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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Grace Gilchrist Knie, Circuit Court Judge

Trial Court Case No. 2017CP4202374

Appellate Case No. 2025-002400

Richard Lewis and Walter Lewis
Appellants

v.

Robert M. Errato and Quinnipiac Associates, Inc.
Respondents,

of which Robert M. Errato is the Respondent herein

RESPONDENT'S REPLY IN SUPPORT OF MOTION TO DISMISS THE APPEAL

LEGAL ARGUMENT

I. Appeal Is Untimely And Improper

Appellants argue in their Objection to the Motion to Dismiss that this appeal is timely because it arises from a September 25, 2025 order denying their most recent motion for injunctive relief. This argument improperly attempts to manufacture appellate jurisdiction through repetitive motion practice, knowing such duplicative motions would be denied again,

as no new evidence arose. Appellants filed such motions simply to restart the timing to file an appeal in this case.

As argued in the Motion to Dismiss, Appellants filed a *third* motion for an injunction in 2025, which is basically identical to the motions filed by them in 2020 and 2023, all of which were denied by the trial court. Appellants should have appealed this issue when the first motion was denied in May 2021. Instead, the Appellants allowed the case to continue for more than four years, refiling the same motion two more times. Appellants filed a third motion for injunction, without citing any change in circumstances, new law, or new facts that would force the trial court to reexamine the denial of the first motion. The only reason that Appellants would file this third identical motion was to circumvent the filing deadlines to maintain this current appeal. Appellants should not be allowed to maintain this appeal, as such actions show Appellants' unclean hands.

Successive motions cannot restart an appellate deadline and, thus, a party is not allowed to relitigate previously decided issues through successive filings. Even if Appellants had filed a motion for reconsideration of the previous denials (which they did not), Appellants would not be allowed to raise the exact same issues that have already been decided, but must allege new or different circumstances that would warrant a different result. *See Cowart v. Poore*, 337 S.C. 359, 368 n.2 (Ct. App. 1999) ("A party cannot use a motion to reconsider to present an issue that could have been raised prior to the judgment, but was not."). This Court should not allow parties to manipulate appellate rules in order to revive expired rights, which is exactly what Appellants have attempted to do in this case.

Here, Appellants filed multiple motions seeking the same injunction , which were denied each time. Instead of filing for an appeal immediately, Appellants filed a new motion

solely to generate a new appealable order. Therefore, this latest denial of the injunction is not a new ruling, but it is instead a repackaged litigation of the same issue.

In this case, there has been no change in circumstances. Appellants claim that "evolving circumstances" justify their renewed motion. The law, however, requires a material change in facts or law to justify renewed equitable relief. Appellants have identified no such change. The repeated denials of the same motion confirm that the underlying deficiencies remain unchanged. Accordingly, the appeal is procedurally improper and should be dismissed.

II. Motion For Injunction Was Frivolous

Appellants assert that the appeal is not frivolous merely because the injunction was denied. While this is true in isolation, this ignores the broader procedural context. The denial of one motion for an injunction would not represent a frivolous appeal. Multiple denials of the same motion, however, show that such appeal is frivolous.

A frivolous appeal is one that lacks any reasonable likelihood of success. Here, Appellants have repeatedly sought identical relief and have been repeatedly denied such relief. Their appeal presents no new legal issue, but only a continued attempt to relitigate settled matters.

Rule 269 of the SCACR authorizes dismissal where an appeal is taken for delay. This rule states: "Where an appeal… is frivolous or taken solely for the purposes of delay…, the appellate court may… impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require." Here, Appellants' conduct of filing repetitive motions followed by an appeal demonstrates an intent to prolong litigation rather than resolve a legitimate legal question.

Thus, Respondent continues to argue that this appeal is frivolous and should be dismissed.

III. Appellants Lack A Colorable Claim For Injunctive Relief

Appellants argue they have a "colorable claim" for injunctive relief. This argument fails under the facts of this case.

In order to prove that Appellants should be entitled to an injunction, they would have needed to show the following: "(1) [they] will suffer immediate, irreparable harm without the injunction; (2) [they have] a likelihood of success on the merits; and (3) [they have] no adequate remedy at law." *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 366 (2011). Appellants fail in this argument, as they cannot prove any of these elements.

Here, Appellants do not have an immediate irreparable harm without the injunction, and there is no likelihood of success on the merits, because Appellants have no ownership rights in the Property. In addition, Appellants have an adequate remedy at law. *See Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 545 (2006) ("Respondents are not entitled to an injunction because they have the right to appeal the results of the arbitration, which is an adequate remedy at law."). Appellants claims are for profit sharing, accounting, and contract damages. These are purely monetary claims, which provide an adequate remedy at law and preclude injunctive relief.

All of Appellants' motions for injunctive relief have been denied because the trial court recognized that this case was not about property ownership, as it is clear that the Property in question was always owned only by Quinnipiac Associates. Appellants have no ownership interest in the Property, and, therefore, do not have the authority to encumber the Property. The case is about a split of the profits, but not about the Property itself. Thus, the

trial court ruled that an injunction and constructive trust were not warranted, as the Property was clearly not owned by Appellants. Appellants have no valid legal basis for making a claim for injunctive relief, and the trial court was correct in its ruling to deny all filed motions, as Appellants have no ownership rights in the Property. Without any right to ownership in the Property, they are not entitled to stop the sale of such Property, which has been rightfully upheld by the trial court. Before a Lis Pendens can be filed against a property, there must be an action affecting title to real property. *See Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 17 (Ct. App. 2002) ("Therefore, an action 'affecting the title to real property' clearly allows the filing of a lis pendens by an interested party in order to protect their ownership interest in the property subject to the litigation."). In this case, Appellants have no ownership interest in the property. Their claims sound only in contract, which has been recognized by the trial court on multiple occasions.

Thus, the facts and defects of this case fundamentally defeats any "colorable claim" that Appellants may have. Therefore, this appeal should be dismissed.

IV. Sanctions Are Appropriate

Appellants argue sanctions are inappropriate, but Rule 269 disagrees. Sanctions are allowed when appeals are brought for frivolous reasons or for delay purposes only. Here, Appellants have repeatedly filed identical motions, which were repeatedly denied by the trial court. It was apparent that such motions were filed merely to extend the appeal deadlines, as such motion, and this pending appeal, lack any legal merit.

Thus, Appellants' conduct warrants dismissal of the appeal as well as sanctions. Appellants filed this motion for frivolous reasons and only seek to delay this case. Appellants are attempting to assert control over property, over which they have no rights.

This Court should impose sanctions and dismiss this Appeal, with prejudice, as Appellants have filed an untimely appeal for frivolous reasons, without any basis in fact or law.

CONCLUSION

For the foregoing reasons and as previously argued, Robert Errato requests that this Court dismiss this appeal with prejudice.

March 26, 2026

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I certify that I have served the REPLY IN SUPPORT OF MOTION TO DISMISS THE APPEAL on RICHARD LEWIS, et al by depositing a copy by e-mail, on March 26, 2026, to the attorney of record, JASON M. IMHOFF, 37 VILLA RD STE, 420 GREENVILLE, SC 29615 e-mailto:Jason@imhoff-law.com.

March 26, 2026

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