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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Courtney Clyburn Pope, Circuit Court Judge

Appellate Case No. 2026-000846

Lower Court Case No. _____

Luanne Morgan, Appellant,

v.

Bunkers Associates, a South Carolina General Partnership, The Bunkers
Horizontal Property Regime, and The Bunkers Association, Inc., d/b/a
Bunkers Homeowners Association, Respondents.

INITIAL BRIEF OF RESPONDENTS

McANGUS, GOUDELOCK & COURIE, LLC
George C. James, III
1320 Main Street, 10th Floor
Columbia, South Carolina 29201
Telephone: (803) 779-2300
george.james@mgclaw.com

Jeffrey Kuykendal
Post Office Box 30307
6302 Fairview Road, Suite 700
Charlotte, North Carolina 28226
Telephone: (704) 643-6303
jeffrey.kuykendal@mgclaw.com

Attorneys for Respondents

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COUNTERSTATEMENT OF ISSUES ON APPEAL

1. Did the Circuit Court err by granting summary judgment to Respondents, Bunkers Associates, a South Carolina General Partnership, The Bunkers Horizontal Property Regime, and The Bunkers Association, Inc., d/b/a Bunkers Homeowners Association (collectively “the Bunkers Homeowners Association”)?

STATEMENT OF THE CASE

This appeal arises from a lawsuit filed years after the statute of limitations expired and alleges damages for which Appellant, Luanne Morgan (“Appellant”) has already been paid. Thus, the Circuit Court’s decision to grant summary judgment should be affirmed.

STATEMENT OF FACTS

Appellant purchased her property located within the Bunkers Homeowners Association in April 2018. (R pp ____ Complaint at ¶¶ 10 & 15). The Bunkers Homeowners Association, like many communities, has a Master Deed and Bylaws in place. (R pp ____ Master Deed and Bylaws). The Master Deed was signed on July 30, 1975, and the Bylaws were an exhibit to, and incorporated in, the Master Deed. (R pp ____ Master Deed at pp 39 & 47). Above the signature lines on the Master Deed it provides: “IN WITNESS WHEREOF, the undersigned hereby sets its Hand and Seal this 30th day of July, 1975.” (R pp ____ Master Deed at 47). No seals were placed on the document. (R pp ____ Master Deed).

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. (R pp ____ Master Deed at p 14). General Common Elements, as defined in the Master Deed, include “interior bearing walls.” (R pp ____ Master Deed at p 4). The Master Deed provides that the Bunkers Homeowners Association can pursue repayment from the owner of the costs of returning the property to its prior condition. (R pp ____ Master Deed at p 14-15).

At some point soon after moving into the property, Appellant “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 the Master Deed and Bylaws. (R pp ____ Complaint at ¶¶ 16-18).

In December 2018, after noticing a water leak, Appellant hired a contractor to repair that damage. (R pp ____ Invoice for Repairs). As part of the repairs, the contractor had to tear down the ceiling between the kitchen and dining areas of Appellant's property. (R pp ____ Invoice for Repairs). Upon removal of the ceiling, the contractor discovered that repairs or renovations by the prior owner were performed in a defective matter and impacted the structural integrity of the home, including the removal of a load bearing support beam. (R pp ____ Invoice for Repairs and Complaint at ¶ 17). Appellant authorized the contractor to replace the load bearing beam. (R pp ____ Invoice for Repairs). Appellant was charged \$4,500 for the repairs due to the water damage and the replacement of the support beam. (R pp ____ Invoice for Repairs).

On February 14, 2019, the Bunkers Homeowners Association paid Appellant a total of \$6,066.40. (R pp ____ Payment to Appellant). The payment consisted of \$4,500 for the replacement beam; \$1,000 for the insurance deductible related to the water damage; and \$566.40 for incidentals. (R pp ____ Payment to Appellant).

Despite having been reimbursed by the Bunkers Homeowners Association for the damage caused by replacing the support beam, on April 12, 2021, Appellant filed a lawsuit against the prior property owner in *Luanne Morgan v. Delores Denero* Aiken County Common Pleas 2021-CP-02-00745. (R pp ____ Morgan v. Denero Complaint and Complaint at ¶ 19). the Bunkers Homeowners Association was not a party to that lawsuit. (R pp ____ Morgan v. Denero Complaint). Appellant settled her claims in that lawsuit via mediation and received another \$10,000.00 for the alleged deficient work. (R pp ____ Morgan v. Denero Proof of ADR; Plaintiff's Memorandum in Opposition to Defendants' Motion for Summary Judgment at p 3).

Despite the work performed by her contractor and her settlement with the prior owner, Appellant contends the defective condition of her home persists. (R pp ____ Complaint at ¶¶ 19-20).

On April 21, 2025, Appellant filed her lawsuit against the Bunkers Homeowners Association alleging it breached the terms of the Master Deed and Bylaws by failing to repair the “defective condition” of the property. (R pp ____ Complaint at ¶¶ 20-22).

On October 10, 2025, the Bunkers Homeowners Association filed a motion for summary judgment (R pp ____ Motion for Summary Judgment). After submissions of briefs, the Court concluded that Appellant’s claims were barred by the three-year statute of limitations and Appellant had already recovered the damages she is seeking in the lawsuit. (R pp ____ Order Granting Defendants’ Motion for Summary Judgment).

ARGUMENT

Summary judgment in favor of the Bunkers Homeowners Association was appropriate for three reasons, each of which entitle the Bunkers Homeowners Association to summary judgment. First, Appellant’s claims against the Bunkers Homeowners Association are barred by the applicable statute of limitations. Second, Appellant is not entitled to a double (or in this case triple) recovery. Third, Appellant has exhausted her remedies under the Master Deed and Bylaws.

