

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appellate Case No. 2024-002176

John R. Nicks, Respondent,

v.

Emily Prioleau, Appellant.

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Feb 04 2026

SC Court of Appeals

FINAL REPLY BRIEF OF APPELLANT

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Summary of Argument

Respondent's Initial Brief advances seven arguments: (1) that the Statute of Frauds bars relief; (2) that no enforceable oral agreement existed; (3) that no resulting trust was established; (4) that equitable and promissory estoppel do not apply; (5) that Appellant was merely a tenant-at-will and not an owner; (6) that no unjust enrichment occurred; and (7) that Appellant's equitable claims were not preserved and the trial was fair and free of prejudice.

Each of these arguments is directly rebutted below. The record demonstrates part performance sufficient to overcome the Statute of Frauds, establishes a resulting trust, proves equitable and promissory estoppel, negates Respondent's tenant-at-will theory, and confirms unjust enrichment. It further shows that equitable claims were raised in Magistrate Court, preserved through transfer to the Court of Common Pleas, and pressed at trial. Finally, the trial court's substantive and procedural errors—including denial of jury trial, mishandling of evidence, and prejudice from attorney failures—require reversal.

ARGUMENTS

I. The Statute of Frauds Does Not Bar Relief; Appellant's Part Performance Removes the Agreement from Its Scope

Respondent contends the Statute of Frauds bars enforcement of the alleged oral agreement. That contention fails.

Rebuttal: Appellant's part performance removes this transaction from the Statute of Frauds.

Under S.C. Code Ann. § 32-3-10 (Statute of Frauds), any contract conveying an interest in land must be in writing and signed by the party to be charged. Part performance is an established exception to that requirement. *Beckham v. Short*, 294 S.C. 415, 365 S.E.2d 42 (Ct. App. 1988).

Appellant fully performed her obligations under the oral agreement:

- Contributed more than \$150,000 in loans and expenditures (R. pp. 205–206, 209, 299–333 [D-3]).
- Paid the full cost of construction, including ADA-compliant disability modifications (R. pp. 192, 214, 251–252).
- Moved in June 2010 and has remained in exclusive possession since that time (R. p. 192, 252).
- Paid property taxes from 2008 through 2022 and covered all utilities and maintenance costs—including plumbing rerouting after squirrels damaged attic water lines (R. p. 241–242, 273–274).

The Final Order (filed Oct. 31, 2024) dismissed Appellant's part performance as "insufficient" (Order, p. 4), disregarding decades of unequivocal acts. As detailed in § I.B, Appellant contributed over \$150,000 in loans, paid all construction costs in addition to those loans, maintained exclusive possession since June 2010, and bore ongoing tax, utility, and repair

burdens. These acts cannot be reconciled with tenancy and remove the Statute of Frauds as a bar (R. pp. 205, 214, 241).

II. An Enforceable Oral Agreement Existed; Appellant Fully Performed Her Obligations

Respondent argues no enforceable oral agreement existed.

Rebuttal: The record disproves this. The record shows mutual assent through conduct and admissions.

Mutual assent may be shown by conduct as well as words. *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997).

- Loans totaling more than \$150,000, including \$50,000 and \$30,000 in 2002 (R. pp. 205–206); \$29,000 in 2006 (R. p. 209); \$22,600 in 2009 (R. p. 221); \$20,000 in 2010 (R. p. 222), and \$10,000 in 2013 (R. p. 232).

- In January 2010, Appellant recovered \$80,000 of those advances, leaving a substantial loan balance outstanding (R. pp. 226, 228).

- Full payment of construction costs to rebuild the Flanders Avenue home (R. pp. 92, 214, 251–252).

- Exclusive possession since June 2010 (R. p. 214, 252).

Respondent admitted receiving Appellant’s funds and acknowledged the house was intended for her family and disabled grandson (R. p. 93).

The finding of no agreement (*Order*, p. 4) disregards undisputed evidence. These facts are irreconcilable with the “tenant-at-will” theory (R. pp. 93, 221).

III. A Resulting Trust Was Established; Appellant Paid for the Property and Held Equitable Title

Respondent argues no resulting trust was proven.

Rebuttal: A resulting trust arises when one person provides the consideration for property, but title is taken in another's name, and is excepted from the Statute of Frauds. *Bradshaw v. Ewing*, 297 S.C. 242, 376 S.E.2d 264 (1989); *Green v. Green*, 237 S.C. 424, 117 S.E.2d 583

The record shows Appellant furnished the consideration and ownership burdens, as detailed in Arguments I and II, Appellant contributed over \$150,000 in loans and expenditures, rebuilt the house, maintained exclusive possession since 2010, paid property taxes through 2022, carried utilities and maintenance, and funded major repairs (R. pp. 192, 205–206, 214. 209, 221–222, 232, 241–242, 251–252, 273–274; [D–3]). Respondent relies on the deed in his name. But under *Bradshaw v. Ewing* and *Green v. Green*, legal title held by one person does not defeat a resulting trust when another furnished the purchase money. Respondent offered no evidence he alone paid for the property or reimbursed Appellant. His testimony that she merely “stayed in the house” is contradicted by financial records and witnesses (R. p. 193, 196, 270, [D-1–D-8]).

