

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jennifer L. Hamrick and
James C. Hamrick,

Plaintiffs,

vs.

Jack D. Curlee and
AG First Farm Credit Bank,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2023-CP-23-00052

ORDER

RECEIVED

Jan 23 2026

SC Court of Appeals

Dates of Hearing:

July 29, 30, 31 and August 1, 2024

Presiding Trial Judge:

Thomas W. McGee, III

Attorney for Plaintiffs:

James D. Calmes, III

Attorney for Jack D. Curlee:

O.W. Bannister

Attorney for AG First Farm Credit Bank:

Kyle A. Brannon

BACKGROUND and HISTORY

The Plaintiffs, Jennifer Hamrick and James Hamrick and Defendant Jack D. Curlee (hereinafter referred to as Curlee) are related by blood and marriage. Jennifer Hamrick is the daughter of Curlee and James C. Hamrick is the son-in-law of Curlee.

Defendant AG First Farm Credit Bank holds the present mortgage on the subject property known and described as 159 Mountain Creek Road, Honea Path, South Carolina and this property being the primary issue for the Court's determination in this litigation. AgFirst's Mortgage against the subject property in the original principal amount of \$100,000.00 (One Hundred Thousand)



Dollars was recorded in the Office of the Greenville County Register of Deeds on September 9, 2015 at Book Mo 5309, Page 5164.

In lieu of AgFirst attending the hearing in this matter, AgFirst, Plaintiffs and Curlee executed those certain Stipulation of Facts for Trial (hereinafter referred to as Stipulations) that were filed in this case on July 25, 2024. Those Stipulations stated, *inter alia*, that AgFirst's mortgage is a first-priority lien on the subject property, the balance on the mortgage loan as of July 24, 2024, no parties to this action are seeking any relief, monetary or otherwise, against AgFirst. Attached to the Stipulations is a copy of AgFirst's recorded Mortgage.

Plaintiffs and Curlee are joint owners of 159 Mountain Creek Road by virtue of a deed conveyance dated January 20, 2014, and recorded in the Register of Deed for Greenville County in Deed Book 2438 at Pages 1549-1550 on January 24, 2014. Plaintiffs and Curlee live together as their residence after construction was completed on a new home. Plaintiffs and their children occupied the top floor of the home and Curlee lived in a habitable basement.

Jennifer Hamrick was the exclusive manager and operator of A-1 Bail Bonding Company for over twenty years. Curlee inherited the bonding business from his father and was primarily an inactive owner of the daily operations.

During the time Jennifer managed and operated the business and realized profit over all expenses would pay for the mortgage, property taxes and insurance toward the residence.

On June 21, 2022, Plaintiffs encountered a violent incident with Curlee that led to the intervention of law enforcement. Plaintiffs decided for their best interest and their children that they needed to leave their home and reside with parents of James.

The Hamrick family never returned to the home.

Extended efforts to reach a settlement with Curlee were not successful, which caused the Plaintiffs to file a Partition action with the Clerk of Court for Greenville County on January 6, 2023. Curlee filed an Answer and Counterclaim on March 9, 2023, seeking Partition, an accounting and damages for conversion of business property.

An Amended Complaint was filed by the Plaintiffs on July 28, 2023, for relief on six (6) causes of action: partition of residence, damages for conversion of personal property, unjust enrichment, accounting, reimbursement, and assault and battery. Curlee filed an Amended Answer and Counterclaim requesting judgement on four (4) causes of action: partition, accounting, conversion and assault and battery.

On the eve of the trial, Chief Administrative Judge G.D. Morgan, Jr., ordered this case to be bifurcated into separate trials of jury and nonjury. Jury trial was held first before Judge Morgan. Jury awarded actual and punitive damages for the Plaintiffs against Curlee. This left the Court to make findings on the causes of action for partition, unjust enrichment, reimbursement, accounting and attorney's fees in a non-jury capacity.

