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**Aug 25 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

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Appellate Case No.: 2024-002193

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Walter Ruiz and Nidian Ruiz, individually and on behalf of all others similarly situated, Beth Ann Coultrap and Henry Keith Coultrap III, individually and on behalf of all others similarly situated, Marianne Clancy and Michael C. Stinson, individually and on behalf of all others similarly situated,.....Plaintiffs.

v.

Clayton Properties Group, Inc. d/b/a Mungo Homes Properties, LLC,,.....Defendants.

Of which Ahmad P. Moore and Susan M. Moore, individually and on behalf of all others similarly situated.....Appellants.

and Clayton Properties Group, Inc. d/b/a Mungo Homes Properties, LLC..... Respondent.

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**INITIAL BRIEF OF APPELLANTS**

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Townes B. Johnson III (SC Bar# 75412)  
TOWNES B. JOHNSON III, LLC  
PO BOX 9246  
GREENVILLE, SC 29604  
PH: (864) 757-4899

Attorneys for Respondents

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**STATEMENT OF ISSUES ON APPEAL**

- I. THE CIRCUIT COURT ERRED IN COMPELLING ARBITRATION AGAINST APPELLANTS, WHO WERE NOT PARTIES TO ANY ARBITRATION AGREEMENT
  
- II. EQUITABLE ESTOPPEL DOES NOT APPLY BECAUSE APPELLANTS ARE NOT SEEKING TO ENFORCE THE TERMS OF THE PURCHASE AGREEMENT

## STATEMENT OF THE CASE

This action concerns the negligent design, development and/or construction of the Garden Homes section of the Indigo Pointe subdivision. *See 2<sup>nd</sup> Amended Complaint*. The Moores and all others similarly situated (hereinafter “Appellants”) purchased their Garden Home from a third party without having ever entered into a contract with Respondent. *See Appellants’ Memorandum in Opposition to Respondent’s Motion to Dismiss and Compel Arbitration, Exhibit A*. The Respondent nonetheless moved to dismiss Appellants’ claims and compel arbitration, arguing Appellants were bound as non-signatories. *See Respondent’s Motion to Dismiss*. The circuit court granted Respondent’s motion. *See Orders dated October 7, 2024 and October 21, 2024*. Appellants timely filed a Motion for Reconsideration under Rule 59(e), SCRCP, which was denied and this appeal followed. *See Appellants’ Motion to Reconsider and see Orders dated November 12, 2024 and November 27, 2024*.

## STANDARD OF REVIEW

Arbitrability determinations are subject to *de novo* review. Bradley v. Brentwood Homes, Inc., 398 S.C. 447, 453, 730 S.E.2d 312, 315 (2012).

## ARGUMENT

I. THE CIRCUIT COURT ERRED IN COMPELLING ARBITRATION AGAINST APPELLANTS, WHO WERE NOT PARTIES TO ANY ARBITRATION AGREEMENT.

Arbitration is a matter of contract. Simpson v. MSA of Myrtle Beach, Inc., 373 S.C. 14, 644 S.E.2d 663 (2007) (*the determination of whether claims should be resolved through arbitration involves a two-step inquiry: (1) whether a valid arbitration agreement exists; and, (2) whether the specific dispute falls within the substantive scope of the arbitration agreement*). A party cannot be compelled to arbitrate unless they have agreed to do so. Gissel v. Hart, 382 S.C.

235, 241, 676 S.E.2d 320, 323 (2009). Appellants purchased their property from Tanaya Jeanette Latigue, a third-party individual, and not Respondent, and did not receive a deed which contained an arbitration clause. *See Appellants' Memorandum in Opposition to Respondent's Motion to Dismiss and Compel Arbitration, Exhibit A.* Appellants had no contractual relationship of any kind with Respondent, much less an agreed upon arbitration provision.

The absence of a contractual relationship precludes enforcement of an arbitration clause against them. Gissel v. Hart, 382 S.C. 235, 241, 676 S.E.2d 320, 323 (2009) (*a party cannot be compelled to arbitrate unless they have agreed to do so*). The Court, accordingly, erred in compelling arbitration against Appellants.

II. EQUITABLE ESTOPPEL DOES NOT APPLY BECAUSE APPELLANTS ARE NOT SEEKING TO ENFORCE THE TERMS OF THE PURCHASE AGREEMENT.

“Equitable estoppel precludes a party from asserting rights he otherwise would have had against another when his own conduct renders assertion of those rights contrary to equity.” International Paper Co. v. Schwabedissen Maschinen & Anlagen GMBH, 206 F.3d 411 at 417–18 (4th Cir.2000). In the arbitration context, the doctrine of binding a non-signatories to an arbitration provision under an equitable estoppel theory “recognizes that a party may be estopped from asserting that the lack of his signature on a written contract precludes enforcement of the contract's arbitration clause when he has consistently maintained that other provisions of the same contract should be enforced to benefit him.” Pearson v. Hilton Head Hosp., 400 S.C. at 290, 733 S.E.2d at 601 (quoting Int'l Paper , 206 F.3d at 418). Both Pearson and Int'l Paper contemplate situations wherein the parties have a contractual relationship, though not expressly formalized, and each is benefiting from the provisions of a formal contract. The situation at hand is wholly different - there is no relationship between Appellants and Respondent and Appellants are not asserting any contractual rights which would bind them in equity. The Court's finding that

Appellants are bound to arbitration as non-signatories due to direct benefit is, therefore, clearly erroneous.

**CONCLUSION**

Based on the Arguments set forth herein, Appellants respectfully request this Court to reverse the order compelling arbitration and remand this action for further proceedings on the merits of their claims.

Respectfully submitted,



Townes B. Johnson III (SC Bar# 75412)

TOWNES B. JOHNSON III, LLC

PO Box 9246

GREENVILLE, SC 29604

PH: (864) 757-4899

Attorneys for Respondent

August 23, 2025  
Greenville, SC