



The South Carolina Court of Appeals

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December 20, 2017

The Honorable Janet C. Hasty
PO Box 1557
Camden SC 29021-8557

REMITTITUR

Re: Palmetto Residential v. Michael Cox
Lower Court Case No. 2006CP2800433
Appellate Case No. 2014-002455

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Benjamin C. Bruner, Esquire
R. Charles Richards, Esquire
Joey Randell Floyd, Esquire

The Supreme Court of South Carolina

RECEIVED

DEC 13 2017

SC Court of Appeals

Palmetto Residential Builders, LLC, Petitioner,

v.

Michael Cox and Elizabeth Cox, Respondents.

Appellate Case No. 2017-000756

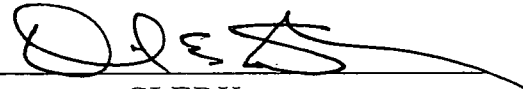
Lower Court Case No. 2006-CP-28-00433

ORDER

Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY



CLERK

James, J., not participating

Columbia, South Carolina

December 13, 2017

cc:

R. Charles Richards, Esquire

Benjamin C. Bruner, Esquire

Joey Randell Floyd, Esquire

The Honorable Janet C. Hasty

The Honorable Jenny Abbot Kitchings

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Palmetto Residential Builders, LLC, Appellant,

v.

Michael Cox and Elizabeth Cox, Respondents.

Appellate Case No. 2014-002455

Appeal From Kershaw County
Jeffrey Marc Tzerman, Master-in-Equity

Unpublished Opinion No. 2016-UP-524
Submitted September 1, 2016 – Filed December 21, 2016

AFFIRMED

Benjamin C. Bruner and Joey Randell Floyd, both of
Bruner Powell Wall & Mullins, LLC, of Columbia, for
Appellant.

R. Charles Richards, of Richards Law Firm, LLC, of
West Columbia, for Respondents.

PER CURIAM: Palmetto Residential Builders, LLC (Palmetto) appeals from the master-in-equity's order denying its motion to set aside alleged fraudulent voluntary contributions Michael Cox made to his retirement account. Palmetto argues the master erred in: (1) precluding attachment of all funds in Cox's

retirement account, including Cox's post-judgment transfers; (2) holding federal law barred avoidance of the fraudulent transfers because the anti-alienation provisions of the Employee Retirement Income Security Act (ERISA) and the internal revenue code do not preclude them; (3) holding the voluntary post-judgment contributions were made for valuable consideration and there was no evidence of actual intent to defraud; and (4) finding Cox did not increase the amount of the contributions to his retirement account after the judgment. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the master erred in precluding attachment of all funds in Cox's retirement account: S.C. Code §15-41-30(A)(13) (Supp. 2015) ("The following real and personal property of a debtor domiciled in this State is exempt from attachment, levy, and sale under any mesne or final process issued by a court or bankruptcy proceeding: . . . (13) The debtor's right to receive individual retirement accounts as described in Sections 408(a) and 408A of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of the Internal Revenue Code."); *id.* (providing as an exception that a judgment creditor is entitled to execute on individual retirement accounts only if the conveyance is fraudulent).

2. As to whether the master erred in finding Cox did not increase the amount of the contributions to his retirement account after the judgment: *Rodriguez v. Gutierrez*, 391 S.C. 323, 331, 705 S.E.2d 94, 99 (Ct. App. 2011) ("The movant in a Rule 60(b) motion has the burden of presenting evidence proving the facts essential to entitle him to relief." (quoting *Bowers v. Bowers*, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (Ct. App.1991))).

3. As to the remaining issues: *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding an appellate court need not review remaining issues when its determination of another issue is dispositive of the appeal).

AFFIRMED.¹

HUFF, SHORT and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.