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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
South Carolina Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Trial Court Case No. 2024-CP-07-01741

Honorable Curtis L. Coltrane, Special Referee

Case No.: 2024-001725

Racquel Bolden-Lott of the heirs of Fred Bolden..... Appellant

v.

Debbie D. Frazier.....Respondent

INITIAL BRIEF OF THE RESPONDENT

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PREAMBLE

Pursuant to Rule 208(b)(2), SCACR, Respondent is dissatisfied with Appellant's statement of the issues on appeal and statement of the case and, therefore, Respondent includes her own issue on appeal and statement of the case.

STATEMENT OF ISSUES ON APPEAL

APPELLANT'S ISSUES ON APPEAL:

I. WHERE AFTER THE DEATH OF HER ANCESTOR RESPONDENT DEBBIE D. FRAIZER DID NOT CONTINUOUSLY OCCUPY AND POSSESS THE PROPERTY FOR 21 MONTHS AND 4 WEEKS BEFORE COMMENCING THE ACTION, RESPONDENT FAILED TO PROVE ADVERSE POSSESION BY TACKING ON THE POSSESSION OF ANCESTORS BECAUSE THERE WAS A BREAK IN THE CONTINUITY OF POSSESSION BETWEEN ANCESTOR AND HEIR.

II. WHERE AFTER THE DEATH OF HER ANCESTOR RESPONDENT DEBBIE D. FRAIZER DID NOT CONTINUOUSLY OCCUPY AND POSSESS THE PROPERTY FOR 21 MONTHS AND 4 WEEKS THE SPECIAL REFEREE ERRED IN DENYING THE MOTION FOR SUMMARY JUDGMENT AND/OR THE MOTION TO DISMISS THE ACTION FOR ADVERSE POSSESSION BY TACKING ON THE POSSESSION OF ANCESTORS BECAUSE THERE WAS A BREAK IN T HE CONTINUITY OF POSSESSION BETWEEN ANCESTOR AND HEIR.

RESPONDENT'S REPLY ISSUE ON APPEAL

III. THE TRIAL COURT PROPERLY FOUND THAT RESPONDENT AND HER PREDECESSORS IN TITLE POSSESSED AND OCCUPIED THE PROPERTY ON WHICH HER HOME SITS FOR THEIR ORDINARY USE SINCE 1994, THAT RESPONDENT ESTABLISHED ADVERSE POSSESSION FOUNDED UPON A WRITTEN INSTRUMENT AGAINST THE CLAIMS OF THE HEIRS OF FRED BOLDEN AND RESPONDANT IS VESTED WITH FEE SIMPLE, ABSOLUTE TITLE TO THE PROPERTY DESCRIBED IN THE JUDGMENT AND FINAL ORDER.

STATEMENT OF THE CASE

Respondent Debbie D. Frazier (hereinafter "Debbie Frazer") commenced this action on September 14, 2022 by filing her Summons and Complaint and served upon the heirs of Fred Bolden at the address on file at the Assessor's Office for sending tax notices. October 28, 2022 an Acceptance of Service signed by Appellant Racquell Bolden-Lott was filed on November 1, 2022. In her Complaint Respondent sought an order of the court to correct the tax records to be consistent with the facts alleged about the chain of title to the property and declare that she and her parents have been in open, notorious, hostile, exclusive and continuous possession of their property for over thirty (30) years against the claims of the heirs of Fred Bolden. Plaintiff also sought an order of the court to determine the boundary lines of her property.

Appellant Raquell Bolden-Lott, pro-se, filed a response to the Complaint by letter filed November 9, 2022 challenging the validity of and disagreement with the content in the Complaint.

Defendant Beaufort County filed Answer on October 31, 2022 stating there were facts insufficient to constitute and action against Beaufort County and Beaufort County was dismissed from the case.

All remaining Defendants were properly served and defaulted leaving Respondent Debbie Frazier and Appellant Racquell Bolden-Lott as the litigants.

