THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Appellate Case No. 2017-001267

William A. Brazell,
Individually and as Personal
Representative of the Estate of
Geneva J. Brazell, deceased,

Appellant,

v.

Judith D. Haley,

Respondent.

RESPONDENT'S RESPONSE TO FINAL BRIEF OF APPELLANT AND RESPONDENT'S FINAL BRIEF

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March 19, 2018

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Authorities removed pursuant to appellant's motion to strike, and the Court's subsequent Order filed February 9, 2018.

RESPONDENDT'S RESPONSE TO APPELLANTS'S
STATEMENT OF ISSUES ON APPEAL

1. The "letter emailed to the Common Pleas judge" can not be considered a motion for continuance. The "letter emailed" was not properly noticed, nor was it properly served on the respondent, respondent was not copied on the email or any other correspondence regarding this "letter emailed", the telephone call referenced in said "letter emailed" did not give the respondent an opportunity to be present at said "motion hearing", which severely prejudiced the respondent and therefore can not be considered a motion. [1](SCRCP Rule 5 and specifically Rule 5 (b)(1), (b)(3) and (d). Pursuant to SCRCP Rule 5(b)(1) since the respondent is not represented by an attorney, and chooses to appear "pro se", the Rule is clear that respondent should have been served as if she were represented by counsel. (SCRCP Rule 5(b)(1).

2. It should be noted that appellant stated on the record that he had "sent a fax", but now states that he "letter emailed". It is clear that the appellant, and specifically, counsel for appellant, has not been prepared to appear in court, and is using the appeal process as an "emergency blanket" as he has shown evidence of not following SC Rules of Civil Procedure, nor legal process, in general.[2]

3. The Judge dismissed the action pursuant to the respondent's motion to dismiss, and did so with prejudice due to appellant's blatant lack of adherence to the Rules of Civil Procedure, appellant's desire to "deal directly with the judge"[3] and due to appellant's blatant disregard of the importance of a court hearing before a judge.

[1] SC Rules of Civil Procedure, Rule 5
[2] Record on Appeal, P. 280, line 5, 12 and p. 285, line 24, 25 and p. 286, line. 1
[3] Record on Appeal, P. 285, line 11

4. The inference that the judge dismissed the action due to "a respondent who has breached her contract of sale" draws a conclusion of law and order of the court, makes false and prejudicial statements, and is, in fact, irrelevant to this matter in equity. The court rules clearly state that the appellant must certify in his designation that this matter on appeal shall contain no matter which is irrelevant to this appeal. SCRAP Rule 209(c).[4] Therefore, appellant's question to this court should be stricken from the record, and no merit given same.

5. The appellant's inference that the judge dismissed this action due to the respondent "falsely represented to the court that attorney for appellant missed four (4) court appearances"[5] is only appellant's further "reach" for sympathy of the court, as the appearances and non-appearances are clearly noted by all parties, including the court.[6] In fact, Judge Hood apologized numerous times to the respondent for her need to wait for appellant, and his lack of appearance at these hearings.[7]

STATEMENT OF THE CASE

Appellant, at no time, filed a Complaint in the Court of Common Pleas, or otherwise, for breach of contract.

Appellant did, however, erroneously, file a Complaint for Eviction in Magistrate's Court, and was sternly advised by the judge that this was not the proper venue, and that he should research the process.

[4] SC Rules of Appellate Procedure Rule 209(c)
[5] Record on Appeal, P. 281, line 22 and line 25
[6] Attorney for appellants' failure to appear at hearings
[7] Record on Appeal, P. 281, line 11, line 17

Appellant at no time filed any documents to seek a court order determining that the contract created a constructive mortgage and/or equitable mortgage.

Appellant at no time filed any documentation to seek a determination that respondent had no equitable interest in the real estate.

The issue on appeal is Judge Hood's Order dated May 17, 2017, denying Plaintiff's Motion to Reconsider. Therefore, all of the extraneous matters stated by the appellant in his Initial Brief and all of the voluminous documents are irrelevant to this appeal, and should therefore be stricken from the Record pursuant to SCRAP Rule 209.

At no time did appellant file a Designation of Matter with this court, nor was one served on the respondent, which is required of this court, and therefore appellant should be held in contempt of this court for failure to follow SC Rules of Appellate Procedure. (SCRAP Rule 209)

FACTS OF THE CASE

Subject property is not 2426 Heyward Brockington Road (Again, Defendant needs to "school" the Appellant regarding the facts of the case, and Rules)

2428 is NOT additional property in the rear of the residence.

Ownership of the properties subject of this matter, are incorrect.

William A. Brazell did not own 2428 in fee, nor did appellant own an undivided one-half interest in 2426 with his mother.

The probate of Geneva J. Brazell has never been filed, and by appellant stating that the Probate is open is fraudulent.

All dates are incorrect on page 4.

The fact that appellant states that there was no payment received by appellant after the initial $1,500.00 is a blatant lie, and appellant has actually admitted receiving the amounts that respondent claims was paid, and all amounts paid can be proven through bank records.

The appellant, at no time, ever paid any taxes and insurance or any other expenses, therefore there was never any "reimbursement" to the appellant.

