

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 LUANNE MORGAN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BUNKERS ASSOCIATES A SOUTH )  
 CAROLINA GENERAL PARTNERSHIP, )  
 THE BUNKERS HORIZONTAL )  
 PROPERTY REGIME AND THE )  
 BUNKERS ASSOCIATION, INC., D/B/A )  
 BUNKERS HOMEOWNERS )  
 ASSOCIATION, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS

Civil Action No. 2025-CP-02-01037

**ORDER GRANTING DEFENDANTS’  
MOTION FOR SUMMARY  
JUDGMENT**



This matter is before the Court on the Motion for Summary Judgment filed by Defendants Bunkers Associates a South Carolina General Partnership, The Bunkers Horizontal Property Regime and The Bunkers Association, Inc. d/b/a Bunkers Homeowners Association (“Defendants”) October 10, 2025. Defendants contend they are entitled to Summary Judgment on the following grounds: 1) The Agreement through which the Plaintiff seeks relief is not a sealed instrument providing a twenty (20) year statute of limitations; therefore, the three-year statute of limitations applies and has expired; 2) The Defendants have already paid Plaintiff for the subject damages; and 3) Even if the lengthened statute of limitations applied, Plaintiff has exhausted the remedies provided by the instrument when she initiated, litigated, and settled the case against the prior owner in a separate action.

The Plaintiff filed a Memorandum in Opposition to the Defendants’ motion for summary judgment. Her memorandum sets forth her reasons as to why the Defendants’ motion should be denied, and in particular that there are genuine issues as to material fact with respect to the defenses the Defendants present in this case. The Plaintiff also sets forth the following additional reasons supporting her position

that the Defendants' motion should be denied. While the Court disagrees and grants Defendants' motion, the Plaintiff's positions are outlined here.

The Plaintiff first contends The Bunkers Horizontal Property Regime, where her condominium is located and where she resides, is governed by the South Carolina Horizontal Property Act, S.C. Code Ann. § 27-31-10, et seq. (1976), as well as the "The Bunkers Master Deed and Enabling Declaration" and "The Bylaws of the Bunkers Association Homeowners Association." The Plaintiff argues the Horizontal Property Act, as the Master Deed and By-Laws create and impose an affirmative duty upon the Defendants to make repairs to existing defects in the General Common Elements and structural components of the condominium regime irrespective of when those defects occur or when they are discovered, and until they are fixed correctly.

The Plaintiff contends this ongoing duty exists especially when the Master Deed and By-Laws prohibit owners of property within the condominium regime from making repairs themselves.

The Plaintiff further points to the fact owners of property within the Bunkers Horizontal Property Regime pay monthly fees and dues to the Regime, which include the cost of insurance coverage for those owners and the Defendants, to ensure that the common and structural elements and structural components of the regime are properly maintained and repaired on an ongoing basis.

The Plaintiff also contends even if the Horizontal Property Act does not impose this mandatory and ongoing duty and responsibility then both the Master Deed and By-Laws are sealed contractual instruments and subject to a 20-year statute of limitations pursuant to S.C. Code Ann. §15-3-520(b)(1976), allowing her claims to proceed in this case. As evidence to support her position, the Plaintiff points to the signatories to the Master Deed who made no less than four references to the fact that they are doing so "under seal". In further support of her position the Plaintiff points to the South Carolina Court of Appeals decision in *Lyons v. Fidelity National Title Insurance Co.*, 415 S.C. 115, 781 S.E.2d 126 (S.C. App. 2015). She argues that this decision was filed after the decision in the case of *Carolina Marine Handling, Inc. v.*

*Lasch*, 363 S.C. 169, 609 S.E.2d 548 (S.C. App. 2005), which the Defendants rely on to support their position in this case.

The Plaintiff also argues that the fact that she previously received payment from the Bunkers Homeowners Association for needed repairs to her condominium – without any accompanying release executed by her - or she received a settlement from the prior owner of her condominium unit, do not relieve the Defendants of the affirmative ongoing duty and responsibility to make additional repairs to the common elements and structural components of her residence. She submits that this is especially so given that she agrees that the Defendants are entitled to an offset in this case. memoranda submitted by the parties

Plaintiff submits she raises novel questions of law in South Carolina that should not be resolved on a motion for summary judgment.

Finally, the Plaintiff contends that virtually no discovery has been undertaken in this case and the Defendants’ motion for summary judgment is not yet ripe for consideration by this Court – in that respect the Plaintiff submits, at a minimum, questions of material fact exist with respect to the triable issues presented before me.

A hearing on the motion was held before the undersigned on November 12, 2025. Having considered the pleadings, applicable South Carolina statutory and common law, memoranda submitted by the parties, arguments of counsel, as well as the evidence in the record, for the reasons set forth below, Defendants’ Motion for Summary Judgment is GRANTED with respect to all causes of action.

