

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS)
CIVIL ACTION NO. 2025-CP-08-3108)

DAVID HAYES and BROOKS A.)
HAYES,)

ORDER FOR SUMMARY JUDGMENT

Plaintiffs,)

vs.)

MIRANDA MITCHUM,)

Defendant,)
_____)

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SC Court of Appeals

PROCEDURAL BACKGROUND

On November 4, 2024, Plaintiffs commenced the instant action by the filing and service of a Summons and Notice and Complaint wherein they seek, *inter alia*, a declaratory judgment terminating a contract between the parties; for judgment for monies owed them by the Defendant and for certain incidental relief.

On December 9, 2024, Defendant filed her Answer by and through her attorney Jeffrey W. Kuykendall.

Attorney Kuykendall was thereafter relieved as counsel by order filed March 25, 2025.

Defendant did not engage substitute counsel and is *pro se*.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs' filed their Motion for Summary Judgment on March 24, 2025. Their motion came before the Court for hearing pursuant to notice at the Berkeley County Courthouse on September 5, 2025.

Present at hearing were Plaintiffs' attorney John S. West, Esq. of the West Law Firm, PA of Moncks Corner and Defendant without counsel.

In support of their motion Plaintiffs submitted their Memorandum in Support of Motion for Summary Judgment, along with their affidavit and various exhibits, all made a part of the record.

Defendant submitted her Memorandum in Opposition to Plaintiffs' Motion For Summary Judgment and no affidavit(s).

From the pleadings, filings and the proceedings before me and based upon arguments by counsel and the Defendant in open court, I find and conclude as follows:

FINDINGS OF SALIENT FACTS

1. The salient facts which I find herein are uncontroverted.
2. The subject matter herein involves a South Carolina Public Service Authority (Santee Cooper) leased lot held by Plaintiff Brooks A. Hayes and a 1999 Clayton Phoenix mobile home owned by David Hayes, together, ("Subject"), the same located at 630 Levee Drive, Moncks Corner, Berkeley County, South Carolina. This averment was alleged in Plaintiffs' Complaint and admitted in Defendant's Answer.
3. On December 13, 2022, the parties entered into an Installment Contract of Sale, ("Contract"), in writing whereby the Plaintiffs, together therein "Seller" and the Defendant therein "Buyer" agreed to the purchase and sale of the Subject for the purchase price of \$62,994.77 on terms and conditions as therein contained. This averment was alleged in Plaintiff's Complaint and admitted in Defendant's Answer.

4. Defendant has been and is now in possession of the Subject upon the Contract since January 1, 2023. This averment was alleged in Plaintiff's Complaint and admitted in Defendant's Answer.
5. Buyer commenced payments on the Contract on January 1, 2023. She made payments on the Contract until the September 1, 2023, payment. This averment was alleged in Plaintiffs' Complaint and admitted in Defendant's Answer.
6. Defendant has not made payment on the Contract since the September 1, 2023, payment. This averment was alleged in Plaintiff's Complaint and supported by Plaintiffs' Affidavit and Verified Statement of Account. Defendant has produced no evidence to the contrary.
7. There is a balance due and owing the Seller under the Contract for missed payments, accrued interest, late fees, lease fees, property taxes and insurance and related charges per the Contract. This averment was alleged in Plaintiffs' Complaint and admitted in Defendant's Answer.
8. As of the date of hearing, the specific balance due Plaintiffs under the Contract is \$25,622.40, as reflected on Plaintiffs' Amended Supplemental Affidavit and Verified Statement of Account of record.
9. Plaintiffs have provided all required notices to Defendant. This averment was alleged in Plaintiff's Complaint and supported by an exhibit. Defendant has produced no evidence to the contrary.
10. Defendant neglected, refused and failed to cure any default on the Contract. She has been and is in default on the Contract. This averment was alleged in Plaintiffs' Complaint and admitted in Defendant's Answer.

CONCLUSIONS OF LAW

Summary Judgment Standard

Under *Rule 56, SCRPC*, summary judgment is proper when both:

- (a) No genuine issue as to any material fact exists, and
- (b) The moving party is entitled to judgment as a matter of law.

In making the determination of whether or not any triable issue of fact exists, the evidence and all inferences that can reasonably be drawn must be viewed in the light most favorable to the nonmoving party. Summary judgment should not be granted if further inquiry into the facts is desirable to clarify the application of the law.

To prevail on a summary judgment motion, the moving party has to show that there is no genuine issue as to any material fact. To determine whether any trial issues of fact exist for summary judgment purposes, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Carolina Convenience Stores, Inc. v. City of Spartanburg*, 398 S.C. 27, 727 S.E.2d 28 (Ct. App. 2012).

Summary judgment has been held to be appropriate only when plain, palpable and undisputed facts exist on which reasonable minds cannot differ. *Bessinger v. Bi-Lo*, 329 S.C. 617, 496 S.E.2d 33,34 (Ct.App.1998).

In cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. *Hancock v. Mid-South Mgmt.*, 381 S.C. 326, 673 S.E. 2d 801, 803 (2009). A scintilla of evidence is material evidence which, taken as true, would tend to establish the issue in the mind of a reasonable juror.

