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Nov 15 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Larry B. Hyman, Jr., Circuit Court Judge
Fifteenth Judicial Circuit

Case No. 2017-CP-26-00424
Appellate Case No. 2020-000528

Vista Del Mar Condominium Association; Dennis M. Merritt,
Trustee of the Dennis M. Merritt Living Trust; John J. Hawkins;
and Eleanor N. Hawkins, Plaintiffs,

v.

Vista Del Mar Condominiums, LLC; Atlantic Development
Company, LLC; Atlantic Coast Funding, LLC; John Doe, a
nominal Defendant representing all persons or entities unknown
who may claim an interest in the property that is the subject of
this action, Defendants,

And

Atlantic Development Company, LLC and Atlantic Coast
Funding, LLC, Third-Party Plaintiffs,

v.

Barbara P. Swartz; Nancy S. Case; Winston Salem Daly
Development, LLC; Charles F. Webber; Mark L Skowron,
as Trustee of Mark L. Skowron Revocable Trust dated April 24,
2002 and Gail L. Skowron, as Trustee of the Gail L. Skowron
Revocable Trust dated 04/24/2002; Norman W. Taylor, Trustee
of the Norman W. Taylor Revocable Living Trust dated April 28,
2008; Tim Mitchell Development, LLC; Eric R. Sklut and Lori
Levine Sklut; Fred C. Warehime and Patricia F. Warehime; James W.
Blackburn, III and Peggy S. Blackburn; Barbara I. Bowser; KHDH, LLC;
Beth G. Bauknight; Roderick D. Sanders (or his successor), as Trustee of
the Amended and Restated Revocable Declaration of Trust of Anne
Mallard Sanders u/a/d January 16, 2015; GGK Properties, LLC; Leon
Levine and Sandra Levine; Joseph Moglia and Amy H. Moglia; Angela M.

Mason, as Trustee of the Angela Mason Revocable Trust dated June 9, 2003 and amended and restated May 27, 2007; Dexter R. Barbee, Sr.; Daniel M. Talbert, Sr.; Craig W. Lawton; David N. Dalton; Janet W. Weed, Trustee of the Janet W. Weed Revocable Trust under Trust Instrument dated April 17, 2013; Robert H. Messier, Jr. and Janice H. Messier; Jeffrey Schneider, Trustee for the Jeffrey Schneider Revocable Trust dated August 1, 2017; Phillip Kleinman and Charisse D. Kleinman; Stephen Gatto and Camille Gatto; Lutz Real Estate, LP; Astorg Imports, Inc.; ABLP Properties, LLC; Sutton Children, LLC; Daniel C. Schuster and Mardell J. Schuster; Roy C. Putrino and Eileen M. Putrino; p Spencer Squier and Sherri Squier; VDM 1004, LLC; Roger B. Matherly and Bonnie V. Matherly; ITAC 203 LLC; Rebecca R. Shroff and Kersi S. Shroff; Sandra P. Levine and Lori Ann Sklut, Co-Trustees of the Irrevocable Trust F/B/O Amy Beth Levine dated September 18, 1986; David E. Lukowski; Richard B. Kline and Leslie Kline; James P. Aplington and Carol D. Aplington; Michael L. Van Glish and Judith K. Van Glish; Anna A. Olsen; Anne Marie Murray; William J. Pridemore and Irina V. Pridemore; William B. Davidson and Julia Davidson; Bruce Alexander Henderson and Valerie Sokolov; Mark W. Lee; Sue David Kline; Thomas McKiernan and Anne McKiernan; Philip H. Strobl and Amy Mott Strobl; James M. Faircloth and Sylvia Faircloth; Cheryl Jackson and Phillip H. Jackson; Weldon Riggs and Tiffany Riggs; Janet P. Merritt, Trustee of the Janet P. Merritt Living Trust U/A. dated March 24, 2000; Melia Mooney Pavoris; William L. Mansfield and Patricia S. Mansfield; Stuart W. Gibbs and Helen R. Gibbs; Michael R. Blackburn and Pamela M. Blackburn; Jeffrey G. Edwards and Teresa t. Edwards; Michael J. Wilk,Third-Party Defendants,

