

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Courtney Clyburn Pope, Circuit Court Judge

Appellate Case No. 2026-000846

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.

FINAL REPLY BRIEF OF APPELLANT

Clarke W. McCants, III
Clarke W. McCants, IV
McCants & McCants
Post Office Box 2881
Aiken, S.C. 29802
Attorneys for Appellant

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REPLY ARGUMENTS

1. THE CIRCUIT COURT ERRED BY CONCLUDING THE RESPONDENTS DO NOT HAVE AN AFFIRMATIVE AND ONGOING DUTY UNDER THE FACTS OF THIS CASE TO REPAIR THE GENERAL COMMON ELEMENTS OF THE BUILDING WHERE MS. MORGAN'S CONDOMINIUM IS LOCATED.

In their Counter Statement of Issues on Appeal the Respondent characterizes the nature of this case as “as a lawsuit filed years after the statute of limitations expired and alleges damages” for which Ms. Morgan has already been paid. This statement incorrectly sets forth the nature of Ms. Morgan's claims.

As set forth in her second cause of action Ms. Morgan asks the Court to order the Respondents to take specific and affirmative action. (R. p. 15). She contends the Master Deed, the Bylaws and the South Carolina Horizontal Property Act (“the Act”) require the Respondents - even today - to repair those parts of the General Common Elements of the Bunkers which are part of her home. Those repairs have not been made correctly to date and they should be made until they are properly completed.

The Respondents cast Ms. Morgan's claim for specific relief as a “Red Herring”, somehow intentionally designed by her counsel to lead this Court away from the issue of whether Ms. Morgan asked for relief on a timely basis. The Respondents cite no authority in their Brief which supports a position that an ongoing duty to repair does not exist with respect to the common elements of property located within a horizontal property regime. They simply contend Ms. Morgan did not request her relief within the applicable statute of limitations.¹

¹ The Respondents did not raise a “statute of limitations” defense in their Answer for this case. (R. pp. 17-22). While Ms. Morgan contends that her case was timely filed within the 20-year statute applicable to “sealed” documents, she has consistently asserted that the Respondents duty is ongoing and continues until the needed repairs are made.

Absent the existence of binding authority to the contrary, Ms. Morgan submits a grant of summary judgment was not proper in this case, in that the terms and provisions of the Master Deed and Bylaws, as well as the Act, impose an ongoing duty on the Respondents to make the necessary repairs to the Common General Common Elements located in her home.

2. THE CIRCUIT COURT ERRED BY RULING MS. MORGAN’S CLAIMS IN THIS CASE ARE BARRED BY A THREE-YEAR STATUTE OF LIMITATION.

If a statute of limitations applies in this case the Respondents fail to resolve the apparent conflict in the decisions of this Court in Carolina Marine Handling, Inc. v. Lasch, 363 S.C. 169, 609 S.E.2d 548 (S.C. App. 2005) and Lyons v. Fidelity National Title Insurance Co., 415 S.C. 115, 781 S.E.2d 126 (S.C. App. 2015).

The Respondents agree the issue of whether a document is executed “under seal” depends on the intent of those who signed the documents. They, however, assert that the absence of a formal, imprinted “seal” on a document is irrefutable evidence establishing the intent of the parties, as a matter of law. Nothing in either decision of this Court supports such a conclusion.

Thus, the issue of whether the Master Deed and Bylaws are “sealed” documents remains a genuine issue of material fact in this case, and summary judgment based upon a statute of limitations was not proper.

3. THE CIRCUIT COURT ERRED BY RULING AS A MATTER OF LAW THAT MS. MORGAN IS BARRED FROM SEEKING RELIEF IN THIS CASE DUE TO PAYMENTS MADE FOR REPAIRS TO HER CONDOMINIUM.

In their Brief the Respondents misapprehend the effect of Ms. Morgan having received sums of money for the failed repair of the General Common Elements located in her home. Nothing in the Master Deed, Bylaws or the Act allows the Respondents to satisfy their ongoing and

affirmative duty and responsibility to repair the common elements of The Bunkers simply by paying money to property owners living there. Allowing the Respondents to do so negates the express provisions of those instruments, as well as the Act, which imposes a specific duty upon the Respondents to make needed repairs themselves.

The Respondents further fail to address how they are prejudiced if this Court imposes such an affirmative duty on them. Ms. Morgan agrees that once the Respondents recognize and accept their obligation to repair and maintain the Common General Common Elements located in her home, they should be allowed to claim a credit for the costs they incur in making such repairs.

CONCLUSION

For the reasons stated, this Court should reverse the Order of the Circuit Court granting summary judgment to the Respondents and remand this matter for further proceedings.

Respectfully Submitted,

MCCANTS AND MCCANTS

Clarke W. McCants, III
Clarke W. McCants, III
S.C. Bar No. 3725
Clarke W. McCants, IV
S.C. Bar No. 103228
Post Office Box 2881
Aiken, South Carolina 29802
(803) 649-6200, Extension 3
Attorneys for Appellant

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