

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

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AUG 25 2014

**APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS**

SC Court of Appeals

EDGAR W. DICKSON , First Circuit

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

V.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

REPLY BRIEF

**“Motion to Reconsider” and “Motion to Vacate”
Appellant # 2013-002311**

**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville, SC 29485
843-873-0976**

Attorney Frank M. Cisa , for respondent

TABLE OF AUTHORITIES

Cheraw & C.R. Co. v. Marshall , 40 S.C. 59 , 63

Hardee v. Lynch , 212 S.C. 6 , 46 SE 2d 179 (1948)

Garrison v. Owens , 258 S.C. 442 (1972)

Webster v. Clanton , 259 S.C. 387 , 391 (1972) Supreme Court

Moore v. Moore , 376 S.C. 467 , 657 S.E. 2d 743 (2008)

Cameron & Barkley Co. v. SC Procurement Panel , 317 S.C.

Dept. Social Services v. Holden , 319 S.C. 72, 78) (1995)

Ballenger v. SC Dep't of Health and Env'tl. Control , 331 S.C)

Tyron Federal Savings v. Phelps , 307 S.C. 361) (1992)

Rule 59 , SCRCF

STATEMENT OF THE ISSUES

1. Did the Court violate the Appellant's "due process" and the "due process clause" ?

STATEMENT OF THE CASE

A judgment was rendered against Charpia Residential LLC and Howard W. Charpia on August 5, 2004; Dorchester County; case # 2002-CP-18-932. Said judgment has lost its "active energy" as of August 5, 2014. South Carolina Courts have consistently held that a judgment is utterly extinguished ten years from the date of entry. (Hardee v. Lynch, 212 S.C)

Execution is the only process to enforce a judgment. (Cheraw & C.R Co. V. Marshall, 40 S.C)

Any question whether a judgment can be enforced more than ten years after it was filed is answered conclusively by S.C. Code 15-39-130. Execution and final process ceases when the "active energy" ends as provided by law.

This is a statute of repose.

This Appeal deals / entails case # 2009-CP-18-2200 , Howard W. Charpia and Jody E. Charpia as Defendants . There is *no judgment* within and/or under this case # 2009-CP-18-2200.

FACTS

The Order granting Compulsory Order of Reference was signed beyond the allowance of time to refer this matter to a Master in Equity .

(six months to refer Rule)

The unpublished Opinion of the Court of Appeals # 2011-UP-445 was *never* appealed by Jody E. Charpia. (Order to Void)

The Compulsory Order from Judge Dickson *was never nor yet to be heard* by the Master-in-Equity. (transcript)

The Order of Foreclosure & Sale dated October 29, 2012 was an error of law decided on a ground not before the Court . (Griffin v. Capital Cash , 310 S.C. Court of Appeals 1992)

The Order of Foreclosure and Sale (s) Appeal has not been heard by the Court . (filed with the Court of Appeals November 6 , 2013)

This Appeal , file # 2013-002311 , deals only with the “Motion to Vacate” and the “Motion to Reconsider” ; appeal from a hearing of January 9 , 2013.

CONCLUSION

The Appellants were never notified to appear at said hearing of January 9, 2013 . (E-mails from Clerk of Court & Law Clerk)

Due process requires that a litigant be placed on notice of the issues which the Court is to consider. Bass v. Bass , 272 S.C 1978)

It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in Court , or opportunity to be heard , and *that without due notice* and opportunity to be heard a Court has no jurisdiction to adjudicate such personal rights.

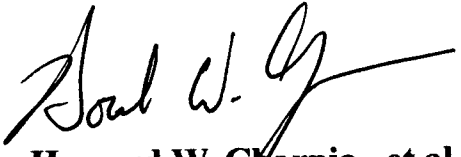
Moore v. Moore , 376 SC 467 , 657 S.E. 2d 743 (2008)

This Appeal deals strickly with the “Motion to Reconsider” and the “Motion to Vacate” by Order of the Court of Appeals dated December 16 , 2013 . (Order from Court of Appeals)

This Case # 2009-CP-18-2200 does not have a judgment against the Appellants , Howard W. Charpia and Jody E. Charpia .

The Appellants pray that the Court of Appeals will *hear* the Appellants oral arguments and dismiss case # 2009-CP-18-2200.

Said judgment has lost its “active energy” and is extinguished.


Howard W. Charpia , et al

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RENE McMASTERS (RONAGHAN)RESPONDENT

VS.

HOWARD W. CHARPIA and JODY E. CHARPIA.....APPELLANTS

PROOF OF SERVICE

I , Howard W. Charpia , et al ; hereby certify that I mailed the "REPLY

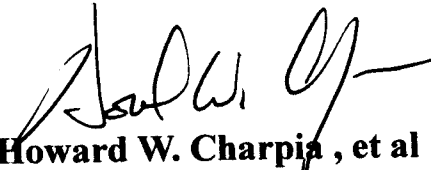
BRIEF" to :

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Date mailed August 22, 2014

"Motion To Reconsider"
"Motion to Vacate"


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