Of which

Vista Del Mar Condominium Association; Dennis M. Merritt, Trustee of the Dennis M. Merritt Living Trust; John J. Hawkins; and Eleanor N. Hawkins; Barbara P. Swartz; Nancy S. Case; Winston Salem Daly Development, LLC; Charles F. Webber; Mark L. Skowron, as Trustee of Mark L. Skowron Revocable Trust dated April 24, 2002 and Gail L. Skowron, as Trustee of the Gail L. Skowron Revocable Trust dated 04/24/2002; Norman W. Taylor, Trustee of the Norman W. Taylor Revocable Living Trust dated April 28, 2008; Tim Mitchell Development, LLC; Eric R. Sklut and Lori Levine Sklut; Fred C. Warehime and Patricia F. Warehime; James W. Blackburn, III and Peggy S. Blackburn; Barbara I. Bowser; KHDH, LLC; Beth G. Bauknight; Roderick D. Sanders (or his successor), as Trustee of the Amended and Restated Revocable Declaration of Trust of Anne Mallard Sanders u/a/d January 16, 2015; GGK Properties, LLC; Leon Levine and Sandra Levine; Joseph Moglia and Amy H. Moglia; Angela M. Mason, as Trustee of the Angela Mason Revocable Trust dated June 9, 2003 and amended and restated May 27, 2007; Dexter R. Barbee, Sr.; Daniel M. Talbert, Sr.; Craig W. Lawton; David N.

Dalton; Janet W. Weed, Trustee of the Janet W. Weed Revocable Trust under Trust Instrument dated April 17, 2013; Robert H. Messier, Jr. and Janice H. Messier; Jeffrey Schneider, Trustee for the Jeffrey Schneider Revocable Trust dated August 1, 2017; Phillip Kleinman and Charisse D. Kleinman; Stephen Gatto and Camille Gatto; Lutz Real Estate, LP; Astorg Imports, Inc.; ABLP Properties, LLC; Sutton Children, LLC; Daniel C. Schuster and Mardell J. Schuster; Roy C. Putrino and Eileen M. Putrino;p Spencer Squier and Sherri Squier; VDM 1004, LLC; Roger B. Matherly and Bonnie V. Matherly; ITAC 203 LLC; Rebecca R. Shroff and Kersi S. Shroff; Sandra P. Levine and Lori Ann Sklut, Co-Trustees of the Irrevocable Trust F/B/O Amy Beth Levine dated September 18, 1986; David E. Lukowski; Richard B. Kline and Leslie Kline; James P. Aplington and Carol D. Aplington; Michael L. Van Glish and Judith K. Van Glish; Anna A. Olsen; Anne Marie Murray; William J. Pridemore and Irina V. Pridemore; William B. Davidson and Julia Davidson; Bruce Alexander Henderson and Valerie Sokolov; Mark W. Lee; Sue David Kline; Thomas McKiernan and Anne McKiernan; Philip H. Strobl and Amy Mott Strobl; James M. Faircloth and Sylvia Faircloth; Cheryl Jackson and Phillip H. Jackson; Weldon Riggs and Tiffiany Riggs; Janet P. Merritt, Trustee of the Janet P. Merritt Living Trust U/A. dated March 24, 2000; Melia Mooney Pavoris; William L. Mansfield and Patricia S. Mansfield; Stuart W. Gibbs and Helen R. Gibbs; Michael R. Blackburn and Pamela M. Blackburn; Jeffrey G. Edwards and Teresa t. Edwards; Michael J. Wilk, are the Appellants,

And

Of which Vista Del Mar Condominiums, LLC; Atlantic Development Company, LLC; Atlantic Coast Funding, LLC; and John Doe, a nominal Defendant Representing all persons or entities unknown who may claim an interest In the property that is the subject of this action, are the Respondents.