Appellant, by and through an attorney, filed her Answer on December 21, 2022 stating she lacked sufficient knowledge to respond to the allegations and denied Respondent was entitled to the relief requested.

On March 15, 2024 Appellant's counsel filed a Motion to be Relieved as counsel, which was granted on April 11, 2024. Appellant elected to proceed pro-se.

The case was referred to The Honorable Curtis Coltrane as Special Referee.

On August 30, 2024 Appellant filed two motions, one to Dismiss the action under Rule 12(b)(6) SCRCP and the other for summary judgment under Rule 56(b) SCRCP. The motions were heard just prior to trial on September 9, 2024 and were denied as the Court determined there were genuine issues of material facts to be decided through testimony. Trial was held virtually on September 9, 2024.

The Judgment and Final Order finding in favor of Respondent was entered September 13, 2024.

STATEMENT OF FACTS

The Respondent's case consisted of the testimony of the Respondent, Debbie Frazier, (hereinafter "Debbie") witness Darrell Thomas Johnson, Esq. (hereinafter "Mr. Johnson") and various exhibits. The Appellant's case consisted of her own testimony (pro se) and witness Joe Louis Green.

The essential facts of the Respondent's case elicited at trial are summarized as follows:

Respondent Debbie Frazier was the first witness. She testified she was born in 1959 and raised in Bluffton, SC. She went to H.E. McCracken High School in Bluffton, obtained a four-year degree in college. She then joined the Air Force and served for 21 years. During the time she was in the military Bluffton remained her home. She went to live in Savannah and take care of her grandmother until she died. (P.26 L. 3-P.27 L.5)

Debbie Frazier's parents were Claretha Brown and Jack Brown. When Debbie retired from the military she was primarily in Savannah and would go back and forth between Savannah and Bluffton checking on her mother and father in Bluffton while taking care of her grandmother in

Savannah. She now lives in Savannah as her primary residence but goes back and forth between living in the Savannah home and the Bluffton home (P.27 L. 10-25).

The address of her parents' property was initially 122 Simmonsville Rd., Bluffton, SC and in 2008 she and her mother received notice that the address was changed to 2 Billy Simmons Road. Debbie and her mother went to Bluffton [government building] and made phone calls to find out what was going on but could not get any explanation. (P.28 L.21- P. 29 L.16). She and her mother received tax bills for the land until 2019 when they ceased getting them. They continued to get the mobile home taxes. Debbie's mother's health was failing, which took priority over taking care of the tax problem. Her mother died in November 2020 and after that Debbie contacted the county offices. (P.34 L12 – P.35 L.4).

A supervisor at the county could not answer any questions about why Debbie was not receiving tax bills for the Property despite hearing the efforts Debbie had taken in researching the public records and showing them the documents. The county staff was all very nice but, in the end, they said there was nothing they could do and said Debbie needed a lawyer. (P.36 L16 – P.37 L. 10). Debbie could not probate her mother's estate because according to the tax assessor the property did not exist. There was no tax record for the property. (P.140 L. 6 – 22).

A photograph of her parents' property with a white mobile home on it (hereinafter the" Property") was entered into evidence as **Plaintiff's Exhibit 1**. Her parents occupied the Property since 1994 until their deaths. The Property is residential, the family meets there, and Debbie keeps the lawn and home taken care of. (P. 30 L.12- P. 31 L.22).

Debbie's parents had purchased 7.04 acres of land in 1994. Debbie's father passed away May 27, 1999. His estate was probated, and she acquired an interest in his property. Her father had

sold off an acre and a half and her mother sold off more after that resulting in the acreage she has now. (P.31 L23 – P.32 L23). Debbie had a survey of the property she occupies conducted and a plat prepared. She pointed out Simmonsville Road to Billy Simmons Drive on the plat. The plat was entered into evidence as Plaintiff's **Exhibit 2**. (P.33-3 – P. 35 L. 11).

