

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Beverly Ann Gilchrist,)
)
Plaintiff,)

-v-)

Florence Miles, Jimmy Glover, Albert)
Glover, Tommy Glover, Mary M. Bibbs)
Annie Jefferson, Barry Shedrick, Myra S.)
Padgett, Wade Shedrick, Randy Glover,)
Genie Miles, Freddie Glover, Jr., Aaron)
Glover, Steven R. Glover, Terrie G.)
Frazier and Odell Glover, Doretha Sander,)
Michael Holmes, Jackie James, Donnell)
Hampton, Yvonne Forrest, ...Including)
any children and heirs at law or)
distributees and devisees and all persons)
entitled to claim under or through them,)
and all other persons unknown claiming)
any right, title or interest in a lien upon)
the real estate described in the Complaint)
herein, any unknown adults being a class)
designated as John Doe; and any unknown)
infants, minors or persons under a legal)
disability including those in the military)
service of the United States of America,)
being a class designated as Richard Roe,)
)
Defendants.)

DOCKET NO.: 2014-CP-19-097

ORDER

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This matter for partition of real property in Edgefield County, South Carolina, came to be heard on February 5, 2016. The Plaintiff, Beverly Ann Gilchrist, was present with her attorney, Herbert E. Buhl, III of Columbia, South Carolina. The Defendant, Odell Glover, appeared represented by his attorney, Jennifer P. Sumner, of Edgefield, South Carolina. Mr. Patrick McWilliams, Attorney at Law, of Aiken, South Carolina, was appointed Guardian at Law, and also appeared. Numerous other named Defendants appeared but were not represented by counsel.

This action was commenced by the filing of a Summons, Complaint and Lis Pendens by the Plaintiff and service was duly made on all Defendants. The Defendant, Odell Glover, and the Guardian ad Litem duly filed Answers and/or responsive pleadings accordingly. The remainder of the Defendants are in default.

An Order of Reference was thereafter signed by the Court appointing the undersigned as Special Referee. It also appears that all required documents mentioned above, were property filed with the Court.

FINDINGS OF FACT

This is a partition action brought by the Plaintiff against the Defendants seeking a Court ruling as to whether or not the real properties described herein can be partitioned, or divided, or whether a partition and sale would be proper. The Plaintiff also seeks an equitable lien for taxes claimed to be paid by her, in addition to legal fees and costs.

The Defendant, Odell Glover, duly filed an Answer and Counterclaim denying portions of the Complaint and seeking a Court's ruling in the matter. The Guardian ad Litem filed an Answer seeking the Court's protection in this matter against those Defendants designated as John Doe and Richard Roe.

It appears that this action included three (3) tracts of land in Edgefield County, and are described on the attached Exhibit "A" of this Order.

It appears from the evidence and testimony presented that the within real property was originally owned by Martha Glover and J. L. Glover, Sr., both now deceased, and was ultimately inherited by the Plaintiff and Defendants through the Martha Glover Estate filed in the Edgefield County Probate Court in File 2006-ES-19-0068 and the J. L. Glover, Sr. Estate filed in 2018-ES-19-00049, respectively.

There appears from the testimony that there are presently nineteen (19) title owners of the property, at the time of the Hearing, with different fractional ownership interests. In addition, from both direct and cross examination of all witnesses a partition in kind of the properties would not be feasible, nor equitable to the parties involved.

Testimony was presented by the Plaintiff that she believes she is entitled to reimbursement for property taxes paid on certain of the properties, however, testimony from other witnesses disputed the payments, amounts and dates paid. Witnesses also testified that they also paid taxes in the past. The Court questions these tax payments by the testifying parties, in that one, or more, of the properties taxes were not timely paid, resulting in tax sales being held by the Edgefield County Tax Collector. If redemption of these properties was made, it is unclear as to who, in addition to the Plaintiff, contributed funds and how much was paid by each contributor.

Testimony was presented by the Plaintiff that she paid in excess of FIFTEEN THOUSAND AND NO/100 (\$15,000.00) DOLLARS in legal fees but there was no substantiation as to who rendered these legal services and for what purposes. The Court did receive, however, information as to the Plaintiff's fees and costs of Attorney Buhl.

