

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

JOHNSON KOOLA )

Plaintiffs, )

vs. )

CAMBRIDGE TWO, LLC, ALBERT V. )  
ESTES, INDIVIDUALLY, CAMBRIDGE )  
LAKES, LP, STEPHEN R. HEAPE, )  
INDIVIDUALLY AND AS GENERAL )  
PARTNER OF CAMBRIDGE LAKES, LP, )  
CAMBRIDGE LAKES APARTMENT )  
HOMES, A/K/A CAMBRIDGE LAKES )  
APARTMENTS, LP A/K/A CAMBRIDGE )  
LAKES APARTMENTS HOMES, LP, )  
CLASSIC PROPERTIES OF CHARLESTON, )  
INC., CAMBRIDGE CONTRACTING, LP, )  
TRADEMARK PROPERTIES, INC., )  
CAROLINE ONE CHARLESTON HOME )  
TEAM PROPERTIES, LLC, CHARLESTON )  
HOME TEAM, LLC, CAROLINA ONE AND )  
WILLIAM E. JENKINSON, IV, )  
INDIVIDUALLY, )

Defendants. )

IN THE COURT OF COMMON PLEAS )  
THE NINTH JUDICIAL CIRCUIT )  
CASE NO.: 2010-CP-10-9158 )

**ORDER GRANTING SUMMARY )  
JUDGMENT TO DEFENDANT )  
TRADEMARK PROPERTIES, INC. )**

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**SC Court of Appeals**

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JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

This matter came before the Court on the motion of Defendant Trademark Properties, Inc. (hereinafter "Defendant Trademark"), for an Order granting Summary Judgment pursuant to Rule 56, SCRCF. Plaintiff appeared and proceeded at the hearing *pro se*, as his former counsel had previously been relieved by consent. All issues were fully briefed, and arguments were held on October 22, 2014. After considering these arguments, relevant statutory and case law, and the facts of this case, this Court grants Defendant Trademark's Motion for Summary Judgment.

RMDJ/1

## FACTS

Plaintiff's claims arise out of the sale of a converted condominium unit at a complex known as Cambridge Lakes in Mount Pleasant, South Carolina. Cambridge Lakes was originally an apartment complex that was converted and sold as individual condominium units beginning in 2002. Pl.'s Compl. ¶¶ 1 – 4. In August 2002, Defendant Trademark Properties, Inc. was hired as the marketing and listing agent for Cambridge Lakes by Albert V. Estee of Cambridge Two, LLC. Aff. of Richard Davis, ¶ 5. Defendant Trademark never leased, owned, or co-owned any unit in the Cambridge Lakes apartment. Id. at ¶ 7.

Defendant Trademark acted as the listing and marketing agent for Cambridge Lake condominiums until May 2003. Id. at ¶ 6. Between August 2002 and May 2003, Defendant Trademark completed approximately thirty (30) pre-sales of the Cambridge Lakes converted condominiums. Id. at ¶ 8. None of these thirty (30) presales were made to Plaintiff Koola or involved the sale of Plaintiff Koola's condominium. Id.

Plaintiff Koola purchased the subject condominium unit in February 2004, more than 8 months after Defendant Trademark's services as a listing agent at Cambridge Lakes ended. See Pl.'s Compl. ¶ 11; Aff. of Richard Davis, ¶ 5. According to the allegations contained within his own Complaint, Plaintiff Koola bought the subject condominium from listing agent William E. Jenkinson, IV, from Carolina One. Pl.'s Compl. ¶ 11. It is undisputed that Trademark Properties had no interaction or communication with Plaintiff Koola about the Cambridge Lakes condominiums or the sale of the subject condominium to Plaintiff Koola.

The Plaintiff filed this lawsuit on November 4, 2010, against Defendant Trademark and eight (8) other Defendants, alleging fraud, deceit and misrepresentation; negligence; breach of

contract/warranty; violation of the Unfair Trade Practices Act; and violations of the South Carolina Horizontal Property Regime Act.

Defendant Trademark filed the Motion for Summary Judgment now before the Court, based on the undisputed fact that it was not involved in the sale of the subject condominium to Plaintiff Koola, the transaction out of which Plaintiff's claims arise.

### **SUMMARY JUDGMENT STANDARD**

Rule 56(c), SCRPC, provides that a trial court may grant a motion for summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material facts and that the moving party is entitled to a judgment as a matter of law." "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party." Hancock v. Mid-South Mgmt. Co., Inc., 381 S.C. 326, 329-30, 673 S.E.2d 801, 802 (2009).

The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. Gauld v. O'Shaughnessy Realty Co., 380 S.C. 548, 558, 671 S.E.2d 79, 85 (Ct. App. 2008). Once the party moving for summary judgment meets the initial burden of showing the absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Id. at 558-59, 671 S.E.2d at 85. Rather, the nonmoving party must present at least a scintilla of probative evidence showing a genuine issue for trial that does not rest on mere speculation. Bass v. Gopal, Inc., 384 S.C. 238, 680 S.E.2d 917 (Ct. App. 2009).

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## DISCUSSION

In his Complaint, Plaintiff Koola alleges that he relied on the representations made to him relative to the subject condominium in his decision to purchase the condominium and that he purchased the condominium because he believed that the unit was marketable. Pl.'s Compl. ¶¶ 30, 31, 43, 47. Plaintiff alleges he suffered damage when he placed his condominium unit up for sale but learned the condominium was "virtually worthless." Pl.'s Compl. ¶ 18. Plaintiff alleges that contrary to representations made to him that the condominium unit he bought was marketable, the condominium was not and is not marketable. Pl.'s Compl. ¶¶ 30, 32, 43, 44.

According to his own pleadings, the damages suffered by Plaintiff Koola arise from the transaction wherein he purchased his condominium based on the information, or misinformation, that he received relative to that purchase. Any viable cause of action thereby springs from the transaction itself and the actions of the parties involved therein. Plaintiff Koola has produced no evidence of any interaction or communication between himself and Trademark Properties relating to the subject condominium or relating to the transaction involving Plaintiff Koola's purchase of the subject condominium. Even viewing the Plaintiff's evidence and all reasonable inferences therefrom in the light most favorable to the Plaintiff, it is undisputed that Defendant Trademark was not involved in the transaction out of which Plaintiff Koola's claims arose. Therefore, Defendant Trademark is entitled to judgment as a matter of law.

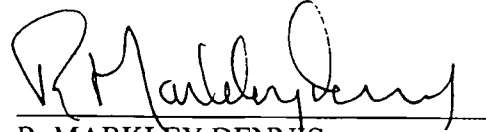
## CONCLUSION

Because no evidence has been produced to dispute the fact that Trademark Properties was not involved in the sale of this condominium to Plaintiff Koola, Defendant Trademark is entitled to summary judgment, and Plaintiff Koola's claims against Defendant Trademark are hereby dismissed with prejudice.

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**IT IS SO ORDERED.**

This 31<sup>st</sup> day of October, 2014.



R. MARKLEY DENNIS  
CHIEF ADMINISTRATIVE JUDGE  
NINTH JUDICIAL CIRCUIT

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