RESPONDENTS' MOTION TO TAX COSTS

Pursuant to Rule 222(a), SCACR, Respondents Atlantic Development Company, LLC and Atlantic Coast Funding, LLC (“Respondents”), by and through their undersigned counsel, respectfully move this Court to tax costs against the Appellants.

This motion is based on the following:

On March 20, 2020, the Appellants appealed an order of The Honorable Larry B. Hyman, Horry County Circuit Court Judge, filed on February 20, 2020 (“Order”).

On August 16, 2023, this Court issued an Opinion affirming the Order. On August

29, 2023, Appellants filed a Petition for Rehearing *En Banc*. Thereafter, Appellants filed a Motion to Amend the Petition for Rehearing *En Banc*, together with an Amended Petition for Rehearing *En Banc*, on September 13, 2023. On October 11, 2023, this Court entered an Order Denying Appellants' Amended Petition for Rehearing.

On November 10, 2023, Appellants filed a Petition for a Writ of Certiorari with the South Carolina Supreme Court. Respondents filed their Return to the Petition on December 11, 2023. On October 30, 2024, the South Carolina Supreme Court entered an Order Denying Appellants' Petition for a Writ of Certiorari.

Thereafter, this Court served the Remittitur on November 1, 2024.

Respondents are the prevailing parties, and they are entitled to tax costs against Appellants in accordance with the rules of this Court. Pursuant to Rule 222(d), SCACR. Accompanying this motion is a sworn itemized statement of costs incurred in the form prescribed by the appendix to the South Carolina Appellate Court Rules.

Respectfully submitted,

CALLISON TIGHE & ROBINSON, LLC

s/ Demetri K. Koutrakos

Demetri K. Koutrakos, SC Bar No. 11318

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**ATTORNEYS FOR RESPONDENTS
ATLANTIC DEVELOPMENT
COMPANY, LLC AND ATLANTIC
COAST FUNDING, LLC**

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And

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PROOF OF SERVICE

I hereby certify that, on this date, the **Respondents’ Motion to Tax Costs and Itemized Statement of Costs** was served on Appellants’ counsel via AIS email, pursuant to Order No. 2022-05-06–02 issued by the Supreme Court of South Carolina, as follows:

Kenneth R. Moss, Esquire
Wright, Worley, Pope, Ekster & Moss, PLLC
628-A Sea Mountain Highway
North Myrtle Beach, SC 29582
Email: Kennethmoss@wwpmlaw.com

Robert E. Lee, Esquire
P. O. Box 1096
Marion, SC 29571
Email: rel@rellawfirm.com
(Attorneys for Appellants)

I further certify that all parties required by Rule to be served have been served.

s/ Demetri K. Koutrakos

Demetri K. Koutrakos
Attorney for Respondents Atlantic
Development Company, LLC and
Atlantic Coast Funding, LLC

November 15, 2024

Demetri “Jim” K. Koutrakos - Member
803-404-6900
JimKoutrakos@callisontighe.com

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VIA EMAIL: ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk of Court
S. C. Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Vista Del Mar Condominium Association, *et al.* vs. Atlantic
Development Company, LLC, *et al.*
Appellate Case No. 2020-000528

Dear Ms. Kitchings:

Please be advised that I represent the Respondents Atlantic Development Company, LLC and Atlantic Coast Funding, LLC in the above-referenced matter. Enclosed herewith please find Respondents’ Motion to Tax Costs, together with the Form 17-Itemized Statement of Costs and Proof of Service. Kindly file the same and return a clocked-in copy of each to the undersigned via return email. This firm’s check in the amount of \$50 in payment of the required fee will be hand delivered to your office.

Please feel free to contact me with any questions.

With kind regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC

s/ Demetri “Jim” K. Koutrakos

Demetri “Jim” K. Koutrakos

DKK:ksr
cc: Kenneth R. Moss, Esquire (via email)
Robert E. Lee, Esquire (via email)
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