There was also disputed testimony by the parties, and witnesses, whether the Plaintiff actually improved the properties since she has been living on the property. Also, it appears that Plaintiff has not paid, nor reimbursed, the other joint owners, monetarily for her living on the properties.

It does appear from the testimony that the Plaintiff believes she is entitled to have certain of the properties cut off or given to her by the Court as well as to declare an equitable lien for her legal fees and costs.

The Court takes note of the questionable descriptions of the properties in question from the wording of the Complaint, Lis Pendens and the County tax map numbers accompanying same. The aerial photograph which was entered into evidence differs in acreages and this issue will be addressed in the following Conclusions of Law.

CONCLUSIONS OF LAW

I find the following conclusions:

- (a) That this Court has jurisdiction of the subject matter of this case and thus has authority to determine the interests of the parties and authority to order a Partition-in-Kind or Partition-and-Sale of the properties.
- (b) Venue is proper as the property is located in Edgefield County, South Carolina.
- (c) All Defendants were properly served with the Summons, Complaint and Lis Pendens and were given proper notice of the Hearing. In addition, I find and conclude that the parties were given proper notice of their right to purchase this property pursuant to the S.C. Code of Laws, Sec. 15-61-25, 1976, as amended.
- (d) I conclude that the Guardian ad Litem appointed by the Court has properly represented all persons designated as John Doe or Richard Roe, in all phases of these proceedings.
- (e) This Court, from the testimony and evidence presented, finds that the within properties cannot be partitioned equitably in kind and as such should be sold by the undersigned Special Referee at public sale at a designated time as specified in a Notice of Sale to be published for three (3) weeks in a local Edgefield newspaper, or in another newspaper of general distribution, as required by law.
- (f) That prior to such publications, the attorneys shall submit to the Court a current description of the properties to be sold, provided the descriptions describe the correct current acreages and boundaries for the same properties sought to be partitioned in the Plaintiff's Complaint.
- (g) In addition, the attorneys shall submit to the Court a current list of the nineteen (19) owners of the properties as testified to and their percentage of ownership for the purpose of distribution of the sales proceeds. This Court reserves the right to hold a Supplemental Meeting with the attorneys of record to make such determinations, if necessary.
- (h) The sale shall be conducted on the first Monday of such month to be designated in the Notice of Sale at 11:00 A.M. on the Courthouse steps of Edgefield County.
- (i) This Court, being a Court of Equity, finds from the testimony and evidence presented that it would be unfair and unjust to all nineteen (19) owners to allow the cutting off or partitioning any portion of the property, specifically, for the Plaintiff or any other party and respectfully denies Plaintiff's request to do so.
- (j) All of the properties involved in this action are to be sold to the highest bidder.
- (k) The Court finds that Plaintiff's request for an equitable lien and prejudgment interest are to be denied. In addition, all requests for reimbursement for Probate matters are also denied, as these issues were decided by the Probate Court when the cases were closed.
- (l) That at the completion of sale and full payment made by the purchaser(s), the following costs are to be deducted and disbursed and the net proceeds are to then be disbursed to the nineteen (19) title holders of the properties as their percentage interest might appear:

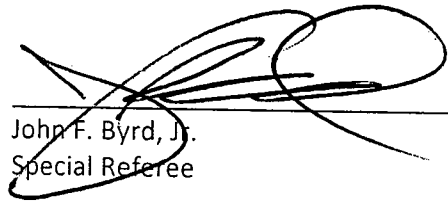
- (1) Court reporter fee (per invoice);
- (2) Publication of Notice of Sale (per invoice);

- (3) Special Referee's fee (per invoice);
- (4) The sum of \$3,500.00 shall be allocated from the sale for Plaintiff's attorneys fees and costs and the sum of \$1,500.00 for Defendant, Odell Glover's, attorneys fees and costs. All other costs are to be paid by the respective parties;
- (5) Guardian ad Litem Fee (per invoice);
- (6) The balance is to be distributed to the nineteen (19) title owners of record as to their percentage of ownership.
- (m) Deeds to purchasers will be issued by the Special Referee upon compliance with all successful bids and purchasers shall be responsible for deed preparation, stamps and recording.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED :

That Items (a) through (m) of the Conclusions of Law are hereby adopted as stated herein and are hereby incorporated as the Order of this Court. The Court will retain jurisdiction to resolve any issues that may arise until the property is sold and complied with, and the proceeds have been disbursed to final completion.

