

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

IN THE COURT OF COMMON PLEAS)
FOURTEENTH JUDICIAL CIRCUIT)
CASE NO. 10-CP-03-217)

WILLIE THOMAS,)
)
PLAINTIFF,)
)
vs.)

OTIS DANIELS, CARRIE SAXON)
n/k/a CARRIE SAXON CREECH)
AND JOHN DOE,)

DEFENDANTS/COUNTERCLAIM)
PLAINTIFF,)

vs.)

TOWN OF ALLENDALE AND)
TOWN OF ALLENDALE)
FORFEITED LAND COMMISSION,)

THIRD PARTY DEFENDANTS.)

ORDER

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SC Court of Appeals

This matter is before me by Order of Reference from the County of Allendale, South Carolina, with authority to enter a final judgment in the case with any appeal therefrom to be directed to the South Carolina Supreme Court of Appeals.

A hearing was held on May 14, 2012. Present at the hearing were the Plaintiff Willie Thomas and his attorney, Martha M. Rivers, the Defendant Carrie Saxon Creech and her attorney, Walter H. Sanders, Jr. and a representative for the Defendant Town of Allendale and its attorney, J. Martin Harvey.

Evidence was presented that the Third-Party Defendant, The Town of Allendale, agreed that the Tax Sale was defective and allowed the Defendant, Carrie Saxon Creech, to redeem the property on November 18, 2009. The Third Party Defendant notified the Plaintiff that the Tax Sale of November 5, 2007 had been set aside and the Tax Deed

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issued as a result of the sale on February 17, 2009 was void. Tanya Ward, Finance Director for the Town of Allendale, testified that on or around February 15, 2010, the Plaintiff, Willie Thomas, after notice, appeared at the Allendale Town Hall. Ms. Ward advised him that the Tax Sale was defective and that the Town of Allendale had allowed the Defendant, Carrie Saxon Creech, to redeem the property. Since he had received a Tax Deed to the property, The Town of Allendale requested the he execute a Quit Claim Deed to the Defendant, Carrie Saxon Creech. The Plaintiff refused to execute a Quit Claim Deed, even though he had been advised that his title was defective.

The primary code section of the Betterments Statute provides:

After final judgment in favor of the plaintiff in an action to recover lands and tenements, if the defendant has purchased the lands and tenements recovered in such action or taken a lease thereof or those under whom he holds have purchased a title to such lands and tenements or taken a lease thereof, supposing at the time of such purchase such a title to be good in fee or such a lease to convey and secure the title and interest therein expressed, such defendant shall be entitled to recover of the plaintiff in such action the full value of all improvements made upon such land by such defendant or those under whom he claims, in the manner provided in this chapter. S.C. Code § 27-27-10.

Based on this statutory language, the individual claiming the betterments must demonstrate a belief that his title is good in fee. *Reaves v. Stone*, 231 S.C. 628, 99 S.E.2d 729, (1957).

For the Plaintiff to prevail on this claim, he is required to show that he had a good faith belief he had a good title to property in question when he made any improvements. The uncontradicted evidence was that on or about February 15, 2010 the Plaintiff was made aware that his title was defective and that he did not have good title. Any claim for recovery under the Betterments Statute for improvements after February 15, 2010 must fail.

Even assuming the Plaintiff has established a good faith belief that he had a good

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title to the property, he failed to prove damages under the Betterments Statute. The measure of recovery under the statute is the difference in the fair market value of the property before the improvements and after the improvements. *Butler v. Lindsey*, 293 S.C. 466, 361 X.2d 621, (Ct. App. 1987) S.C. Code § 27-27-20 provides:

The sum which such land shall be found at the time of the rendition of such judgment to be worth more, in consequence of improvements so I made, that it would have been had no such improvements or betterments been made shall be deemed to be the value of such improvements or betterments.


To recover under the Betterments Statute, the Plaintiff was required to show the value of his improvements and present evidence from which a finder of fact could determine the value of the land with the improvements and without the improvements. *Hall v. Boatwright*, 58 S.C. 544, 36 S.E. 1001, (1900); see *Dunham v. Davis*, 232, S.C. 175, 101 S.E.2d 278, (1957); *Howard v. Kirton*, 144 S.C. 89, 147 S.E. 39, (1928) (interpreting the Betterments Statute and stating, "[t]he full value, therefore, does not mean the cost of such improvements, or the value thereof, as of the time they were made, but their value at the time of the final judgment in ejectment"). The Plaintiff did present evidence about the costs of improvements, but he failed to offer evidence regarding the value of the land before and after the improvements. As a result, his claim for any recovery under the Betterments Statute must fail.

AND IT IS SO ORDERED.

Dated:

11/20/13

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A.G. Solomons, Jr.
Special Referee
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