During his life, Debbie's father showed her on the ground the extent of the 7.04 acres they purchased. It started at Simmonsville Road and went back into the forest. Even the part of where the mobile home is now was like swamp. Her father had to clear and cut down trees and build up the area where the mobile home is today with truckloads of dirt. He cleared off three to four acres. The property that the mobile home is on now has been her family property since 1993 when her parents purchased it. (P.38 L. 5-P. 39 L.8).

Appellant questioned Respondent on cross examination about the payment of taxes. (P. 43 L. 22 – P.44 L. 6). On redirect, Debbie testified about the tax statements in her possession that were entered into evidence as Plaintiff's **Exhibit 3**. She had the tax records for 1994, 1995, 2001 when the address of the Property was still 122 Simmonsville Road, 2002 when the acreage was reduced to 5.5 acres after the sale of a portion of the 7.04 acres, 2002, 2003, 2004, 2005, 2006, and 2007. In 2008 and 2009 something happened, and the acreage changed to 5.79 from 5.54 acres. (P.46 L.10 – P.52L.5)

Witness Darrell Thomas Johnson Jr. was called to testify. Mr. Johnson is an attorney who has practiced law in the 14th Judicial Circuit, primarily Beaufort and Jasper counties, since 1975. He was qualified as an expert in real property law. P.56.L8 – P.64 L. 24).

Mr. Johnson was also a fact witness. He testified that he prepared a set of deeds for parties to a quiet title action wherein they indicated that there may have been a mistake or

misunderstanding, but it was to vest title according to a plat different than the one referenced in the quiet title action. It was a property swap between the parties. ((P.65 L.9 – P. 66 L.15).

Mr. Johnson prepared two deeds which were entered into evidence: one from Nelson Hamilton to Fred Bolden, only heir at law of Marie Bolden, Plaintiff's **Exhibit 4**, and the other one from Fred Bolden, only heir at law of Marie Bolden to Nelson Hamilton, Plaintiff's **Exhibit 5**. (hereinafter referred to as "Swap Deeds") (P.66 L16 – P.68 L.7). Both deeds are dated October 15, 1993. Mr. Johnson first addressed the derivation clauses in the deeds. The derivation clause in each deed stated: "This deed is to correct Judgment Roll 37222 which erroneously refers to a first version of a plat which was later revised and now recorded in Plat Book 'blank' and Page 'blank'". As to the "blanks", Mr. Johnson testified that it was apparently his expectation of being able to get the unrecorded plat recorded but the plat did not get recorded. He stated he could infer one of two things; he did not have the original to record, or the court's plat recording process was too cumbersome. (P.70 L. 19 – P.71 L.11). The Quiet Title action was Nelson Hamilton v. William Simmons, (et.al.) in 1979. The Judgment, Judgment Roll # 37222, was entered into evidence as **Plaintiff's Exhibit 6** along with **Plaintiff's Exhibit 7** which is the plat referenced in the legal descriptions in the Judgment. (P.71 L12 – P.78 L.20). Mr. Johnson testified that this Judgment was the Judgment referenced in the two deeds he prepared for Nelson Hamilton and Fred Bolden, only heir at law of Marie Bolden. He commented that "...the parties seemed to think they had gotten the wrong parcel, so they were swapping." (p.75 L.17 -P.76 L.6).

Mr. Johnson testified he used metes and bounds, courses and distances to describe the property in the two deeds (Exhibits 4 and 5) as shown on the unrecorded revised plat, **Plaintiff's**

Exhibit 8 which changed the configuration of the two properties from the plat referenced in the quiet title action, (Exhibit 7) (P.93 L2 – P.96 L.6).

