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**SC Court of Appeals**

STATE OF SOUTH CAROLINA

MASTER-IN-EQUITY

COUNTY OF BERKELEY

C/A No.: 2012-CP-08-1362

JOANN LLOYD and BLONDER B.  
HAMILTON,

Plaintiffs,

v.

**FINAL ORDER**

DESSIRENE G. LLOYD; RUDOLPH N.  
LLOYD; ONEMAIN FINANCIAL, FKA  
CITIFINANCIAL, INC.; and the ESTATE OF  
ORALEE BLAKES.

Defendants.

2014 SEP 10 AM 11:53  
CLERK OF COURT  
BERKELEY COUNTY, SC

DATE OF HEARING: JULY 31, 2014  
PLAINTIFFS' ATTORNEY: JESSICA S. JUBICK, ESQUIRE  
DEFENDANT'S ATTORNEY: KIRBY MITCHELL, ESQUIRE  
PRESIDING JUDGE: HONORABLE ROBERT E. WATSON

**PROCEDURAL BACKGROUND**

THIS MATTER comes before the Court by Order of Reference, dated March 4, 2014, from the Circuit Court for Berkeley County, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRPC"). The action was originally commenced on May 7, 2012, upon a complaint by Joann Lloyd and Blonder Hamilton (hereinafter "Plaintiffs") to set aside two deeds executed by their mother, Oralee Blakes, in favor of Defendants, Rudolph N. Lloyd and Dessirene G. Lloyd. Plaintiffs filed an amended complaint on May 10, 2012, upon which Defendants timely answered and counterclaimed. Plaintiffs filed a reply on July 17, 2012. A bench trial was held before the Court on July 31, 2014.

Having heard arguments from the attorneys for the respective parties, and after considering, with careful attention, all of the evidence, including all relevant documents submitted by the parties and the demeanor and credibility of each witness, the Court now makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. Plaintiffs, Joann Lloyd and Blonder Hamilton and Defendants, Rudolph Lloyd and Dessirene Lloyd are citizens of South Carolina and residents of Berkeley County.
2. Plaintiffs and Defendant Rudolph Lloyd are the only children of the late Oralee Blakes (hereinafter "Ms. Blakes").
3. Defendant Dessirene Lloyd is married to Defendant Rudolph Lloyd; however, the two separated during pendency of this litigation and a divorce action is pending in Berkeley County Family Court.
4. Plaintiffs commenced this action seeking to set aside two deeds. The deeds in question purport to convey Ms. Blakes' fee simple interest in a one-acre tract of land located in Berkeley County to the Defendants.
5. Ms. Blakes and her husband Jackson Blakes purchased the property in 1986, but did not move onto the property until in or around 1992. In 1991, Defendants moved their mobile home onto a portion of the property. Defendants purchased the adjacent lot in 1995 (hereinafter "Lot B"), but never moved off the subject property. In 1998, Defendants mortgaged Lot B to secure a loan in the amount of \$53,600.00.
6. On July 27, 1993 Jackson Blakes died intestate. A Deed of Distribution was recorded in Berkeley County giving Ms. Blakes' fee simple interest in the entire property.

7. On June 15, 2006, Ms. Blakes executed a deed conveying equal undivided interests in the property to herself, Defendant Rudolph Lloyd and Defendant Dessirene G. Lloyd. The deed was executed at the Law Office of Percy Beauford and was recorded on June 21, 2006 at the Berkeley County Register of Deeds Office. The recited consideration was \$5.00 love and affection.

8. At the time the deed was executed, Ms. Blakes was two months shy of her 77<sup>th</sup> birthday. She had a very limited (approximately fourth grade) education, never received a driver's license, and consumed intoxicating liquors on a regular basis. Although she lived independently from approximately 1993 to 2008, attending to her own domestic affairs, she depended on others for transportation and for help conducting her finances.