STATEMENT AND ANALYSIS OF FACTS

This court heard testimony from the Plaintiffs, Doug Brown, Father of James Hamrick, and Curlee. Introduced into the record were thirty (30) exhibits from the Plaintiffs and sixteen (16) exhibits from Curlee, containing all pictures of the subject property with the exception of two (2). Exhibits one, two and three of Plaintiffs show a chain of title, through real estate deed conveyances. The records of Register of Deeds show Curlee conveyed the 5.0-acre tract to Jennifer as a gift on July 14, 2009. On May 4, 2010, Jennifer deeded the property back to Curlee. The parties decided they were going to build a new home on the subject property and live together as three (3) joint and equal owners.

On January 20, 2014 a deed conveyance was made to the Plaintiffs and Curlee as Joint Grantees with Rights of Survivorship. Plaintiffs and Curlee agreed that they would pay around Two hundred and Ten thousand (\$ 210,000.00) Dollars toward home construction. Plaintiffs would contribute One hundred Forty-thousand (\$ 140,000.00) Dollars and Curlee would tender Seventy Thousand (\$ 70,000.00) Dollars.

Thirty-four days later, Jennifer Hamrick sold her home at 207 Abners Trail in Greer, South Carolina, and realized a net sale proceeds of One hundred Forty-Three thousand, Four hundred Forty-Nine and Fifty-Two one hundredth (\$143,449.52) Dollars. Plaintiffs' exhibit four (4) is titled HUD-1 Settlement Statement which shows the transaction of the sale of Jennifer's prior home. She testified that the net proceeds were Plaintiffs' contribution to the construction cost of the home. Further testimony from Jennifer with the introduction of exhibits 5, 6 and 7 shows the paper trail, bank statements of Plaintiffs' contribution along with a deposit of Seventy Thousand (\$ 70,000.00) Dollars from Curlee.

In August 2014, Plaintiffs and Curlee took out a mortgage for \$ 81,625.00, which was intended to cover the balance due to finish home construction. Plaintiffs' exhibit 8, evidencing the recorded mortgage, confirmed the testimony of Jennifer. Curlee did not sign the promissory note secured by the mortgage.

Jennifer introduced exhibit nine (9) with particular reference that showed six (6) draws made by the project contractor Steve Wilson, that totaled \$ 288,200.00. The total construction amount essentially equaled the contributions from the parties and the loan amount from the lender. A year later, the home was refinanced by Defendant AG First Farm Credit to pay off the construction mortgage.

Even though Curlee never signed the notes on either mortgage, he insisted that Plaintiffs borrow One Hundred Thousand (\$100,000.00) Dollars leaving surplus proceeds of close to Twenty Thousand (\$20,000.00) Dollars. Curlee received the extra money for his exclusive benefit and for a purpose not related to the home.

Complaints subsequently arose about quality of construction work around one phase of work. That led to a settlement of Sixty thousand (\$60,000.00) Dollars from the builder. After deductions from attorney's fees, it left Forty-Five Thousand (\$ 45,000.00) Dollars to correct the deficiencies.

Exhibits 16, 17, 18 and 19 show and corroborated by Jennifer's testimony that Curlee withdrew all Forty-Five Thousand (\$ 45,000.00) Dollars, with exception of repair, painting, and pressure wash of the home. Curlee used this money for his personal use and improvements on his adjoining property. Exhibit 21 did show payment was made to Kenner Painting for \$ 3,900.00 in cash for the home. That was the only expenditure made for the residence from the settlement.

Primary issue that the Court must decide is the ownership percentage of the parties. In Plaintiffs amended complaint for their fifth cause of action, they seek reimbursement from Curlee arising out of payments made by the Plaintiffs toward the mortgage, hazard insurance and property taxes from August 2022.

Plaintiffs' exhibit 23 show reimbursement requests from Curlee and further inquired if he intended to pay one half (1/2) of the requested amount. Exhibit # 24 indicates clearly his portion of reimbursement was for only one third (1/3) obligation.