Mr. Johnson then testified he prepared a deed from Nelson Hamilton to Jack Brown and Claretha Brown, also executed on October 15 1993, containing, with the exception of a scrivener's error in the plat reference, the same legal description as in the deed from Fred Bolden, only heir at law of Marie Bolden, to Nelson Hamilton. **Exhibit 9**. (P.98 L.10 - P. 102 L.24)

Mr. Johnson, as an expert witness, was presented with a Deed of Distribution from the estate of Marie Bolden. The deed of distribution purports to document the inheritance of Fred Bolden from Marie Bolden. Marie Bolden died September 27, 1990, but her estate was not probated until 1994. The Deed of Distribution of Distribution is dated October 2, 1996 and contained the same legal description as in Judgment as belonging to Marie Bolden. Because Fred Bolden as only heir at law of Marie Bolden had already conveyed his interest in Marie Bolden's property to Nelson Hamilton in 1993, Mr. Johnson's opined that the effect of the Deed of Distribution is a legal nullity and caused confusion with the tax assessor. (P.103 L. 12 – P. 107 L.22) The Deed of Distribution was entered into evidence as **Plaintiff's Exhibit 10**.

Mr. Johnson testified he probated the estate of Jack Brown and prepared the Deed of Distribution in his estate. It distributed his one-half interest in the property to his wife Clareatha Brown and daughter Debbie Frazier in equal shares. **Plaintiff's Exhibit 11**. He remembered that during the probate administration he visited the home of Jack and Claretha at least once. He described is as a relatively new double-wide mobile home and he described the method of vehicular access to the home. Mr. Johnson was shown Plaintiff's Exhibit 1 and recognized it as the same

home that he remembered. The Deed of Distribution in the Estate of Jack Brown was entered into evidence as Plaintiff's Exhibit 11. (P. 107 L.9 – (P. 114 L. 9).

Regarding Respondent's adverse possession claim, Mr. Johnson opined that "[I]f you go all the way back to Jack and Claretha, her – her predecessors in title, the marked up, revised plat is a written instrument; the deed from Hamilton is a written instrument; the plat by Baughman is a written instrument; the out deeds that refer to, inferentially, at least, the ownership of the seven acres. There's a – you know, there's half a dozen written instruments that she claims by, including the deed of distribution." As to tacking, Mr. Johnson testified "Tacking is when more than one person are in the chain and you tack someone else's possession onto your possession to reach – the burden is twice as long if – 20 years if you tack and ten years if you don't tack. And so I think Claretha owned it by – by adverse possession or at least part of it in her own right with then years. And once it's vested you no longer have to possesses it. … It's then after ten years it's yours, not – you don't have to continue to possess it, but to tack it – to tack, you do." (P. 119 L. 17 – P.121 L.5).

The Apellant's case consisted of the testimony of the Appellant, Racquell Bolden-Lott, pro-se, and Joe Louis Green, summarized as follows:

Respondent objected to most of Appellant's pro-se testimony on the grounds of hearsay, which was sustained. (P. 142 L.9 – P.161 L. 22). On cross examination, Appellant (hereinafter "Ms. Bolden-Lott") testified she is a resident of Jacksonville Florida and has been employed with the Internal Revenue Service for 39 years as a Federal Government tax law specialist. She was raised in Jacksonville Florida and in the summers was raised in Bluffton at 116 Summerville Road. There is house on the property that is vacant. (P. 162 L. 10 – P.163 L. 19). Ms. Bolden-Lott was questioned about the **Defendant's Exhibit 2**, entered into evidence during her pro-se testimony.

(P.149 L5-7). Appellant admitted she did not know if the information contained on the drawing was correct or incorrect. (P.163 L.20 – P. 168 L. 3).

Appellant called Joe Louis Green to testify. He testified he is 63 years old and has lived in Bluffton most of his life. He was a cousin to Fred A. Bolden and a cousin of Jack Brown. (P. 169 L 5 – P.170 L.8). He physically saw Jack Brown prior to his death and Claretha Brown live in the mobile home on the real property in question. After Jack died, Claretha continued to live in the mobile home on the real property in question. After the death of Fred Bolden Ms. Bolden-Lott allowed him to maintain the property on her behalf. He never saw Debbie Frazier, or anyone living in the mobile home. (P. 173 L. 16 – 174 L. 23).