The finding that Appellant failed to prove a resulting trust (Order, p. 5) disregarded overwhelming evidence (Order, p. 5; R. p. 183, 196).

IV. Equitable and Promissory Estoppel Apply; Appellant Relied on Respondent's Promise to Appellant's Detriment

Promissory estoppel requires (1) an unambiguous promise; (2) reasonable reliance; (3) reliance that was expected and foreseeable by the promisor; and (4) injury caused by that reliance.

Satcher v. Satcher, 351 S.C. 477, 484, 570 S.E.2d 535, 538–39 (Ct. App. 2002); see also *N. Am. Rescue Prod., Inc. v. Richardson*, 411 S.C. 371, 379–80, 769 S.E.2d 237, 241 (2015). Equitable estoppel prevents a party from invoking the Statute of Frauds when the opposing party has

reasonably relied to its detriment. *Springob v. Univ. of S.C.*, 407 S.C. 490, 497, 757 S.E.2d 384, 387–88 (2014)

- Respondent assured Appellant that title would be conveyed once the home was rehabilitated (R. pp. 211–212).

- He admitted the home was intended for her family and grandson (R. p. 193).

As detailed in Arguments I and II, Appellant contributed over \$150,000, rebuilt the home, took possession in 2010, and for more than a decade carried all property taxes, utilities, and repairs (R. pp. 192, 205–210, 214, 221–226, 241–242, 251–252, 273–274). The Final Order (filed Oct. 31, 2024) stated no enforceable promise was shown (Order, p. 5). This ignores clear assurances and extensive reliance (R. pp. 196, 285).

V. Appellant Was Not a Tenant-at-Will; Respondent's Theory Is Unsupported by the Record

Respondent's Initial Brief asserts that Appellant was a tenant-at-will who occupied the property without any agreement, without assuming ownership burdens, and with no expectation of equity. Respondent further contends that Appellant's occupancy was permissive and revocable at will. The record does not support this theory.

S.C. Code Ann. § 27–33–10 (3) defines a tenant-at-will as one who occupies property without agreement and without assuming ownership burdens. That definition does not apply here. As shown in Arguments I and II, Appellant contributed over \$150,000, paid all costs of reconstruction, maintained exclusive possession since June 2010, and carried taxes, utilities, and major repairs (R. pp. 214, 241, 242, 251, 252, 273–274).

Respondent accepted Appellant's contributions, never demanded rent, and admitted the home was intended for her family (R. pp. 193, 196).

Labeling Appellant a tenant-at-will (Order, p. 6) is unsupported. Equity cannot classify long-term ownership conduct as tenancy (R. pp. 196, 285).

VI. Unjust Enrichment Applies; Respondent Cannot Retain Title to Property Financed Entirely by Appellant

Respondent's Initial Brief asserts that Appellant's financial contributions were voluntary, that any benefits conferred were either repaid or offset, and that Appellant has no legal or equitable claim to the property. The record directly refutes these assertions. Unjust enrichment occurs when: (1) a benefit is conferred, (2) the defendant realizes it, and (3) it is inequitable to retain it.

Earthscapes Unlimited, Inc. v. Ulbrich, 390 S.C. 609, 703 S.E.2d 221 (2010).

As detailed in Arguments I. and II, Appellant provided over \$150,000 in loans and expenditures, rebuilt the property, and carried taxes, utilities, and repairs. She also paid business expenses for Respondent's sole proprietorship, John R. Nick d/b/a Nick's Auto Sales (R. pp. 280–281). Except for the \$80,000 Appellant withdrew from Nick's Auto Sales (R. pp. 226, 228), Respondent has never reimbursed Appellant for any remaining loan balances (R. p. 270). Retaining both title and these benefits results in unjust enrichment.

The trial court found Respondent owed \$77,097 but did not order payment (Order, p. 7). It also mistakenly stated that Appellant's \$80,000 withdrawal occurred in 2016 for business purposes, though the transcript shows it was a June 2010 withdrawal from Nick's Auto Sales for a personal loan repayment for construction on Respondent's Huger residence. Appellant also documented \$157,097 in loans for the Flanders Avenue property (R. pp. 21, 205, 209, [D–1–D–8]). Letting Respondent retain legal title without restitution is inequitable. South Carolina law requires three elements for unjust enrichment:

(1) a benefit conferred on the Respondent;

- (2) the Respondent’s knowledge of that benefit; and
- (3) inequitable retention without payment.

See *Earthscapes Unlimited, Inc. v. Ulbrich*, 390 S.C. 609, 615–16, 703 S.E.2d 221, 224–25 (2010).

