

STATE OF SOUTH CAROLINA
 COUNTY OF NEWBERRY
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2016CP3600313

Raj Kumar		C D Coleman Oil Co	
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PLAINTIFF(S) DEFENDANT(S)

Submitted by: Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit);
 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRCP; Bankruptcy; Other: _____
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other: _____

FILED
 NEWBERRY COUNTY
 2016 NOV 7 PM 2:53
 JACKIE S. BOWERS
 CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk: _____

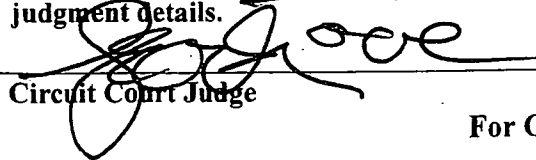
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


 Circuit Court Judge

5728 11-7-16
 Judge Code Date

For Clerk of Court Office Use Only

RECEIVED

FEB 06 2017

SC Court of Appeals

This judgment was entered on November 7, 2016, and a copy mailed first class or placed in the appropriate attorney's box on November 8, 2016, to attorneys of record or to parties (when appearing pro se) as follows:

Larry Eugene Gregg II 1989 South Pine Street Spartanburg, SC 29302

Kyle B. Parker PO Box 190 1508 College Street Newberry, SC 29108

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jackie S. Bowers

Jackie S Bowers - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF NEWBERRY)
)
 RAJ KUMAR,)
)
 Appellant,)
)
 vs.)
)
 C.D. COLEMAN OIL CO.,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 THE EIGHTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2016-ES-36-00313

2016 NOV 7 PM 2 53
 JACKIE S. BOWERS
 CLERK OF COURT
 NEWBERRY COUNTY
 FILES

ORDER DISMISSING APPEAL

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FEB 06 2017

SC Court of Appeals

This matter is an eviction proceeding. It is before the Court on appeal from the judgment of eviction in favor of the landlord, Respondent C.D. Coleman Oil Co., by Magistrate Ronald C. Halfacre dated May 27, 2016. Appearing at the hearing were the Respondent and his counsel. At the call of the case, the Court was informed that one purporting to be Appellant's counsel called to indicate that he would not be appearing due to what he indicated was a severe case of poison ivy. He was instructed by the Clerk's office to send an email to the Clerk and opposing counsel regarding the same. Neither the Clerk nor opposing counsel reported having received such an email. Accordingly, the Court went forward with the hearing.

This Court finds that the appeal should be, and hereby is, dismissed for a lack of prosecution. In addition, the appeal should be, and hereby is, dismissed on the merits. There is sufficient evidence in the record to support the findings of the Magistrate and such findings are not based on an error of law. The Appellant argues in his Notice of Appeal that the presence in the lease of his right to receive an offer to purchase the subject property in the event that the landlord intends to sell it constitutes a circumstance which places title in question and divests the Magistrate of jurisdiction, this argument is with merit. There is no evidence in the record to suggest that the subject property is for sale. On the contrary, the evidence plainly provides that it is not. Moreover, a right of first refusal is not an interest in land. See Good v. Jarrard, 93 S.C. 229, 76 S.E. 698 (1912); Edens & Avant Investment Properties, Inc. v. Amerada Hess Corporation, 318 S.C. 134, 456 S.E.2d 406 (Ct. App. 1995). Therefore, the Magistrate properly determined that title was not put into question and that the relationship of landlord tenant existed. See Burch v. Muldrow, 141 S.C. 29, 139 S.E. 208 (1927).

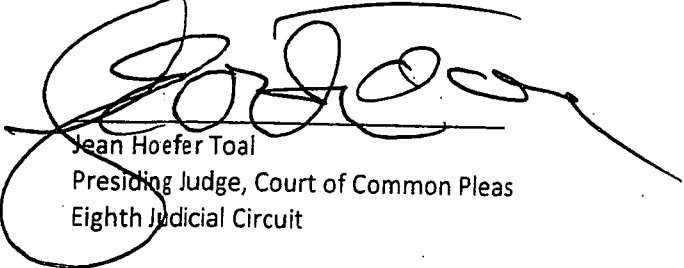
The record below is further replete with evidence supporting the Magistrate's finding that multiple violations of the lease are present in this matter which justify eviction. The record contains many customer complaints regarding the unsatisfactory maintenance of the premises by the Appellant. Most of such complaints regarding the bathrooms are graphic in their description. There is further evidence in the record which indicates that these violations are material in that such complaints are reported to British Petroleum Company ("BP") and imperil Respondent's lucrative relationship with BP. What is more, the record reveals that Appellant owes, under the lease, the sum of \$13,500 in outstanding payments towards

BP logo and signage costs. The judgment of eviction rendered by the Magistrate is, consequently, affirmed, and the Appellant shall immediately vacate the premises and return possession to the Respondent.

AND IT IS SO ORDERED.

#2

Newberry, South Carolina
November 7, 2016



Jean Hofer Toal
Presiding Judge, Court of Common Pleas
Eighth Judicial Circuit