On cross examination Mr. Green admitted that the property he cleared was debris next to Mr. Bolden's home, not the cleared property belonging to the Browns and Debbie Frazier. (P.182 L.23 – P.183 L.14.).

STANDARD OF REVIEW

The purpose of Debbie Frazier's action was to determine title to real property by adverse possession under written instrument and determine her boundary lines. The determination of title to real property is legal in nature. Wigfall v. Fobbs, 295 S.C. 59, 367 S.E.2d 156 (1988). In addition, an adverse possession claim is an action at law. Miller v. Leaird, 307 S.C. 56, 413 S.E.2d 841 (1992) Because an adverse possession claim is an action at law, the character of the possession is a question for the jury or fact finder. Lynch v. Lynch, 236 S.C. 612, 115 S.E.2d 301 (1960). The Court's review is limited to a determination of whether there is any evidence reasonably tending to support the referee's findings. Knight v. Hilton, 224 S.C. 452, 79 S.E.2d 871 (1954). (adverse possession claims

are actions at law, and the character of the possession is a question for the jury or fact finder. The appellate review is limited to determining whether there is any evidence reasonably tending to support the findings of the fact finder.) McDaniel v. Kendrick, 688 S.E.2d 852, 386 S.C. 437 (S.C. App. 2009) affirms that appellate courts will not disturb the trial court's findings unless they are wholly unsupported by the record or controlled by an error of law.

ARGUMENTS

III. THE TRIAL COURT PROPERLY FOUND THAT RESPONDENT AND HER PREDECESSORS IN TITLE POSSESSED AND OCCUPIED THE PROPERTY ON WHICH HER HOME SITS FOR THEIR ORDINARY USE SINCE 1994, THAT RESPONDENT ESTABLISHED ADVERSE POSSESSION FOUNDED UPON A WRITTEN INSTRUMENT AGAINST THE CLAIMS OF THE HEIRS OF FRED BOLDEN AND RESPONDENT IS VESTED WITH FEE SIMPLE, ABSOLUTE TITLE TO THE PROPERTY DESCRIBED IN THE ORDER.

Respondent begins with Issue III because virtually all the factual evidence presented at trial supports the Special Referee's findings of fact and his conclusion that Respondent and Respondent's parents adversely possessed the real property they occupied founded upon written instruments against the claims of the heirs of Fred Bolden.

§ 15-67-230 states: "For the purpose of constituting an adverse possession by any person claiming a title founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied... (1) When it has been usually cultivated or improved;" the Special Referee found substantial evidence that Respondent and her parents, Jack and Claretha Brown occupied the Property based on the deed from Nelson Hamilton to Jack Brown and Claretha Brown executed on October 15 1993, (Plaintiff's Exhibit 9) along with the two Swap Deeds

executed on the same day to correct the error in the plat referenced in Judgment Roll # 37222, (Plaintiff's Exhibits 4 and 5).

The deed to Jack Brown and Claretha Brown from Nelson Hamilton (Plaintiff's Exhibit 6) conveyed 7.04 acres of land to which they took possession, cleared the land and installed a mobile home in 1993. Exercising their ownership rights, Jack and Claretha Brown sold a portion of the land prior to Jack Brown's death. Upon Jack Brown death in 1999, his ownership interests were distributed in the Deed of Distribution to Claretha, his wife, and his daughter, Debbie Frazier, in equal shares. Thereafter Claretha and Debbie conveyed other parcels to others leaving approximately two acres of land where the mobile home has been since 1993.

The Special Referee found that the legal descriptions in October 15, 1993 Swap Deeds described by metes and bounds, courses and distances were consistent with those shown on the plat prepared for the partition action, as revised February 1981. (Plaintiff's Exhibit 8). Fred Bolden then acquired title to 7.05 acres shown as Parcel A on the 1981 revised plat from Nelson Hamilton, Plaintiff's (Plaintiff's Exhibit 4), and Nelson Hamilton acquired title to 7.04 acres shown as Parcel B on the same plat. (Plaintiff's Exhibit 5). Also on October 15, 1993, Nelson Hamilton conveyed the 7.04 acres, Parcel B, to Jack Brown and Claretha Brown. (Plaintiff's Exhibit 9). The Special Referee found that the corrective Swap Deeds and the deed to Jack and Claretha Brown and the 1981 plat are the written instruments that defined the boundaries of the property vested in Jack and Claretha Brown.

