

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

Edgar W. Dickson, Circuit Court Judge

Case No. 2018-000826

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SEP 10 2018

SC Court of Appeals

Colleton River Plantation Club, Inc.....Appellant,

v.

Jennifer L. Holmes.....Respondent.

INITIAL REPLY BRIEF OF APPELLANT COLLETON RIVER PLANTATION CLUB, INC.

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Colleton River Plantation Club, Inc.

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TABLE OF AUTHORITIES

STATUTES

S.C. Code Ann. § 30-5-905

S.C. Code Ann. § 36-2-803.4

ARGUMENT

Appellant Colleton River Plantation Club, Inc. (“Colleton”) hereby replies to Respondent Jennifer L. Holmes’ (“Holmes”) Initial Brief. Colleton incorporates by reference all its arguments in Colleton’s Initial Brief.

I. THE TRIAL COURT HAS JURISDICTION OVER HOLMES REGARDLESS OF THE 2012 INDIANA DISSOLUTION SETTLEMENT AGREEMENT.

Holmes argues that she had no contacts with South Carolina after her divorce because the divorce caused her to lose “any right, title, or interest in the subject property from and after 2012.” (Resp’t’s Initial Br. 4). However, as explained in Colleton’s Initial Brief, Holmes retained her interest in the subject property after the divorce, and continues to retain that interest at all material times by her failure to comply with the terms of the Dissolution Settlement Agreement (also referred to by the parties as the Divorce Decree), which expressly states that “[w]ife shall execute a quit claim deed for each [South Carolina] property in favor of Husband.” (Dissolution Settlement Agreement § 5.3). As found by the trial court, the quit claim deed for the subject property was never filed, and no evidence was ever presented that the quit claim deed was ever created or signed by Holmes. (Order Granting Def’s. Mot. to Dismiss, § Findings of Fact ¶ 6). By virtue of Holmes’ interest and continuing interest in real property located in South Carolina, and of Holmes entering into a contractual relationship in South Carolina when she agreed to the Covenants by accepting the deed for the subject property, the trial court has jurisdiction over Holmes, such that a suit against Holmes regarding the Covenants and/or the subject real property may be maintained against her in South Carolina. S.C. Code Ann. § 36-2-803.

II. HOLMES’ DID NOT COMPLY WITH THE DIVORCE DECREE.

Holmes argues that the “legal and equitable interest in the subject property belong to Charles B. Holmes” pursuant to the Divorce Decree. (Resp’t’s Initial Br. 5). However, Holmes

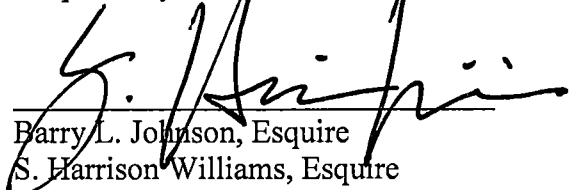
fails to cite any authority to demonstrate how legal or equitable title would transfer to Charles Holmes, Holmes' Ex-Husband, through a divorce decree in another state, without the filing of a deed in South Carolina and without complying with Colleton's Covenants. *See* S.C. Code Ann. § 30-5-90 (stating that all marriage settlements affecting the title to real property must be recorded within one month after its lodgment in the county in which the real property is located). Furthermore, Holmes fails to offer any evidence or explanation as to why the terms of the Divorce Decree were not complied with. Holmes seeks to rely on the Divorce Decree to relieve her of her obligations as a property owner and member of Colleton, while at the same time she has failed to comply with the terms of the agreement she relies upon.

CONCLUSION

Colleton prays that this court will reverse the Trial Court's Order Granting Defendant Holmes' Motion to Dismiss, and remand this action for adjudication on the merits of this case.

September 7, 2018

Respectfully submitted,



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PROOF OF SERVICE

I certify that I have served the INITIAL REPLY BRIEF OF APPELLANT COLLETON RIVER PLANTATION CLUB, INC., on Jennifer L. Holmes, by depositing a copy of it in the United States Mail, postage prepaid, on September 7, 2018, addressed to her attorney of record, Terry A. Finger, Post Office Box 24005, Hilton Head Island, South Carolina 29225.

September 7, 2018



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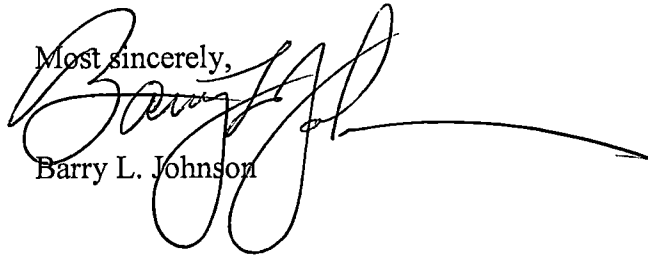
Re: Appeal of: *Colleton River Plantation Club, Inc. vs. Jennifer L. Holmes*
Case No.: 2018-000826
J & D, PA File No.: C16-6403

Dear Honorable Clerk Kitchings:

In regard to the above captioned matter, please find enclosed a "Initial Reply Brief of Appellant Colleton River Plantation Club, Inc." and a "Proof of Service" for filing with the Court of Appeals. I have enclosed an extra copy of each and request that you return the extra copy to our office, date-stamped, in the enclosed, self-addressed, stamped envelope.

Thanking you, and with best wishes, I am

Most sincerely,


Barry L. Johnson

BLJ:ger

Enclosures

cc: Terry A. Finger, Esquire

Colleton River Plantation Club, Inc. (via e-mail)

Attn: Stephanie Kerr, CFO

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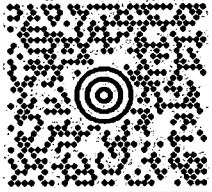
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1 OF 1

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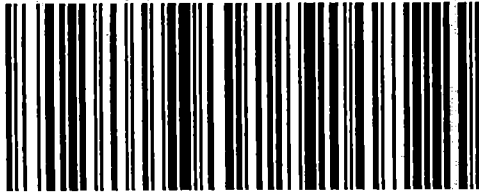
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