

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Latif Taheri-Azar,)
)
Plaintiff,)
)
v.)
)
Tim Haake and Justin Marlow,)
)
Defendants.)
_____)

C/A No. 2024-CP-46-01354

**ORDER GRANTING DEFENDANTS’
MOTIONS FOR SUMMARY JUDGMENT**

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May 16 2025

SC Court of Appeals

This matter came before the Court on Tuesday, March 11, 2025, upon Defendants’ motions for summary judgment. Plaintiff was represented at the hearing by his attorney of record, Rolf M. Baghdady. Defendant Tim Haake was represented by his attorney of record, Steve D. Dluzneski, and Defendant Justin Marlow was represented by his attorney of record, Dan D’Agostino. Based upon the arguments and submissions, and for the reasons set forth in this order, I find and conclude that Defendants are entitled to judgment in their favor as a matter of law.

Standard of Consideration

Summary judgment should be granted where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law.” Rule 56(c) S.C. R. Civ. P.; Bowen v. Lee Process Sys. Co., 342 S.C. 232, 536 S.E.2d 86 (Ct. App. 2000). A party seeking summary judgment has the burden of clearly establishing, with use of the record properly before the court, the absence of a triable issue of fact. Stanford Fire Ins. Co. v. Marine Contracting and Towing, 301 S.C. 418, 392 S.E.2d 460 (1990). Once the moving party has met that burden, the nonmoving party must come forward with some evidence showing there

is a genuine issue for trial in order to avoid summary judgment. Baughman v. American Tel., 306 S.C. 101, 410 S.E.2d 537 (1991). In determining whether any triable issues of fact exist, the Court must view the evidence and all reasonable inferences that may be drawn from that evidence in a light most favorable to the non-moving party. Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 327, 534 S.E.2d 672, 675 (2000).

Findings of Fact

In support of their motions for summary judgment, Defendants submitted a Memorandum in Support and several exhibits, one of which was the transcript of Plaintiff's deposition. Plaintiff also submitted a Memorandum in Opposition to the Defendants' motions for summary judgment. Based upon the evidence before the Court, I make the following findings of fact:

1. Plaintiff was the owner of real property located at 2124 Windemere Road in Rock Hill, York County, South Carolina, which is situated within the Poplar Forest subdivision (the "Property").
2. Plaintiff sought to build, and did build, a new home at the Property.
3. Defendants are property owners within the Poplar Forest subdivision.
4. On or about April 30, 1966, a set of Restrictive Covenants for the Poplar Forest Subdivision were recorded in the Office of the Clerk of Court for York County, South Carolina (the "Covenants"). At the time that the Plaintiff built the new home at the Property, the Covenants were still in full force and effect. The Covenants imposed certain architectural requirements and use standards on all lots within the Poplar Forest subdivision, which includes the Property. Contained within the Covenants were minimum square footage requirements, as well as a mechanism for enforcement of the Covenants.

5. Plaintiff submitted plans to the City of Rock Hill (the “City”) for the new home that he intended to build at the Property, and those plans were ultimately approved. Plaintiff then began building the new home at the Property.

6. On February 22, 2024, the City issued a stop work order for the Plaintiff’s construction of the new home at the Property.

7. On February 28, 2024, six days after the City issued its stop work order, Defendant Justin Marlow sent an e-mail to Mike Nugent at the City, in which he advised Mr. Nugent that he was sending the e-mail “on behalf of the Poplar Forest HOA,” which was accompanied by a “letter and supporting documents to express the concerns of Mr. Haake and the Poplar Forest HOA with respect to the construction underway at [the Property].”

8. By Plaintiff’s own sworn deposition testimony, the February 28th letter to Mr. Nugent formed the entire basis of his defamation claim against the Defendants. During the hearing on Defendants’ motions for summary judgment, Plaintiff’s counsel could point to no other statements by either of the Defendants that gave rise to Plaintiff’s defamation claim, despite having been given multiple opportunities by the Court to do so.

9. Plaintiff’s counsel was also unable to point to any evidence that would create a genuine issue as to material fact with regard to Plaintiff’s declaratory judgment claim. In fact, Plaintiff sold the Property and left the Poplar Forest subdivision after this lawsuit was filed. As a result, defense counsel argued that the Plaintiff no longer has legal standing to pursue this claim.

10. The Court finds that the Plaintiff has failed to bring forward any evidence of a false and defamatory statement made by either of the Defendants concerning the Plaintiff. Even if the Defendants did falsely claim to be members of the Poplar Forest HOA, as Plaintiff’s counsel

argued and which is disputed, that purported false statement does not rise to the level of defamation under South Carolina law.

11. The Court also finds that the Plaintiff has not brought forward any evidence that would create a genuine dispute as to any material fact of his declaratory judgment claim. Additionally, since the Plaintiff sold the Property and moved out of the Poplar Forest subdivision after this lawsuit was filed, he no longer has the requisite legal standing to assert a claim for declaratory judgment against the Defendants.

Conclusions of Law

Defendants have established by the record that is properly before this Court in this case that they are entitled to summary judgment as to the Plaintiff's two remaining claims against them – namely, defamation and declaratory judgment.

The statements that the Plaintiff alleges that the Defendants made to the City were not defamatory because they did not concern the Plaintiff. Plaintiff is also unable to establish that those statements allegedly made to the City by way of Defendant Justin Marlow's February 28th letter were false. For these reasons, Defendants are entitled to summary judgment as to Plaintiff's claim for defamation.

This Court concludes that the Defendants are also entitled to summary judgment as to Plaintiff's claim for declaratory judgment for the reasons set forth herein.

Order and Judgment

Defendants' motions for summary judgment are hereby GRANTED. Plaintiff's remaining claims against the Defendants in this case are hereby dismissed with prejudice. This Order shall end this case.



York Common Pleas

Case Caption: Latif Taheri Azar VS Tim Haake , defendant, et al

Case Number: 2024CP4601354

Type: Order/Summary Judgment

So Ordered

/s William A. McKinnon, #2761, Circuit Judge