A. Appellant’s Claims are Barred by the Applicable Statute of Limitations.

An action for breach of contract must be commenced within three years. S.C. Code Ann. § 15-3-530(1). 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).

Here, there can be no dispute that Appellant discovered the damage to her property by December 2018 when her contractor repaired her water damage and replaced the support beam. Accordingly, Appellant’s claims are untimely when the three-year statute of limitations is applied.

Appellant appears to make two arguments to counter the untimeliness of her lawsuit. First, she alleges the Bunkers Homeowners Association has an “ongoing and continuous duty” to repair the structural components of her property, which she alleges restarts the statute of limitations every day the repairs are not made. Second, she alleges her claims are subject to a twenty-year statute of limitations. Both of Appellant’s arguments are unavailing.

1. The statute of limitations does not start anew every day.

Appellant’s argument that the Bunkers Homeowners Association has an “ongoing and continuous duty” to repair structural components of the properties within the community is a red herring. Even accepting that such a duty exists, that duty does not perpetually extend the statute of limitations for the specific damages there were identified, repaired, the subject of an insurance claim, reimbursed, and the subject of a lawsuit against the prior owner. There should be no dispute that Appellant herself was aware of the alleged structural issues with her property no later than December 2018. Accordingly, to the extent she has a claim against the Bunkers

Homeowners Association, she had three years from December 2018 to file it. *See Dean*, 321 S.C. at 363, 468 S.E.2d at 647; *Maher*, 331 S.C. at 377, 500 S.E.2d at 207.

2. Appellant's claims are subject to the three-year statute of limitations and not the twenty-year statute of limitations.

Appellant's second argument fails no better.

While a twenty-year statute of limitations applies to breach of contract claims involving sealed instruments, the Master Deed and Bylaws are not sealed instruments. *See* S.C. Code Ann. § 15-3-520(b). *See Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175, 609 S.E.2d 548, 553 (Ct. App 2005). In *Carolina Marine*, the parties had entered a lease, which included the provision "IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this ____ day of December, 1996" and the date of the contract was written in the blank space. *See id.* at 172, 609 S.E.2d at 550. The plaintiff argued the language in the lease required that the 20-year statute of limitations for a sealed instrument apply. *See id.* at 174-175, 609 S.E.2d at 551-552. The Court of Appeals held that the generic language is common in non-sealed contracts of all types and, by itself, does not provide the requisite evidence to create a sealed instrument. *See id.* at 175, 609 S.E.2d at 552. Thus, the Court applied the three-year statute of limitations. *See id.* at 176, 609 S.E.2d at 552; *see also Clifton, LLC v. Tadlock*, 2012 U.S. Dist. LEXIS 35659 at * 15-16 (D.S.C. 20212) (Court held lease provision that it was "signed, sealed and delivered" was insufficient to demonstrate an intent that the document be sealed).

Here, the language in the Master Deed is almost identical to the lease in *Carolina Marine*. Also similarly here, there is no evidence the parties to the Master Deed intended the instrument to be sealed and no seals were in fact affixed. Rather than provide or cite to any evidence of the requisite intent, Appellant argues the case of *Lyons v. Fidelity National Title*

Insurance Co., 415 S.C. 115, 781 S.E.2d 126 (Ct. App. 2015) compels a different result. It does not.

In *Lyons*, the applicable document had an actual seal on its face, as opposed to solely relying on generic language. *See id.* at 127-128, 781 S.E.2d at 132. Thus, given the presence of the seal on the face of the document, which was next to the president's signature, the Court determined there was sufficient evidence of the intent to create a sealed instrument. *See id.* at 129, 781 S.E.2d at 133.

Clearly, the facts of this case more closely resemble those in *Carolina Marine*. Appellant does not, because she cannot, point to any evidence of an intent to create a sealed instrument other than the generic language that mirrors the language used in *Carolina Marine*. Accordingly, the same result is required and Appellant's claims are subject to the three-year statute of limitations and not the twenty-year statute of limitations.

Accordingly, Appellant's claims were filed outside the applicable statute of limitations and the Bunkers Homeowners Association is entitled to summary judgment.

B. Appellant is not Entitled to a Double (or Triple) Recovery.

"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.* It is undisputed that Appellant recovered \$6,066.40 from the Bunkers Homeowners Association on or about February 14, 2019. Additionally, Appellant then filed a lawsuit against the prior owner for the same damages and received another settlement for those damages. Any further recovery is impermissible given any such recover would constitute a double (or triple) recovery.

C. Appellant has Exhausted her Remedies under the Master Deed and Bylaws.

The Master Deed provides that if an owner makes alterations in violation of the Master Deed and Bylaws, the Bunkers Homeowners Association may pursue repayment of the costs incurred returning the property to its prior condition. Here, Appellant alleged that the prior owner made alterations in violation of the Master Deed and Bylaws, pursued repayment of the costs incurred in returning the property to its prior condition and was paid those costs.

Therefore, Appellant has exhausted any available remedies and cannot now seek to recover yet again for the same damages to return the property to its prior condition.

CONCLUSION

For the reasons stated herein, this Court should affirm the decision to grant summary judgment to the Bunkers Homeowners Association.

Respectfully submitted,

July 29, 2026

McANGUS, GOUDELOCK & COURIE, LLC

s/Jeffrey Kuykendal
Jeffrey Kuykendal (SC Bar No. 107154)
Post Office Box 30307
6302 Fairview Road, Suite 700
Charlotte, North Carolina 28226
Telephone: (704) 643-6303
jeffrey.kuykendal@mgclaw.com

George C. James, III (SC Bar No. 102745)
1320 Main Street, 10th Floor
Columbia, South Carolina 29201
Telephone: (803) 779-2300
george.james@mgclaw.com

Attorneys for Respondents