With reference to exhibit 22, Jennifer testified that her father incessantly insisted that she take out "Disaster Covid-19 Economic Injury Loan". That loan was for Mountain Creek Arabians, entity owned by Curlee which was intended to be used for the care, maintenance and improvements

of the adjoining property solely owned by Curlee. Proceeds were used for fencing, gravel and farm expenses. None of the proceeds were used for \$ 159 Mountain Creek residence.

The loan was for (\$ 15,100.00) Fifteen Thousand One Hundred Dollars and the sole obligor is Jennifer Hamrick. Curlee has refused to make any payments for reimbursement or restitution to Jennifer. Exhibit 23 showed that payments were being made to the Small Business Administration by Jennifer Hamrick.

The Plaintiffs introduced exhibit 30 that explained reimbursement to A-1 Bail Bonding for an installation of a storage shed. The exhibit was to show that James Hamrick did not misappropriate funds from A-1 Bonding.

Curlee testified that he made improvements towards the property and presented a number of exhibits that were improvements to the property such as a mancave and stables. Most of those additions were made after 2014 deed conveyance to the parties. Some additions were caused through physical labor from the Plaintiffs.

Curlee did NOT introduce any records of expenditures made toward construction of any improvements to 159 Mountain Creek Road.

Affidavits for attorney's fees were filed after the conclusion of the trial by each party.

Let the record reflect that a private sale of the property was agreed between the parties, and approved by the Court, however, it ended with no contract of sale or closing.

FINDINGS

After carefully considering the facts recited herein, and reviewing the record and weighing the credibility and demeanor of the witnesses, this Court issues its **Findings and Conclusions**.

There was insufficient evidence presented regarding accounting from either party that was intended to show misappropriation of funds against each other, therefore, that cause of action of the Plaintiffs and Curlee is denied and dismissed.

Partition is hereby granted and a public auction shall be conducted in the manner prescribed and governed by the Master in Equity for Greenville County.

Section 16-61-10 et sequitur is the controlling code section under Chapter 61 of South Code of Laws.

Under South Carolina Law, when two or more persons take title as joint tenants and instrument is silent as to their respective shares, there is a presumption that their shares are equal. See In Re MacDonald [BRTCY D.S.C. 2020]. It is clear the Plaintiffs are two thirds (2/3) owner and Curlee an one third (1/3) owner. In exhibits 23 and 24, Curlee makes it clear he is only a one third obligor and by inference only one third (1/3) owner.

In determining whether either party is entitled to any adjustments to their respective ownership, the Court considered the following facts:

Plaintiffs and their children were required to leave their residence on June 21, 2022. They have not returned having a valid basis to believe there would be violence similar to June 2022.

Plaintiffs made all the mortgage payments from February 2023 to January 2024 and hazard insurance premiums from May 2023 to January 2024. Further, they continue to make two thirds (2/3) of the mortgage payments, home insurance and property taxes. The Court's first Order required Curlee to reimburse the Plaintiffs one third (1/3) of the mortgage payments, home insurance and property taxes.

Yet, the Plaintiffs have not enjoyed the use and enjoyment of their home for over three (3) years. Curlee has been able to avail himself of being in exclusive possession.

Curlee did show pictures of structures other than the residence. There was vacant land when all three became joint owners of the property. There was sweat equity from the Plaintiffs in the additions and separate from home on their property. The Court finds insufficient evidence to make only adjustments to their respective ownership.

Foremost, Mr. Curlee did not present any records of expenses incurred toward construction of any separate structures. The Court found Curlee took settlement proceeds of litigation and paid Renner Painting only. It is persuasive the remainder settlement funds did not go back into the home. If it did go towards other improvements, then those proceeds are considered contributions made also by the Plaintiffs.

The construction settlement was \$ 45,000.00 after payment of attorney's fees and costs. The Court finds Mr. Curlee used these settlements proceeds for his own purpose. Since the Court finds that the Plaintiffs are two thirds (2/3) owner and Defendant Curlee is an one third (1/3) owner, each party would be entitled to Fifteen Thousand Dollars (\$15,000.00) each. Mr. Curlee is due a credit of \$ 3900.00 for painting done to the home, however, since all three shared expenses, \$ 2,600.00 is to be deducted from the reimbursement amount owed the Plaintiffs. Therefore, Mr. Curlee owes the Plaintiffs \$ 27,400.00.