In *Gibson v. Epting*, 426 S.C. 346, 827 S.E. 2d 178 (Ct. App. 2019), in discussing the

scintilla rule, the Court observed, “the summary judgment standard governing Gibson’s claims requires her to produce only a “scintilla” of evidence to avoid judgment as a matter of law, but a scintilla is a perceptible amount. There still must be a verifiable spark, not something conjured by shadows. Bethea v. Floyd, 177 S.C. 521, 529, 181 S.E. 721, 724 (1935) (“‘Scintilla’ means, according to 56 C. J. 863, ‘a gleam,’ ‘a glimmer,’ ‘a spark,’ ‘the least particle,’ ‘the smallest trace.’”); Crosby v. Seaboard Air Line Ry., 81 S.C. 24, 31–32, 61 S.E. 1064, 1067 (1908) (“[A] scintilla of evidence is any material evidence which, taken as true, would tend to establish the issue in the mind of a reasonable juror.”); Scintilla, The Oxford English Dictionary (2nd ed. 2018) (“A spark ... a minute particle, an atom.”); see Russell v. Wachovia Bank, N.A., 353 S.C. 208, 220, 578 S.E.2d 329, 335 (2003) (“When opposing a summary judgment motion, the nonmoving party must do more than ‘simply show that there is a metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial.’ ” (citations omitted)); Grimsley v. S.C. Law Enf’t Div., 415 S.C. 33, 42, 780 S.E.2d 897, 901 (2015) (affirming trial court’s grant of summary judgment and noting court of appeals improperly “cherry-picked” an isolated portion of the record, placed it out of context, and “elevated what is, at best, a metaphysical doubt into a genuine issue of material fact”); Main v. Corley, 281 S.C. 525, 527, 316 S.E.2d 406, 407 (1984) (“The judge is not required to single out some one morsel of evidence and attach to it great significance when patently the evidence is introduced solely in a vain attempt to create an issue of fact that is not genuine.”); Beale v. Hardy, 769 F.2d 213, 214 (4th Cir.1985) (explaining that party opposing summary judgment “cannot create a genuine issue of material fact through mere speculation or the building of one inference upon another”). A non-moving party cannot evade summary judgment by creating and relying on “an inference that is not reasonable or an issue of fact that is not genuine. Town of Hollywood v. Floyd, 403 S.C. 466, 744 S. E, 2d 161, 166 (2013). When a motion for summary judgment is supported by affidavit(s), the nonmoving party cannot rest on the general denials of its answer, but must show that there is a genuine issue of material fact, through its own affidavits. Rule 56(e), SCRPC.

APPLICATION OF THE SUMMARY JUDGMENT STANDARD

Applying the summary judgment standard to the fully developed record before me on Plaintiffs’ declaratory judgment cause of action for termination of the Contract, I find and conclude

that there is no genuine issue regarding any material fact as to the existence of a contract and the breach thereof by the Defendant. Plaintiffs are entitled to judgment as a matter of law that the Contract should be terminated and that the Defendant and all others claiming by, through or under her be forever barred and foreclosed from any right, title, interest and equity of redemption in the Subject.

Applying the summary judgment standard to the fully developed record before me on Plaintiffs' cause of action for monies owed on the Contract, I find and conclude that there is no genuine issue as to any material fact regarding the validity of the obligation of the Defendant to pay the Plaintiffs the total sum of \$25,622.40 through September 5, 2025. Plaintiffs are entitled to judgment as a matter of law against the Defendant in the total amount \$25,662.40 through September 5, 2025.

Having made, declared and determined that Plaintiffs are entitled to the relief set forth herein, I further find and conclude that the Sheriff of Berkeley County should be ordered and directed to immediately eject and remove from the Subject any and all occupant(s), together with all personal property located therein and thereon and put the Plaintiffs in full, quiet and peaceable possession of the Subject without delay and to keep the Plaintiffs in peaceable possession thereof.

ORDER

Based upon the findings of salient facts hereinabove set forth and the conclusions of law, it is ordered, adjudged and decreed that Plaintiffs' motion for summary judgment be and hereby is **GRANTED** in full and in the following particulars:

1. The Contract be, and the same hereby is, terminated;
2. Defendant and all others claiming by, through or under her are forever barred and foreclosed from any right, title, interest and equity of redemption in the Subject;
3. Judgment, be and hereby is, entered in favor of the Plaintiffs against the Defendant in the amount of \$25,622.40 through September 5, 2025; and
4. The Sheriff of Berkeley County be, and hereby is, ordered and directed to immediately eject and remove from the Subject any and all occupant(s), together with all personal

property located therein and thereon and put the Plaintiffs in full, quiet and peaceable possession of the Subject without delay and to keep the Plaintiffs in peaceable possession thereof.

AND IT IS SO ORDERED.

JUDGE'S SIGNATURE AFFIXED HERETO ELECTRONICALLY



Berkeley Common Pleas

Case Caption: David Hayes , plaintiff, et al VS Miranda Mitchum
Case Number: 2024CP0803108
Type: Order/Summary Judgment

So Ordered

s/ T.J. Rode (#2792)