### **FINDINGS OF FACT**

This lawsuit arises out of alleged construction defects at Plaintiffs’ property caused by a prior owner. Plaintiff’s property is located within the Bunkers Homeowners Association. (Compl. ¶ 10). The Bunkers Homeowners Association has a Master Deed and Bylaws in place. (Exhibit 1 to Defendants’

Memorandum in Support of Motion for Summary Judgment); (Exhibit 2 to Defendants' Memorandum in Support of Motion for Summary Judgment). The Master Deed was signed on July 30, 1975, and the Bylaws were an exhibit to and incorporated in the Master Deed. (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment). Below is the signature portion of the Master Deed:

IN WITNESS WHEREOF, the undersigned hereby sets its  
 Hand and Seal this 30<sup>th</sup> day of July, 1975.

IN THE PRESENCE OF:

\_\_\_\_\_

\_\_\_\_\_

BUNKERS ASSOCIATES, Partnership  
 BY: Robert E. Penland  
 HOUNDSLAKE CORPORATION  
 Robert E. Penland, President  
 PARTNER

BY: Howard M. Moormann  
 ALEXANDER-MOORMANN & ASSOCIATES  
 Howard M. Moormann, Partner  
 PARTNER

BY: \_\_\_\_\_  
 MCKNIGHT CONSTRUCTION COMPANY  
 Mason H. McKnight, Jr., President  
 PARTNER

According to the Complaint, Plaintiff purchased the property in April 2018. (Compl. ¶ 15). Though the Complaint does not provide a specific date, Plaintiff alleges she “became aware that certain portions and components of her home had been altered, repaired and/or renovated by its prior owner” in a defective manner and in violation of Defendants’ Master Deed and Bylaws. (Compl. ¶¶ 16-18). Plaintiff had a water leak in her upstairs bathroom in September 2018, and a contractor was hired to repair the damage from that leak in December 2018. (Exhibit 3 to Defendants’ Memorandum in Support of Motion for Summary Judgment).

As part of the repairs, the contractor had to tear down the ceiling between the kitchen and dining areas of Plaintiff’s property. (Exhibit 3 to Defendants’ Memorandum in Support of Motion for Summary Judgment). Upon removal of the ceiling, the contractor discovered that a load bearing support beam was missing, and Plaintiff authorized them to replace the load bearing beam. (Exhibit 3 to Defendants’

Memorandum in Support of Motion for Summary Judgment). Plaintiff was charged \$4,500 for the repaired water damage and replacement beam. (Exhibit 3 to Defendants' Memorandum in Support of Motion for Summary Judgment).

On February 14, 2019, Defendants paid Plaintiff a total of \$6066.40 for the following: 1) \$4,500 for the replacement beam; 2) \$1,000 for the insurance deductible related to the water damage; and 3) \$566.40 for incidentals. (Exhibit 4 to Defendants' Memorandum in Support of Motion for Summary Judgment).

On April 12, 2021, Plaintiff filed suit against the prior property owner in *Luanne Morgan v. Delores Denero* Aiken County Common Pleas 2021-CP-02-00745. (Exhibit 5 to Defendants' Memorandum in Support of Motion for Summary Judgment). The Defendants in the instant action were not parties to the *Denero* suit. Plaintiff settled her claims in the *Denero* suit via mediation. (Exhibit 6 to Defendants' Memorandum in Support of Motion for Summary Judgment).

In the current lawsuit, Plaintiff seeks to recover the same damages, for a third time (twice via lawsuit), based on allegations that Defendants breached the terms of the Master Deed and Bylaws governing the property by failing to repair the "defective condition" of Plaintiff's property.

The Master Deed states an owner is not to make "any structural addition or alteration to his Unit or to the General Common Elements" without prior consent. (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment). General Common Elements, as defined in the Master Deed, include "interior bearing walls." (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment). The Master Deed provides that Defendants can pursue repayment from the owner of the costs of returning the property to its prior condition. (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment).

Plaintiff filed her current suit on April 21, 2025, which was: 1) almost six and a half years after discovering the allegedly defective condition of her property in December 2018; 2) six years after Defendants paid her \$6066.40 in February 2019; and 3) four years after she filed suit against the prior owner in April 2021.

### **STANDARD OF REVIEW**

"The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002), citing Rule 56(c), SCRPC. When considering a motion for summary judgment, all inferences which can be reasonably drawn from the evidence before the court are viewed in the light most favorable to the nonmoving party. *Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 361, 563 S.E.2d 331, 333 (2002). The South Carolina Supreme Court has consistently held that a Motion for Summary Judgment must be granted where the undisputed evidence shows no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Laughridge v. Parkinson*, 403 S.E.2d 120, 122 (S.C. 1991) (quoting *S.C. Elec. & Gas Co. v. Combustion Engineering, Inc.*, 322 S.E.2d 453, 457 (S.C. Ct. App. 1984)).

In applying Rule 56(c), South Carolina courts apply the "genuine issue of material fact" standard set forth in the Rule, requiring the party opposing the motion to show a "reasonable inference" to be drawn from the evidence. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 461, 892 S.E.2d 297, 300 (2023).

### **CONCLUSIONS OF LAW**

Plaintiff has filed a breach of contract action against Defendants based on an alleged failure to repair the "defective condition" of Plaintiff's property as required by the Master Deed and Bylaws. This Court finds the lawsuit was filed outside of the applicable statute of limitations and must be dismissed as

a matter of law.