Jack Brown died May 27,1999 and left his 50% interest in the property (less the acreage they had sold) to his wife, Claretha and daughter, Debbie Frazier in equal shares, which was distributed to them from Jack Brown's estate by Deed of Distribution. (Plaintiff's Exhibit 11). Claretha Brown

died in Novembre 2020. Debbie Frazier was her only child. Under the laws of intestacy Claretha's 3/4th interest in the property she owned at the time of her death immediately vested in her daughter. (§ 62-2-104(1)).

Marie Bolden died September 27, 1990. Fred Bolden was her only heir. Fred Bolden began the probate administration of her estate in 1994, after he executed the Swap Deed on October 15, 1993. The legal description in the Deed of Distribution executed on October 2, 1996 (Plaintiff's Exhibit 10) by Fred Bolden is the same as the legal description in the 1978 Judgment Roll # 37222. (Plaintiff's Exhibit 6). This deed of distribution is a nullity as a matter of law because Fred Bolden had already conveyed away his interest in his mother's property, which vested in him at the moment time of his mother's death. Mr. Johnson's expert opinion was that this Deed of Distribution from Marie Bolden's estate contributed to the confusion in the Beaufort County Assessor's records and tax maps.

The Special Referee properly found that Respondent, Debbie Frazier, possesses a good and marketable chain of title to the remaining portion of the original 7.04 acres owned by her parents, and not sold or conveyed to third parties. The Special Referee also properly found that Debbie Frazier and her parents have possessed and occupied the property on which the home sits for ordinary use since 1994 and has established adverse possession founded upon written instruments against the heirs of Fred Bolden. The Special Referee also properly found that the survey prepared for the litigation for Debbie Frazier does not accurately depict the extent of Respondent's property because the northern boundary line should be the line described in the deed from Fred Bolden as only heir of Marie Bolden to Jack and Claretha Brown, not the line of occupancy along the tree line as shown on the plat prepared for the trial. (Plaintiff's Exhibit, 2).

Respondent Debbie Frazier asks this court to affirm the Judgment of Curtis L. Coltrane, Special Referee entered on September 13, 2024.

Appellant's issues:

I. WHERE AFTER THE DEATH OF HER ANCESTOR RESPONDENT DEBBIE D. FRAIZER DID NOT CONTINUOUSLY OCCUPY AND POSSESS THE PROPERTY FOR 21 MONTHS AND 4 WEEKS BEFORE COMMENCING THE ACTION, RESPONDENT FAILED TO PROVE ADVERSE POSSESION BY TACKING ON THE POSSESSION OF ANCESTORS BECAUSE THERE WAS A BREAK IN THE CONTINUITY OF POSSESSION BETWEEN ANCESTOR AND HEIR.

II. WHERE AFTER THE DEATH OF HER ANCESTOR RESPONDENT DEBBIE D. FRAIZER DID NOT CONTINUOUSLY OCCUPY AND POSSESS THE PROPERTY FOR 21 MONTHS AND 4 WEEKS THE SPECIAL REFEREE ERRED IN DENYING THE MOTION FOR SUMMARY JUDGMENT AND/OR THE MOTION TO DISMISS THE ACTION FOR ADVERSE POSSESSION BY TACKING ON THE POSSESSION OF ANCESTORS BECAUSE THERE WAS A BREAK IN THE CONTINUITY OF POSSESSION BETWEEN ANCESTOR AND HEIR.

Respondent responds to both of Appellant's issues together in this argument because they are essentially the same. It appears Issue I is related to the trial and Issue II is related to the Appellant's "Motion for Summary Judgment and/or Motion to Dismiss" heard prior to trial but the legal question is the same in each.