The Court finds that Mr. Curlee failed to produce sufficient evidence that he should be given a credit of \$ 40,000.00 toward construction of the "man cave". There was no evidence presented to show proof of payments or description of specific vendors or list of materials. Thus, his claim is denied.

The Court further finds the claim made by the Defendant Curlee that he should be entitled to an additional credit of \$ 40,000.00 for the stable and shed built before the construction of the

home is hereby denied. There was no proof of any financial responsibility by the parties or any other accounting presented to the court.

The Court further finds that the parties did refinance the home for \$ 100,000.00 but around \$ 80,000.00 was needed to pay off the construction loan. The additional \$ 20,000.00 in dispute was used and spent by Mr. Curlee for his exclusive and sole purposes. Therefore, Mr. Curlee owes and is liable to the Plaintiffs for \$ 13,332.00, representing their two-thirds (2/3) ownership.

The Court further finds that any adjustment requested by the parties concerning the mortgage payments towards the home will require proof that mortgage payments or contributions made by the parties exceeded the one third (1/3) obligation of mortgage payments, taxes and insurance on the property. Failing to show sufficient evidence will be cause for denying the relief sought by either party.

The Court does further find the claim that Plaintiffs should be given past due rent from Mr. Curlee since they were forced to vacate the premises, and leaving Mr. Curlee to enjoy full and exclusive enjoyment of the house is hereby denied for lack of sufficient proof to show any evidence of a value of reasonable rent comparable to the value and size of the home.

The Court furthermore finds any additional amounts paid towards the improvements and upkeep of the home paid by the Plaintiffs and Defendant Curlee and each seeking restitution from the other is hereby denied. A preponderance of evidence was not presented to grant either party monetary relief of this issue.

The Court further finds that Curlee was unjustly enriched from the receipt of Small Business Administration Loan.

Recognizing that Mr. Curlee was adamant that he would not stop from demanding she borrow the money for his benefit, Jennifer placated her father to go to the process of getting the Covid-19 Disaster loan. {SBA}

Testimony revealed that the proceeds were given for Mr. Curlee's benefit and used for improvements to his adjoining property.

Furthermore, the Court has the authority to weigh the testimony of the witnesses. In this instance, the Court has the basis to question the credibility of Mr. Curlee when he told the Court he knew nothing of this loan or receiving proceeds of any loan incurred by his daughter.

Therefore, the Court finds and concludes that Mr. Curlee received the sole benefit of this SBA loan incurred and payable by Jennifer.

Mr. Curlee realized the benefit in proceeds received, some or all of it for improvements made to his adjoining property.

It would be unjust for Mr. Curlee to have received this benefit while Jennifer is legally obligated to make required monthly payments and be liable for the full pay off balance and do so without her receiving any benefit. See Swanson v. Stratos 350 S.C.116, 564 S.E. 2d 117 {Ct. App 2002). Restitution is the appropriate remedy in this instance.

The Court finds that the SBA loan was used by Mr. Curlee for purposes other than the home. He shall be responsible for repaying the full amount, including principal, interest and any fees. If the loan amount has been paid in full or part by the Plaintiffs, they shall provide evidence of the same to Mr. Curlee for reimbursement. Mr. Curlee shall pay that amount to the Plaintiffs. If any sum is owed to the lender, then Mr. Curlee shall pay the balance immediately to the lender and provide evidence of full satisfaction to the Plaintiffs.

In an action for Partition, section 15-61-110 gives the court authority to assess attorney's fees against any or all of the parties in interest.

Initial efforts were made to reach settlement with offers from each party that were disparate in amounts and percentage ownership.