9. Defendant Rudolph Lloyd is illiterate. He is disabled and does not work. His testimony reveals that his speech is impaired and his overall intellectual functioning appears below average. Defendant Dessirene Lloyd, on the other hand, is both literate and educated. Prior to Defendants' separation, Dessirene Lloyd was responsible for handling all of the couple's financial affairs. Dessirene Lloyd has experience purchasing and mortgaging property and appears to possess, at least, a general understanding of real property transactions.

10. Prior to the execution of the June 15, 2006 deed, Defendant Dessirene Lloyd approached Ms. Blakes and offered to transfer a portion of Defendants' interest in Lot B to Ms. Blakes in exchange for a proportionate interest in the subject property. This exchange never occurred. Rudolph Lloyd's testimony suggests that he and Dessirene were in debt and needed money. Lot B was already encumbered by a mortgage so Defendants approached Ms. Blakes with the idea of transferring her property to them. According to Rudolph Lloyd, Ms. Blakes originally refused the idea, but later agreed upon Defendants' promise that they would reconvey the property to her

after receiving the money.

11. Attorney Percy Beauford and his assistant, Dionne Simmons, testified for the Defendants. Mr. Beauford recollected meeting with Ms. Blakes on a date prior to the deed's execution and recalled that Ms. Blakes wanted to deed her interest in the property to Rudolph Lloyd, Dessirene Lloyd and to herself. Defendants were also present at this discussion. Ms. Simmons prepared the deed. On June 15, 2006, Ms. Simmons, not Mr. Beauford, met with Ms. Blakes to execute the deed. Defendants were also present at the time the deed was executed and paid the cost for the deed's preparation.

12. Pursuant to the language of the June 15, 2006 deed, Ms. Blakes, Rudolph Lloyd and Dessirene Lloyd each owned a proportionate share of the property. The deed did not create a joint tenancy; thus, each person was free to make independent decisions about the disposition of their property shares.

13. On September 5, 2006, Defendants executed a promissory note to CitiFinancial for \$83,875.12, and secured the note with a mortgage on the property. Proceeds from the loan went to pay-off a number of Defendants' debts. Ms. Blakes signed the mortgage as a nonobligor. Although she was not primarily liable for payment, in the event of Defendants' default, CitiFinancial had the legal right to repossess the entire property.

14. The mortgage closing was conducted by attorney Stacey Tunstill of the Brush Law Firm at the CitiFinancial office in Moncks Corner, South Carolina. The mortgage was recorded on September 7, 2006 at the Berkeley County Register of Deeds Office. During this time, the Brush Law Firm represented CitiFinancial and handled a number of loan closings in the surrounding area. Neither Defendants nor Ms. Blakes had independent representation.

15. On October 6, 2006, a satisfaction of the Defendants' 1998 mortgage was recorded in the Berkeley County Register of Deeds Office.

16. Ms. Blakes' medical records from the Hope Clinic were entered into evidence. The medical entries begin in February of 2007 and end prior to Ms. Blakes' death in 2010. The records reveal a woman afflicted by chronic illnesses, including glaucoma, lumbosacral radiculitis, severe osteoporosis, abnormal liver function, and severe spinal stenosis. These afflictions and others required constant medication.

17. In or around 2008, Ms. Blakes' overall health conditions worsened making it difficult for her to live independently. Plaintiff Joann Lloyd moved into Ms. Blakes' mobile home to care for her mother. Plaintiff Blonder Hamilton shared caregiving duties with her sister. According to Ms. Hamilton, Joann Lloyd would care for Ms. Blakes in the evenings and at night, and she would pick Ms. Blakes up each morning and care for her during the day.

18. On December 30, 2008, Ms. Blakes was clinically diagnosed with dementia during a visit to the Hope Clinic. The medical records indicate that Plaintiffs were both present at the appointment and note that Ms. Blakes was having difficulty sleeping. Shortly thereafter, Ms. Blakes moved into the home of Plaintiff Blonder Hamilton.

