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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas
John K. DuBose, III, Special Referee

Civil Action No. 2011-CP-28-0073
Appellate Case No. 2014-001012

Albert H. Hough, individually, and as Personal Representative
of the Estate of Harold W. Hough and as Person Representative
of the Estate of Elizabeth P. Hough; George J. Hough; and
Angela Hough,.....Plaintiffs/Respondents
v.

Richard Wesley Hough, Joel Pitts Hough and
Mary Louise Robinson,.....Defendants,

Of whom

Richard Wesley Hough is.....Appellant,

And

Joel Pitts Hough and
Mary Louise Robinson are.....Respondents.

FINAL REPLY BRIEF OF APPELLANT

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**ATTORNEY FOR RICHARD WESLEY
HOUGH**

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ARGUMENT

As to the substance of the Brief of Respondents, Appellant again asserts that the plain language of S.C. Code Ann. § 15-61-25(A) must control over any interpretation of the language. Respondents argue that this Court should interpret Section 15-61-25 to give only nonpetitioning parties to an action for partition by sale the right of first refusal to purchase. Because Section 15-61-25(A) makes no differentiation among the various types of partition actions available, this Court should not read into the statute such an exclusion in actions for partition in kind.

As Appellant has previously set forth, “The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature,” and where the plain language of the statute is unambiguous, then there is no need for statutory interpretation. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The Supreme Court cited this proposition with approval in *Grier v. AMISUB of South Carolina*, 397 S.C. 532, 725 S.E.2d 693 (2012).

In *Grier*, the Supreme Court further held, “It is only when applying the words literally leads to a result so patently absurd that the General Assembly could not have intended it that we look beyond the statute’s plain language.” *Id.* (citing *Cabiness v. Town of James Island*, 393 S.C. 176, 192, 712 S.E.2d 416, 425 (2011)). In that case, the Supreme Court refused to read additional requirements not present in the text into the statute regarding the necessity of an expert affidavit in medical malpractice actions. *Id.* The Supreme Court recognized that adherence to the text of the statute was possibly contrary to the legislative intent, stating:

We do not doubt that requiring the affidavit to contain an opinion regarding causation furthers these important goals. Nevertheless, the

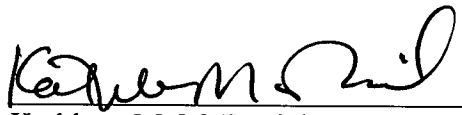
statute is unambiguous and we are confined to what the statute says, not what it ought to say, for we have no right to modify a statute's application "under the guise of judicial interpretation." See *Coker v. Nationwide Ins. Co.*, 251 S.C. 175, 182, 161 S.E.2d 175, 178 (1968). In other words, when a statute is clear on its face, it is "improvident to judicially engraft extra requirements to legislation" just because doing so may further the intent behind the statute. See *Berkebile v. Outen*, 311 S.C. 50, 55-56, 426 S.E.2d 760, 763 (1993).

Id. at 540, 725 S.E.2d at 698. As in *Grier*, regardless of the policy arguments presented by Respondents, this Court should be confined to the language of S.C. Code Ann. § 15-61-25(A) and should not narrow the broad language of this section to prevent Appellant from exercising his right of first refusal.

CONCLUSION

Based upon the foregoing, Appellant reiterates his request that this Court reverse the trial court and determine that Appellant, as a nonpetitioning party to an action for partition in kind, has a right of first refusal to purchase the property under Section 15-61-25(A) of the South Carolina Code.

Respectfully submitted,


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CERTIFICATE OF COUNSEL

I hereby certify that the Final Reply Brief of the Appellant filed and served on
April 15, 2015 complies with Rule 211(b), SCACR.



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