAL BRIEF OF APPELLANT

October 28, 2024

s/Robert L. Gailliard
Robert L Gailliard
Attorney for Appellant
SC Bar # 2284
6650 Rivers Avenue
N. Charleston, SC 29406
rlgailliardlaw@outlook.com

TABLE OF CONTENTS

Table of Authorities1

Statement of Issues on Appeal2

Statement of the Case.....3

Standard of Review.....4

Argument.....5

Conclusion.....6

TABLE OF AUTHORITIES AND CASES

Section 62-3-1301 through 62-3-1312 govern the Sale of Real Estate by Probate Court. The Court has devised a Petition for Sale of Real Estate which it requires to be filed. Section 62-1-201 definition of fair market value.

1. MATHIAS v. MATHIAS, 33 S.E. 2nd 626 (1945)
2. BROOKS v. KAY 530 S.E. 2nd 120 (2000)

B. STATEMENT OF ISSUES ON APPEAL

- I. **WHETHER THE MASTER-IN-EQUITY ERRED IN SETTING ASIDE THE DEED INTO THE APPELLANT.**

C . Statement of the Case

This matter was commenced by the filing of the Summons and Complaint in the Lexington County Court of Common Pleas. This matter was filed to set aside a deed to the Appellant, Deatrix Zeigler, amount other relief (not related to the appeal) requested. The Defendant, Deatrix Zeigler defended the action by declaring that the deed was valid and should not be set aside. The case was referred to the Master-in-Equity to make finds and to issue a final order which would be appealable to the Court of Appeals.

The Master-in-Equity issued his order setting aside the deed on April 2, 2024, this appeal followed the Notice of Appeal was timely served on June 26, 2024.

The ownership of the real property conveyed by the deed is the issue in controversy.

D. Standard of Review

The Applicable standard of review is whether the trial court in considering all of the evidence before it was ruled in opposition to the substantial evidence presented before it.

Argument

The deed in question was clearly valid on its face. It had the signatures of the grantors, was properly witnessed and notarized.

Upon going beyond the four corners of the deed the court sought and admitted evidence that the witnesses were NOT present at the signing of the deed and the Court found that error was made by the Notary Public.

Ample testimony was presented by the Appellant, Deatrix Zeigler on the competence of the grantors and their having the necessary capacity to sign the deed and most importantly it was their express intention and desire to convey the real property to her. (See Mathias v. Mathias, 33 S.E. 2nd. 626 (1945) She was able to negate that any undue influence was exerted on her parents to convey the real property to her. Brooks v. Kay 530 S.E. 2nd 120. (2000).

A finding that the deed was valid to effectuate the clear and unambiguous intent of the grantors should have been made by the Master-in-Equity. It was error by the Master-in-Equity, to set aside the deed.

The present case is analogous to the WILL cases where the Court is obligated to determine a WILL by ascertaining the intent of the testator. (citations omitted)

Here, the grantors intent is clear. They intended to deed the property to Deatrix Zeigler. There was no undue influence found by the Court. They signed the deed showing their intent to convey.

Under all the circumstances taken as a whole had the substantial evidence needed to validate the transfer and should have done so.

F. CONCLUSION

The Appellant prays that this Court overturn the Order of the Master-in-Equity and reinstate the deed granting her the real property in question

Respectfully Submitted,

s/Robert L. Gailliard
6650 Rivers Avenue
N. Charleston, SC 29406
(843) 329-4015
Attorney for Appellant

October 28, 2024
North Charleston
South Carolina