19. Plaintiffs' expert, Dr. Maribel Rodriguez-Scott ("Dr. Scott") treated Ms. Blakes' at the Hope Clinic. Dr. Scott testified about the effects of dementia and issues with missed and delayed diagnoses. The evidence presented shows that dementia is a chronic and progressive disease associated with the loss of mental functions such as memory, reasoning and cognition. Diagnosis of dementia is prone to be missed because it is most often initiated on a clinician's suspicion regarding a patient's symptoms or where the patient's family caregiver expresses concern. Symptoms can go undiagnosed for several years. The evidence presented suggests Ms. Blakes

was suffering from dementia prior to her actual diagnosis.

20. On July 23, 2009, seven months after being diagnosed with dementia, Ms. Blakes executed a second deed conveying her remaining interest in the property to Defendants. The deed was executed at the Law Office of Percy Beauford and was recorded in the Berkeley County Register of Deeds Office. The recited consideration was \$5.00 love and affection.

21. Defendant Dessirene Lloyd called Mr. Beauford's office and instructed them to prepare the second deed. A document from Mr. Beauford's office lists the Defendants as the client. The July 23, 2009 sign-in sheet from Mr. Beauford's office includes only Defendant Dessirene Lloyd's signature. Defendants were both present at the time the deed was executed by Ms. Blakes and paid the attorney's fee for the deed's preparation.

22. Ms. Simmons prepared the second deed. Mr. Beauford was not present during the deed's execution, but later signed as the notary public, notarizing that the first witness, Ms. Simmons, "made oath" that she with the other witness, witnessed the deed's execution. Plaintiff Blonder Hamilton signed as the second witness.

23. On August 15, 2010, Ms. Blakes died intestate at the age of 81. Plaintiffs and Defendant Rudolph Lloyd are her only known and living heirs.

#### **Conclusions of Law**

24. This court has personal jurisdiction over the parties in this action.

25. A deed that is valid on its face raises a presumption of validity and the party attacking the deed generally has the burden of proof. Middleton v. Suber, 388 S.E.2d 639, 641 (S.C. 1990).

#### **Undue Influence**

*Presumption of Undue Influence: gross inadequacy of consideration + great mental weakness*

26. An inference of undue influence will arise upon a showing of great mental weakness of the grantor and gross inadequacy of consideration. Brooks v. Kay, 339 S.C. 479, 490, 530 S.E.2d 120, 125-26 (2000).
27. It is not necessary, in order to secure the aid of equity, to prove that the deceased (grantor) was at the time insane, or in such a state of mental imbecility as to render her entirely incapable of executing a valid deed. It is sufficient to show that from her sickness and infirmities she was at the time in a condition of great mental weakness, and that there was gross inadequacy of consideration for the conveyance. From these circumstances imposition of undue influence will be inferred. Id. at 490, 530 S.E.2d at 125-126.
28. Even absent a confidential relationship, our courts have found that undue influence upon the grantor will be inferred from proof of great mental weakness, not amounting to incapacity to execute a valid deed, accompanied by gross inadequacy of consideration. Id. (citing Hodge v. Shea, 252 S.C. 601, 608-09, 168 S.E.2d 82, 85 (1969)).
29. It is stated law that, whenever there is great mental weakness of mind in a person executing a conveyance of land, arising from age, sickness, or any other cause, though not amounting to an absolute disqualification, and the consideration given for the property is grossly inadequate, a court of equity will set the conveyance aside. Willie v. Willie, 57 S.C. 413, 426-27, 35 S.E. 804, 809 (S.C. 1900).
30. If deeds are obtained by the exercise of undue influence over a man whose mind had ceased to be a safe guide of his actions, it is against conscience for him who has obtained them to derive any advantage from them. That a court of equity will impose, and set the deeds aside, is among the court's best settled principles. Harding v. Handy, 11 Wheat. 125, 6 L.Ed. 249.

