

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Richard Young and Jason Greene

Plaintiffs,
v.

John W. Beasley a/k/a John W. Beasley, Sr.
and Lillian Beasley in their individual
capacities and as Trustees or as successors in
trust under the Beasley Living Trust dated
August 14, 2018 and any amendments
thereto, Bob Hollow Investments, LLC, Anna
Pruitt, Seaside Plantation Property Owners
Association, Inc., South Carolina Department
of Revenue, and the United States of America
by and through its agency the Internal
Revenue Service,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-10-03510

**ORDER DENYING THE BEASLEYS
MOTION FOR RECONSIDERATION**

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SC Court of Appeals

THIS MATTER CAME BEFORE THE UNDERSIGNED on a Motion for Reconsideration, filed on September 1, 2023, on behalf of John W. Beasley a/k/a John W. Beasley, Sr. and Lillian Beasley in their individual capacities and as Trustees or as successors in trust under the Beasley Living Trust dated August 14, 2018 and any amendments thereto (collectively, “Beasleys” or the Beasley Defendants”). A hearing was held on September 27, 2023. Present at said hearing were Ian D. McVey and Joey Floyd for Plaintiffs Richard Young and Jason Greene (collectively, “Plaintiffs”). The Plaintiffs were also present. Cheryl D. Shoun, R. Markley Dennis, Jr., Rhett Ricard, John C. Johnston and Victoria W. Kurtz appeared for Defendants the Beasley Defendants. None of the Defendants were present.

This Court has carefully reviewed the memoranda submitted by the parties, the affidavits submitted by Plaintiffs in support of their motion for summary judgment and carefully listened to

the arguments of counsel at every hearing in this matter.¹ At its core, the Beasley Defendants argument is that this Court should inject an additional term into the Settlement Agreement (executed in late November/early December 2020, referred to herein as “Second Settlement Agreement”). To be more specific, the Beasley Defendants are seeking an Order of this Court to require the Plaintiffs to satisfy the Promissory Note dated November 20, 2017 and Mortgage dated November 20, 2017, recorded December 8, 2017 in the office of Register of Deeds in Book 0684 at page 902, executed and delivered by the Beasley Defendants in late November/early December of 2017 in connection with what has been referred to as the “First Settlement Agreement.” As more fully set forth in this Court’s Order granting Plaintiffs’ Motion for Summary Judgment, there is no such requirement in the Second Settlement Agreement.

The Beasley Defendants acknowledge in their Motion for Reconsideration that the words “Note” and “Mortgage” do not appear in the Second Settlement Agreement. In spite of the fact that the words “Note” and “Mortgage” do not appear in the Second Settlement Agreement, the Beasley Defendants arguments twist the plain meaning of words and cherry-pick certain clauses, out of context, in the Second Settlement Agreement in an effort to persuade this Court to inject an additional term into the Second Settlement Agreement. “A contract is read as a whole document so that one may not create an ambiguity by pointing out a single sentence or clause.” *McGill v. Moore*, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009).

A simple reading of the Second Settlement Agreement clearly reveals that the intent of the Second Settlement Agreement was to release the Confession of Judgment executed and delivered by the Beasley Defendants as part of the First Settlement Agreement as to certain Defendants. Numbered paragraphs 1 and 2 of the Second Settlement Agreement clearly delineate the

¹ Defendants have submitted no affidavits in support of any of its motions nor in opposition to Plaintiffs’ Motion for Summary Judgment.

consideration to be paid (paragraph 1) and the obligation of the Plaintiffs to file the Release of Judgment Lien as to Specific Property, Release of Judgment Lien as to Certain Defendants, and Partial Satisfaction of Judgment (paragraph 2). There is no obligation or requirement that the Plaintiffs satisfy the Note and Mortgage in the Second Settlement Agreement. In fact (and as previously noted in the Court's August 23, 2023, Order Granting Summary Judgment), the words Note and Mortgage appear nowhere in the Second Settlement Agreement nor the Release of Judgment Lien as to Specific Property, Release of Judgment Lien as to Certain Defendants, and Partial Satisfaction of Judgment. Had the parties intended for the Plaintiffs to be obligated to satisfy the Note and Mortgage, the parties would have inserted a simple phrase that stated: "Plaintiffs shall file a Satisfaction of Mortgage." Therefore, there is no obligation under the Second Settlement Agreement for the Plaintiffs to satisfy the Mortgage, and the Plaintiffs are entitled to pursue their remedy of foreclosure of the mortgage.

The Beasley Defendants noted in their Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment that there were no issues of material fact. ("The Beasleys agree that there are no issues of material fact that exist in this case..." See *Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment*, filed August 8, 2023 at 8:39 a.m., Page 7, second sentence of the paragraph just before the Conclusion paragraph of the memorandum.). Notwithstanding this statement, the Beasley Defendants suggested to this Court during the hearing on September 27, 2023, that there were eight issues of fact, none of which were raised by the Beasley Defendants in their Memorandum of Opposition to Summary Judgment. See *Patterson v. Reid*, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995) ("A party cannot for the first time raise an issue by way of a Rule 59(e)[, SCRCp,] motion which could have been raised at trial."); *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 567, 762 S.E.2d 693, 695

(2014) (“[A] party cannot use a Rule 59(e)[, SCRPC,] motion to advance an issue the party could have raised to the [trial] court prior to judgment, but did not.”). This Court agrees with the first position taken by the Beasley Defendants – that there are no genuine issues of material fact. *The Kitchen Planners, LLC v. Friedman*, Opinion No. 28173 issued on August 23, 2023. (“We now clarify that the “mere scintilla” standard does not apply under Rule 56(c). Rather, the proper standard is the “genuine issue of material fact” standard set forth in the text of the Rule.” The court went on to restate, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.”)

Notably, the Beasley Defendants did not submit any Affidavits in connection with their response to Plaintiffs’ Motion for Summary Judgment. In fact, Defendants have offered no evidence in opposition to Plaintiffs’ Motion for Summary Judgment and simply attempt to rely on their pleadings. The Beasley Defendants cannot simply rely on, or rest on, the allegations in the pleadings. See *Singleton v. Sherer*, 377 S.C. 185, 197–98, 659 S.E.2d 196, 203 (Ct. App. 2008). The Plaintiffs’ Affidavits were unopposed and clearly notate that the debt owed by the Beasley Defendants has not been paid and clearly sets forth the undisputed payments (totaling \$75,000.00) made by, or on behalf of, the Beasley Defendants.

Having carefully reviewed this Court’s prior ruling(s), reviewed all memoranda and having heard the arguments of Counsel, IT IS HEREBY ORDERED THAT the Beasley Defendants’ Motion for Reconsideration is hereby DENIED.

IT IS SO ORDERED.

- Signature page of Judge follows -



Charleston Common Pleas

Case Caption: Richard Young , plaintiff, et al VS John W Beasley , defendant, et al

Case Number: 2022CP1003510

Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062