A motion for summary judgment is appropriate where there is no genuine issue of material fact for the jury (or Master in Equity or Special Referee) to decide. Rule 56 SCRCP. The Special Referee properly denied Appellants "Motion for Summary and/or Motoin to Dismiss" because he found there were genuine issues material fact to be decided at trial.

Her issues rephrased; Appellant argues the Special Referee erred because Respondent could not tack her possession to her parents' possession because Respondent did not occupy her home as her residence for almost two years prior to filing this action. Appellant's argument is misplaced.

As Mr. Johnson testified:

> "Tacking is when more than one persons are in the chain and you tack someone else's possession onto your possession to reach – the burden is twice as long if – 20 years if you tack and ten years if you don't tack. And so I think Claretha owned it by --- by adverse possession or at least a part of it in her own right with ten years. And once its vested – once its vested, you no longer have to adversely possess it." (P.120 L. 8-18)

This testimony is supported by case law. 'The possession of ancestor and heir may be tacked to show 20 years' possession so as to presume a grant, or 10 years' adverse possession so as to make out title by adverse possession, because there is no break in the continuity of possession." Terwilliger v. White, 222 S.C. 176, 72 S.E.2d 169 (S.C. 1952) *citing* Duren v. Kee, 26 S.C. 219, 2 S.E. 4; Epperson v. Stansill, 64 S.C. 488, 42 S.E. 426 (S.C. 1902); The leading case, Lewis v. Pope, 86 S.C. 285, 68 S.E. 680 (S.C. 1910) holds that a defendant cannot tack their period of possession to that of a predecessor to satisfy the statutory period for adverse possession. This rule is echoed in Weston v. Morgan, 162 S.C. 177, 160 S.E. 436 (S.C. 1931) which states that unrelated holdings cannot be combined to make up the ten-year period. However, an exception to the general prohibition on tacking is recognized in Epperson v. Stansill, where the Court allowed a daughter to tack her possession to that of her father's where no new entry was made. This exception is narrow and applies only in specific circumstances where the heir's possession is a direct continuation of the ancestor's adverse possession, which is similar to the circumstances in this case. Here, the Respondent is the daughter, and only heir, of her mother who occupied and excised dominion and

control over the property under color of title for more than 20 years. It is also important to note that Respondent had a one-quarter interest in the property by Deed of Distribution in her father's estate, and inherited her mother's three-fourth interest in the property at the moment her mother died in November 2020.

Be that as it may, the facts elicited at trial show that Respondent did not need to prove tacking or continuity of possession to prove adverse possession against the heirs of Fred Bolden. The facts show Jack Brown and Claretha Brown occupied and possessed the Property together under written instruments from 1993 until Jack's death in 1999. Jack's interest in the Property was distributed to Claretha Brown and Debbie Frazier in equal shares by deed of distribution and the Property continued to be occupied by Claretha and Debbie under the written instruments for over 20 years before Claretha's death, constituting the 20-year presumption of a grant four years before this action was brought. However, tacking Debbie's possession on to her parents' possession was not necessary, so whether there was a break in the continuity of Respondent's occupancy "21 months and 4 weeks" before bringing the action is irrelevant.

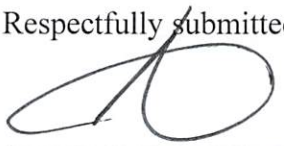
The Special Referee did not err in denying Appellant's "Motion for Summary Judgment and/or Motion to Dismiss" nor in entering judgment in Respondent's favor.

CONCLUSION

For the foregoing reasons, Respondent respectfully asks this Court to affirm the Judgment of Curtis Coltrane, Special Referee for Beaufort County entered September 13, 2024. Debbie Frazier has shown by clear and convincing evidence that she has established a good and marketable chain of

title to her property as described in the Judgment and has proven adverse possession under written instruments against the claims of Appellant Raquel Bolden-Lott and the heirs at law of Fred Bolden.

Respectfully submitted,



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