

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY
Master in Equity

SEP 23 2015

SC Court of Appeals

The Honorable Marvin H. Dukes III, Master in Equity

Case No. 2015-000342

Maxine Taylor, Respondent

v.

Heirs of William Taylor, Heirs of E. Washington, Heirs of Phoebe Taylor, Heirs of Albertha Goodwine, and all persons unknown designated as a class; Richard Roe, and Beaufort County, SC, a body politic, Defendants.

Of whom Heirs of William Taylor, Heirs of E. Washington, Heirs of Phoebe Taylor, And Heirs of Albertha Goodwine are the Appellants.

Stanley Taylor, Joe A. Taylor and Martha T. Brown, Respondents,

v.

Heirs of William Taylor, Heirs of E. Washington, Heirs of Phoebe Taylor, Heirs of James Joseph Taylor, Heirs of Josephine Taylor and Georgia Champion, Appellants.

RESPONDENTS' FINAL BRIEF

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ARGUMENTS

- I. **The master erred in concluding that the Respondents were the sole owners of Lot 9 when the Appellants, the Heirs of William Taylor, presented sufficient evidence to show that they were the true owners of a portion of Lot 9.**

The Respondents established a chain of title from 1937 forward. The exhibits include the deed into Phoebe Taylor (Ts pg. 435), the deed into James Taylor in 1960 (Ts pg. 424), two tax deeds (Ts pg 427 and 431) into James Taylor and deeds of distribution from James Taylor's estate to his children (Tsp g 422). It is noted that only one deed of distribution made it into the record. The second one (not included) was for the northern portion of Lot 9 of Warsaw Island.

Appellants have no deeds in the record. So respondents did recover on the strength of their titles, that go back to 1937.

We must also go back to Appellants' prior actions that are of record. The quiet title action started in 1996 (Ts pg 436) cleared their land, which is in Lot 7, adjacent to Lot 9. Then, two deeds were issued. One was to Christopher Champion (Ts pg 451) and the other was to George Champion.

The factual matters and how the property was treated is set forth in Respondent's Post Trial Brief (Ts pg 511). Without revisiting this, we respectfully refer to that Brief.

Another incorrect point is addressed because Appellants claim all of Respondent's land is south of the Warsaw Road. This is not so. Appellants claim the tax deeds were erroneous. However, at no time did Appellants challenge these tax titles.

Phoebe Taylor's 1937 deed states the land is bound on the west by lands of William Taylor (Ts pg 435). William is who Appellants claim through. This is consistent with Appellant's land being in Lot 7. The tax deed dated November 18, 1998, into James Taylor (Ts pg 431)

shows it was out of a levy against Phoebe Taylor. And, the description states the land is bound on the north by the marsh. The other tax deed in 1996 (Tsp g 427) is just like this. The property south of the road is not on any marsh so the description is clearly regarding the northern portion of Lot 9. The plats introduced also show this.

The argument relating to the number of acres is not convincing. A surveyor and a title abstractor verified that acreage and descriptions on Warsaw Island could be wrong and confusing. (Ts pg 100 and 101; Ts pg 117).

The totality of evidence is in favor of Respondents.

A. Respondents' reliance on the defective tax deeds issued to James Taylor and the language of S. C. Code Ann. 12-51-90 is insufficient to give them ownership interest in the northern and southwestern portion of Lot 9.

The matters argued in this section have been addressed. Appellants don't mention Code Section 12-51-160 which gives a person two (2) years to contest a tax sale. Appellants did not contest because their land was west of that sold by the treasurer. The taxes were not paid on this property. Respondents are not being audacious.

They are relying on the facts and the law. Even if the tax parcels were switched, the Appellants did not own the subject land and speculation is all they have to rely on.

B. Respondents' contention that the Heirs of William Taylor failed to file an action for recovery of the property within two (2) years of the date of the tax sale under S. C. Code Ann. 12-51-160 is without merit.

Appellants have never, up to this point, initiated any action to set aside the tax deeds. Appellants say there was not proper notice. Yet, the present action was filed by Respondents in 2011 and Appellants have not filed any pleadings, save their answer herein,

which claims adverse possession and trespass. Even though Beaufort County is a named defendant, Appellants sought no relief from that entity.

Appellants talk about what they would have done, but in fact, they did nothing.

II. Alternatively, the Heirs of William Taylor established title to the property through adverse possession and the master erred in awarding all of Lot 9 to Respondents.

Respondents addressed this issue thoroughly in the initial brief. And adverse possession is a factual issue. The trial court found no evidence was submitted as to the southern parcel, owned by Maxine Taylor (Ts pg 6) and it found the Rufus Taylor family owned Lot 7 and there was not enough presented to attack the Respondents title to Lot 9. (Ts pg 7). Conversely, the Order shows distinct evidence of Respondents and their predecessors as owners of Lot 9 (Ts pg 7 and 8).

And, of note, the Court found that the switch of parcel numbers effected Maxine Taylor on the south and that the northern parcels were designated as 6 and 6A. The Court found Albertha Goodwine was shown as having part of James Taylor's land (Ts pg 8).

We do not think there is need to go over the law of adverse possession again. This has been set forth previously.

III. Appellants, the Heirs of William Taylor, adversely possessed the northern and southwestern portion of Lot 9 for generations and for a period greater than twenty (20) years, entitling them to the presumption of a grant.

The claim that the Heirs of William Taylor adversely possessed the northern and southwestern portion of Lot 9 is simply not so. As the trial court found, there was no evidence of any claim to the southwestern part (south of the road).

Respondents did not recognize Appellants' claim to the property as they allege in their brief. And, we do not see any punishment in Appellants quieting title to Lot 7. They cleared their land, plain and simple. They claimed adversely to Lot 9 and did not prove such.

IV. Alternatively, the boundary line was mutually recognized and acquiesced for the prescribed statute of limitations of ten (10) years.

Respondents cannot follow the argument in this section. The boundary lines are the one constant on Warsaw. This is true of the north-south line in particular. David Youmans, a surveyor, testified as to this. (Ts pg 56).

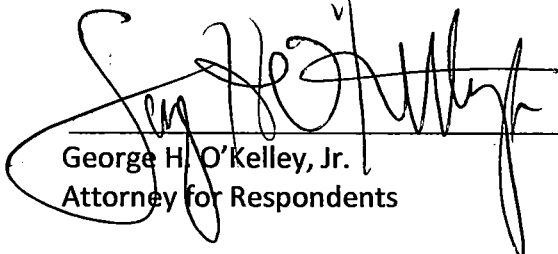
Respondents did not recognize Appellants claim to Lot 9, if this is Appellant's argument. There was never any need for an agreement about the lines. They were always in the same place.

V. The master failed to set forth specific findings of fact to support his conclusions of law as required under Rule 52(a) of the South Carolina Rules of Civil Procedure.

Rule 52(a) states that the court shall find the facts and state separately its conclusions of law. The Master-in-Equity detailed in concise and unvarnished form, the essence of the case.

The ruling should be affirmed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Respondents Final Brief in this matter was served upon the attorney for Appellants: Amy K. Raffaldt, Esquire, the Mace Firm, 1341 44th Avenue, N., Suite 205, Myrtle Beach, S. C. 29577 on the 21st day of September. 2015.


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