*Deed executed on June 15, 2006*

31. Within three months of the June 15, 2006 transaction, Defendants executed a promissory note in excess of \$83,000.00, secured by a mortgage on the property. The June 15, 2006 deed's recited consideration of \$5.00 love and affection was grossly inadequate. Having satisfied the first prong, an inference of undue influence will automatically arise upon a showing of great mental weakness of the grantor, Ms. Blakes.

32. Although the evidence does not sustain that Ms. Blakes was insane or mentally incompetent on June 15, 2006, the law does not require an absolute disqualification, only that there was great mental weakness of the grantor's mind arising from age, sickness or any other cause.

33. The evidence shows that on June 15, 2006 Ms. Blakes was both physically and mentally weakened by old age, a limited education, chronic disease and intemperance. She and Defendants were unequally matched. As opposed to Defendant Dessirene Lloyd, Ms. Blakes' knowledge of business and real estate matters was rudimentary and she did not have the benefit of advice from her own independent counsel. Mr. Beauford, although purporting to represent Ms. Blakes' interests, was not present during the deed's execution. Mr. Beauford testified that he met with Ms. Blakes prior to the transaction, but confirmed that Defendants were also present. The evidence shows that Defendants were present during each visit to Mr. Beauford's office and that they paid for the deed preparation.

34. In addition, the evidence is void of reason, compatible with fairness, why a person of sound mind and understanding, would agree to the disadvantageous deed and mortgage transactions. Disadvantageous, not only because of the disparity between consideration and value, but also because Ms. Blakes' risked losing her home and property in the event Defendants

defaulted on the Citifinancial mortgage.

35. Thus, with regard to the June 15, 2006 transaction, the evidence supports this Court's finding that Ms. Blakes' mental and physical weakness combined with the deed's consideration of only \$5.00 is sufficient evidence of undue influence to void the transfer.

*Deed executed on July 23, 2009*

36. The July 23, 2009 deed's recited consideration of \$5.00 love and affection is grossly inadequate. Having satisfied the first prong, an inference of undue influence will automatically arise upon a showing of great mental weakness of Ms. Blakes.

37. Although the evidence does not sustain that Ms. Blakes was insane or mentally incompetent on July 23, 2009, the law does not require an absolute disqualification, only that there was great mental weakness of the grantor's mind arising from age, sickness or any other cause.

38. On July 23, 2009, Ms. Blakes was both physically and mentally weakened by old age, limited education, chronic disease, chronic pain, medications and dementia. At the time of the transaction, due to her ailing health, Ms. Blakes was living with Blonder Hamilton. With regard to the transaction, Ms. Blakes did not benefit from the advise of independent counsel. Defendant Dessirene Lloyd contacted the attorney's office to set up the transaction; Defendants were present at the time the deed was executed; Defendants paid for the transaction; and Defendants, not Ms. Blakes, were listed as the client on documentation of file with Mr. Beauford's office.

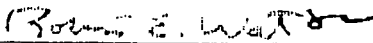
39. Ms. Blakes' mental and physical weakness combined with the deed's consideration of only \$5.00 love and affection is sufficient evidence of undue influence to void the deed executed on July 23, 2009.

Applying South Carolina to the facts presented, this court hereby finds in favor of the Plaintiffs and orders that the deeds hereinbefore referred to, to-wit, the deed dated June 15, 2006, and recorded in the Clerk's Office for Berkeley County, S.C., June 21, 2006, in Book R, Volume 5718, at page 273, and the deed dated July 23, 2009, and recorded in the Clerk's Office for Berkeley County, S.C., July 28, 2006, in Book R, Volume 8042, at page 266, be, and the same are hereby, declared to be null and void on the grounds of undue influence.

**WHEREFORE, THIS COURT HEREBY ORDERS AND DECREES:**

Plaintiffs' request for this court to set aside the deeds executed by Oralee Blakes is granted.

**IT IS SO ORDERED.**

  
Robert E. Watson, Master-In-Equity  
Berkeley County

Moncks Corner, South Carolina

September 20, 2014