Additionally, Plaintiff has already recovered for the alleged damages to her property from Defendants and the prior owner and cannot recover for a third time. Finally, Plaintiff stepped into the shoes of Defendants and pursued the remedy available under the Master Deed when she filed suit against the prior owner and did not include Defendants in that litigation.

**I. Plaintiff filed her lawsuit after the applicable statute of limitations had run.**

An action for breach of contract must be commenced within three years. S.C. Code Ann. § 15-3-530(1) (2005). Under "the discovery rule, the statute of limitations begins to run when a cause of action reasonably ought to have been discovered." *Dean v. Ruscon Corp.*, 321 S.C. 360, 363, 468 S.E.2d 645, 647 (1996). "The discovery rule applies to breach of contract actions." *Prince v. Liberty Life Ins. Co.*, 390 S.C. 166, 169, 700 S.E.2d 280, 282 (Ct. App. 2010).

"Pursuant to the discovery rule, a breach of contract action accrues not on the date of the breach, but rather on the date the aggrieved party either discovered the breach, or could or should have discovered the breach through the exercise of reasonable diligence." *Maher v. Tietex Corp.*, 331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998). Based on the evidence in the record, Plaintiff became aware of the "structural alteration" to her property in December 2018 when contractors were repairing water damage. (Exhibit 3 to Defendants' Memorandum in Support of Motion for Summary Judgment). Therefore, the statute of limitations on Plaintiff's breach of contract claim related to the beam ran in December 2021. Plaintiff filed this lawsuit on April 21, 2025, forty months after her statute of limitations had run.

Plaintiff takes the position that the Master Deed is a sealed instrument, which extends the applicable statute of limitations. When a sealed instrument is involved, the statute of limitations is extended to 20 years. See *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175, 609 S.E.2d 548, 553 (Ct. App 2005). However, this Court finds that the mere presence of an attestation of "the parties have hereunto set their hands and seals" is insufficient to create a sealed instrument. *Id.* at 177.

This is the same language used on the signature page of the Master Deed at issue in this case. (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment). The Master Deed does not contain any other language or indication that the parties intended it to be a sealed instrument. Therefore, the twenty-year statute of limitations does not apply, and instead, the three-year statute of limitations applies. Plaintiff's claims are outside of the applicable three-year statute of limitations.

## **II. Plaintiff has already recovered the damages she is seeking in this lawsuit.**

"It is a fundamental rule of law in this state that there can be no double recovery for a single wrong." *Inman v. Imperial Chrysler-Plymouth, Inc.*, 303 S.C. 10, 13, 397 S.E.2d 774, 776 (Ct. App. 1990). "Plaintiffs may only recover once for their actual damages." *Id.* Plaintiff recovered \$6,066.40 from Defendants on February 14, 2019. (Exhibit 4 to Defendants' Memorandum in Support of Motion for Summary Judgment).

Plaintiff then filed suit against the prior owner and recovered for a second time when she settled that claim. (Exhibit 6 to Defendants' Memorandum in Support of Motion for Summary Judgment). In the current lawsuit, Plaintiff seeks to recover the same damages arising out of the structural beam being removed from her property, which she has already recovered on two prior occasions. Allowing Plaintiff to recover for these damages a third time would violate the rule of law in South Carolina on the issue of double recovery; therefore, Plaintiff's claims must be dismissed.

Additionally, Plaintiff has already received the benefit of the remedy provided for in the Master Deed and now seeks a double recovery for the same alleged damages. Specifically, Plaintiff alleges that the prior owner of her property conducted defective alterations to the property in violation of the Master Deed and Bylaws and that Defendants breached the terms of these agreements by failing to repair the defective condition. (Compl. ¶¶ 15-18, 21-22).

However, the Master Deed provides that if an owner makes alterations in violation of the Master Deed and Bylaws, Defendants may pursue repayment of the costs incurred returning the property to its prior condition. (Exhibit 1 to Defendants' Memorandum in Support of Motion for Summary Judgment). Plaintiff stepped into the shoes of Defendants and pursued the available remedy when she filed suit against the previous owner for damages caused by the defective alterations, which she settled. (Exhibits 5 and 6 to Defendants' Memorandum in Support of Motion for Summary Judgment). Plaintiff cannot now seek to recover again from these Defendants for the same damages. Therefore, dismissal of all of Plaintiff's claims against Defendants is appropriate.

### **CONCLUSION**

Having reviewed the pleadings for this matter, the parties' memoranda, the parties' arguments as outlined above, I find there are no genuine issues of material fact and further discovery in this matter would not assist this Court. Based on the foregoing, the Motion for Summary Judgment filed by Defendants Bunkers Associates a South Carolina General Partnership, The Bunkers Horizontal Property Regime and The Bunkers Association, Inc. d/b/a Bunkers Homeowners Association is GRANTED and this case is dismissed with prejudice.

**IT IS SO ORDERED!**

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Aiken Common Pleas

**Case Caption:** Luanne Morgan VS Bunkers Associates , defendant, et al

**Case Number:** 2025CP0201037

**Type:** Order/Other

So Ordered

The Honorable Courtney Clyburn Pope