IT IS SO ORDERED.



John F. Byrd, Jr.
Special Referee

June 23, 2016
Edgefield, South Carolina

EXHIBIT "A"

10:53 JUN 23 PM 2:15

TRACT 1:

All that certain piece, parcel or tract of land situate, lying and being in the County of Edgefield, State of South Carolina containing 3 acres, more or less and being bounded on the NORTHWEST by S.C. Highway [illegible]; bounded on the NORTH by lands of Odell Glover and Webb, now or formerly; bounded on the WEST by lands of Swearingen, now or formerly; and on the SOUTH by right-of-way of Edgefield County Water and Sewer authority which property is found in plat Book 10 at page 23.

This is the identical property conveyed by deed of A.J. Randall to Martha Glover dated August 3, 1987, and recorded August 5, 1987, in the office of the Clerk of Court for Edgefield County in Deed Book 111 at Page 20.

LESS, HOWEVER, All that certain piece, parcel or lot of land with all improvements thereon situate, lying and being in the County of Edgefield, State of South Carolina containing Forty-one Hundredths (0.41) acre, more or less, and being bounded on the NORTHWEST by Tillman Street; on the NORTH by a drive way, lands of Odell Glover, and lands of Martha Glover; on the SOUTHEAST by lands of Martha Glover and on the SOUTH by right of way of Edgefield County Water & Sewer Authority, and perhaps lands of Randall. All of which is shown by reference to that plat of C. Ashley Abel, RLS, dated 12/09/88, recorded in Plat Book 30, Page 96.

This is the identical property conveyed by deed of Martha Glover to Teresa G. Edwards dated January 16, 1989, and recorded January 17, 1998, in the Office of the Clerk of Court for Edgefield County in Deed Book 119 at page 89.

Parcel ID: 173-00-02-005-000

TRACT 2:

All that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the County of Edgefield, containing one (1) acre, more or less, and the same being bounded as follows: NORTH by lands of Albert Webb, EAST by Albert Webb, SOUTH by Odell Glover and WEST by right-of-way of S.C. Highway No. S-19-75, and being more particularly described on a plat recorded in Plat Book 20 at page 102, records of Edgefield County.

This is the identical property conveyed by deed of Tommy A. Glover, Sr., and Gloria A. Glover to Martha Glover dated April 22, 1996, and recorded April 24, 1996 in the office of the Clerk of Court for Edgefield County in Deed Book 510 at page 260.

Parcel ID: 173-00-00-003-000

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EXHIBIT "A" Continued

TRACT 3:

All that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the County of Edgefield, State of South Carolina, containing Thirty-Two Hundredths (0.32) of an acre, more or less as will more fully appear by reference to a plat thereof, prepared by C. Ashley Abel, R.L.S., dated January 3, 1996, and recorded in the Office of the Clerk of Court for Edgefield County on Record Book 509 at Page 320. Said plat is incorporated herein and made a part and parcel of description by reference thereto. Said property is bounded generally in accordance with said plat on the NORTH by lands now or formerly of Edgefield County Board of Trustees; on the EAST by a road designated as S.E. Diggs Road connecting South Carolina Highway 19; on the SOUTH by lands now or formerly of Martha Glover; and on the WEST by lands now or formerly of Hamp E. Holmes, Jr.

This is a portion of that property conveyed to Martha Glover by deed of J.R. Smith dated August 8, 1956, and recorded in the Office of the Clerk of Court for Edgefield County in Deed Book 45 at Page 608.

NOTE: The Western portion of the above described property is already owned by the Grantee herein.

Parcel ID: Portion of 173-00-02-003