The original Summons and Complaint was filed on January 6, 2023. Written discovery and depositions were conducted by both parties. Pretrial motion was filed by the Plaintiffs. A four-day trial was heard before two separate judges. Post trial status conferences were held after completion of the non-jury trial to seek alternative from a public auction to a private sale of the property.

Three separate status conferences were held on November 15, 2024, February 18, 2025, and June 30, 2025.

Even though the parties and counsel agreed to list the property privately to seek the highest price with a selected realtor (Furman Company) on August 1, 2024, Curlee did not sign the listing agreement with the Furman Company until the same day the Court held the first status conference on November 15, 2024.

The second status conference held on February 18, 2025, resulted in an Order that the parties must fully co-operate with the realtor to present the property in marketable condition. Since Mr. Curlee was and has been in exclusive possession of the subject property since June 2022 and he has been allowed to stay there pending this litigation, he would have been responsible to cooperate fully with the realtor and present the property in good marketable condition.

The Court has broad discretion under the Partition statute to award attorney's fees against any party in interest or grant attorney's fees coming from the common fund realized from public auction.

In finding that Plaintiffs should receive two thirds equitable interest from the sale, beneficial results have been accomplished in this case. Also, the Plaintiffs prevailed on more claims than the Defendant Curlee. The attorney for the Plaintiffs has been actively practicing law for over 51 years, has been involved in real estate litigation for forty-eight years and his hourly rates are most reasonable within the legal community of Greenville County.

It has been noted that attorneys for both parties exhibited professional competence in representing their clients throughout the entire case.

Plaintiffs' attorney submitted and filed his fee affidavit with the Court on Augusts 14, 2024.

Mr. Calmes has also submitted a supplemental fee affidavit with the Court representing additional time spent and services rendered from August 2, 2024 to the date of filing his affidavit.

The Court heard the testimony of the parties, saw their demeanor and viewed the entire record.

The Court has considered the good faith efforts made to secure the best price for the sale of the property. The Plaintiffs did cooperate to promote the sale given no control over the preparations for marketability of the property. Curlee had complete responsibility to succeed in reaching a real estate contract with a bona fide purchaser.

The Court does, therefore, find and conclude that the attorney's fees and court costs in the amount of \$ 10,000.00 is hereby granted to the Plaintiffs

This Court further finds that aforesaid sum shall be deducted solely from the proceeds that Curlee shall receive from the public sale.

IT IS THEREFORE ORDERED:

1. This case was referred to the Master-in-Equity for Greenville County to take the necessary procedures to schedule the public sale of 159 Mountain Creek, Honea Path, South Carolina and to conduct the public auction.

The Order of Reference filed by this Court on September 9, 2025 gives specific authority to the Master-in-Equity to hear all motions related to the parties, the method and the timing of the sale including, but not limited to, who can participate in the bidding.

2. Plaintiffs are declared two thirds' owners of the subject property and Defendant Curlee is an one third owner of the subject property.
3. Defendant Curlee be and is hereby required to repay in full the amount the Plaintiffs have paid toward the SBA loan. If there is a balance due the lender, the Defendant Curlee is hereby ordered to pay the balance in full and immediately.
4. Plaintiffs be and are hereby awarded \$ 10,000.00 in legal fees and costs and be assessed against Defendant Curlee. That sum shall be debited against the Defendant from the net proceeds of the public auction.
5. Plaintiffs be and are hereby entitled to Judgement against the Defendant Curlee for the amount of \$ 27,400.00, representing the construction settlement.
6. Plaintiffs be and are hereby entitled to Judgement against the Defendant Curlee in the amount of \$ 13,332.00, representing excess proceeds from the refinance of the home.
7. All other issues and claims made by the Plaintiffs and Defendant Curlee be and are hereby denied.

AND IT IS SO ORDERED!

JUDGE'S ELECTRONIC SIGNATURE
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Greenville Common Pleas

Case Caption: Jennifer L Hamrick , plaintiff, et al vs. Jack D Curlee , defendant, et al

Case Number: 2023CP2300052

Type: Order/Other

So Ordered

s/ Thomas W. McGee III, Judge Code 2786

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