Respondent has made no claim that "she has paid no further amount because appellant refused to sign a deed by which ..." This is blatant lie. Respondent has not "taken any such position" Respondent has never alleged that pursuant to the terms of the contract, she has made $500 ..... "

The statement that "respondent has paid no monthly or quarterly amount since April 9, 2014 is a blatant lie and proof exists otherwise through bank records.

The facts of the case are, that appellant executed a Contract to sell the property to respondent, and has refused to execute a General Warranty Deed, which is required by law.

ARGUMENT

1. The "letter emailed to the Common Pleas judge" can not be considered a motion for continuance. The "letter emailed" was not properly noticed, nor was it properly served on the respondent (respondent was not copied on the email), and the telephone call referenced in said "letter emailed" was not conferenced in with respondent and therefore this is not a motion, and should actually be considered "ex parte communication" with the judge. [8](SCRCP Rule 5 and specifically Rule 5 (b)(1), (b)(3) and (d). Pursuant to SCRCP Rule 5(b)(1) since the respondent is not represented by an attorney, and chooses

[8] SC Rules of Civil Procedure, Rule 5

to appear "pro se", the Rule is clear that respondent should have been served as if she were represented by counsel. (SCRCP Rule 5(b)(1).

In Mictronics, Inc …., the parties in this case are 2 attorneys and they coordinated a rescheduling of the hearing, which is common place in the practice of law. This matter, however, is not the same. The respondent is Pro Se, and the Appellant is an attorney. Appellant's attorney never at anytime, contacted the respondent to reschedule the hearing. Therefore this case is MOOT.

(1) (NOTE: *appellant improperly numbered his Argument, and respondent is just following his numbering in her response*) How can appellant, a legal, officer of the court, think that a Judge's Order is a "misunderstanding?" This is further proof that counsel for appellant is not prepared nor educated on court appearances and appellate matters.

(2) This is further proof that appellant tried to undermine respondent and communicate ex-parte with the court and the judge, which is not in compliance with SCRCP.

(3) At no time, has appellant filed any document with the court for "Breach of Contract". Therefore appellant has falsely stated matters of record which do not exist. In fact, according to appellant's initial Complaint, filed August 2, 2016, appellant states that "This is an action to terminate a Contract or in the alternative to foreclose on a constructive or equitable mortgage"[9]

(4) Appellant does not own the property in fee. Respondent own the property by way

[9] Record on Appeal, P. 231, paragraph 3.

of Contract[10]. The appellant has refused to sign a General Warranty Deed pursuant to this Contract, and therefore has breached the Contract.. There exists no prejudice to appellant. He has had every opportunity to properly address the court and respondent, and instead chose to attempt to confuse, circumvent and abuse the system. Respondent asks this court to affirm respondent's counterclaim demand that "Plaintiffs immediately execute the General Warranty Deed[11] to Defendant"[12]as provided by SCRAP Rule220(c)

2. The judge did not "err in dismissing this action" and again, appellant has at no time, filed any document with the court for "Breach of Contract", therefore this entire statement is moot, and it also contains numerous false statements and conclusions of law.

3. Respondent asks this court to affirm respondent's Motion to Dismiss dated April 24, 2017[13] and granted by Judge Robert E. Hood on April 25, 2017, and as referenced in Judge Hood's Order Denying Plaintiff's Motion To Reconsider dated May 17, 2017[14]. as provided by SCRAP Rule220(c)

4. Appellant states in his Statement of the Case that "this case....to determine if respondent has breached a contract to purchase real estate. At no time, has appellant filed any document with the court for "Breach of Contract". Therefore appellant has falsely stated

[10] Contract in lieu of Deed, Record on Appeal, p. 111 -112
[11] General Warranty Deed, Record on Appeal, p. 259-260
[12] Record on Appeal, p. 251, paragraph 43(d)
[13] Record on Appeal, P. 70-73
[14] Record on Appeal, P. 1-3

matters of record which do not exist. In fact, according to appellant's initial Complaint, filed August 2, 2016, appellant states that "This is an action to terminate a Contract or in the alternative to foreclose on a constructive or equitable mortgage"[15]

5. Respondent asks this court to affirm respondent's counterclaim demand that "Plaintiffs immediately execute the General Warranty Deed[16] to Defendant"[17]as provided by SCRAP Rule220(c)

CONCLUSION

Pursuant to all of the facts of the case, the appellant's dilatory action and the statements of the respondent contained here, respondent asks that this court affirm respondent's Motion to Dismiss dated April 24, 2017[18] and granted by Judge Robert E. Hood on April 25, 2017, and as referenced in Judge Hood's Order Denying Plaintiff's Motion To Reconsider dated May 17, 2017[19]. as provided by SCRAP Rule220(c) and Respondent asks this court to affirm respondent's counterclaim demand that "Plaintiffs immediately execute the General Warranty Deed[20] to Defendant"[21]as provided by SCRAP Rule220(c).

March 19, 2018

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[15] Record on Appeal, P. 231, paragraph 3.
[16] General Warranty Deed, Record on Appeal, p. 259-260
[17] Record on Appeal, p. 251, paragraph 43(d)
[18] Record on Appeal, P. 70-73
[19] Record on Appeal, P. 1-3
[20] General Warranty Deed, Record on Appeal, p. 259-260
[21] Record on Appeal, p. 251, paragraph 43(d)