Here, the court found Respondent “owes [Appellant] ... \$77,097,” yet declined to order payment (Order, p. 7). Respondent asserts that the \$80,000 withdrawal occurred in 2016 for business purposes, but the transcript confirms it was a January 2010 withdrawal from Nick’s Auto Sales to repay Appellant’s personal loan to Respondent for construction of his Huger residence—before Appellant completed construction on or moved into 5528 Flanders Avenue (R. pp. 206, 228). coupled with Appellant’s \$157,097 in documented loans (R. p. 205, 209, [D–3]), ignoring these advances compounds the inequity of allowing Respondent to retain legal title without restitution. This argument draws solely on the existing record and introduces no new evidence. The Final Order states, “Plaintiff’s request for possession of the Property is granted” (R. p. 26), yet it never mentions or analyzes Appellant’s unjust-enrichment claim or her unreimbursed benefits (R. p. 288). The Order also misstates that Appellant’s \$80,000 withdrawal occurred in 2016; the transcript makes clear it was a January 2010 repayment of Appellant’s personal loan to Respondent (R. p. 226, 228). By omitting any discussion of the three required elements—benefit conferred, knowledge of the benefit, and inequitable retention—and by reciting an incorrect date, the trial court misapplied South Carolina law and its ruling must be reversed.

VII. Appellant’s Equitable Claims Were Preserved; The Trial Was Not Fair and the Judgment Must Be Reversed

Respondent asserts that the trial was fair and equitable, that Appellant failed to preserve her equitable defenses, and that any procedural errors were harmless. The record squarely refutes each of these assertions.

Appellant asserted constructive trust, resulting trust, equitable estoppel, promissory estoppel, and unjust enrichment in her Answer to Rule to Vacate or Show Cause and Counterclaim (Includes Jury Trial Demand) October 27, 2022 (R. pp. 42–43, 45). Respondent’s Reply, filed November 22, 2022, directly contested those defenses (R. p. 55). Magistrate Judge Mikell’s Transfer Order of January 13, 2023 “expressly not[ed] ... equitable claims were raised” and transferred the case to Common Pleas (R. p. 11). Upon transfer, Appellant reasserted the same equitable causes in pretrial filings, in her summary judgment memorandum (R. pp. 94–97), and again at bench trial (R. pp. 213-232, 239-242, 261, 271-274). Accordingly, each equitable defense was raised, contested, and preserved.

Appellant timely demanded a jury trial in Magistrate Court Answer to Rule to Vacate or Show Cause and Counterclaim (Includes Jury Trial Demand) October 27, 2022 (R. p. 42), and that right survived transfer. Denial of her demand violated S.C. Const. art. I, § 14 and Rule 38, SCRCF (see *Singleton v. S. Ry.*, 274 S.C. 217, 223, 262 S.E.2d 617, 620 (1980)). Moreover, because counsel prepared and tried the case under the mistaken assumption it would be heard by a jury, Appellant suffered prejudice in her trial preparation and presentation. Trial counsel did not secure Dewitt Lamar until the eve of trial, failed to admit Respondent’s material-and-labor list into evidence, and neglected to emphasize admitted bank statements reflecting Appellant’s

payments to Nick's Auto Sales (R. pp. 209–229, 309–329 [D-7]). These omissions materially impaired Appellant's case.

At trial, Appellant testified remotely from a separate room, preventing real-time consultation with counsel and undermining effective cross-examination and evidentiary presentation.

Although the Final Order acknowledged Appellant's receipts and bank statements, it failed to analyze them cumulatively as required under *Stackhouse v. Todd*, 299 S.C. 552, 556, 386 S.E.2d 258, 260 (Ct. App. 1989). Under Rule 61, SCRPC, these evidentiary errors warrant reversal because they affected Appellant's substantial rights.

Taken together, these errors deprived Appellant of critical testimony, full use of admitted exhibits (R. pp. 309–329), and effective representation. They were not harmless and materially affected the outcome.

Conclusion

Respondent's seven arguments collapse under the weight of the uncontroverted record.

Appellant established part performance sufficient to overcome the Statute of Frauds, proved the existence of an enforceable oral agreement, and demonstrated that a resulting trust arose from her financial contributions. Appellant further showed that equitable and promissory estoppel bar Respondent from denying his promises, and that Respondent's tenant-at-will theory finds no support in the evidence. The record also confirms Respondent's unjust enrichment through retention of both title and Appellant's documented expenditures, and plainly demonstrates that all equitable claims were timely raised and preserved from Magistrate Court through trial. Finally, the cumulative trial and procedural errors—including denial of a jury trial, the trial court's mishandling of key evidence, and prejudice from counsel's failures—were not harmless and require reversal under Rule 61, SCRPC.

For these reasons, Appellant respectfully requests that this Court reverse the Final Order of October 31, 2024, recognize Appellant's equitable ownership interest in 5528 Flanders Avenue, and grant any further relief the Court deems just and proper.

Respectfully submitted,

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Date: February 4, 2026

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Certificate of Service

I hereby certify that I have served a true and correct copy of the foregoing Reply Brief on Respondent's counsel by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows:

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