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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SEP 26 2017

SC Court of Appeals

Appeal from McCormick County
McCormick County Family Court
Hon. Judge Alison Renee Lee, Presiding

Appellate Case No. 2016-002462

Sonny Adams..... Respondent,

Versus

Nadine Adams..... Appellant.

D

RESPONDENT'S FINAL BRIEF

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September 25, 2017.

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STATEMENT OF ISSUES ON APPEAL

- I. Did the trial court err in finding that Nadine Adams owed Sonny Adams \$45,883.12, pursuant to the legal theory of unjust enrichment?
- II. Did the trial court err in giving an alternative to Nadine Adams in permitting her to deed a portion of her property to Sonny Adams in lieu of satisfying the judgment against her of \$45,883.12?

STATEMENT OF THE CASE AND FACTS

The Respondent adopts the statement of the case and facts submitted by the Appellant in her Brief.

ARGUMENT

I. The trial court did not err in finding that Nadine Adams owed Sonny Adams \$45,883.12, pursuant to the legal theory of unjust enrichment.

The trial court's findings of fact in this matter are well supported by the record of the case, as detailed below, and the final order should not be disturbed on appeal. On appeal from an equitable action, an appellate court may find facts in accordance with its own view of the evidence. *Townes Assoc. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976). While this standard permits a broad scope of review, an appellate court will not disregard the findings of the trial court, which saw and heard the witnesses and was in a better position to evaluate their credibility. *Tiger, Inc. v. Fisher Agro, Inc.*, 301 S.C. 229, 237, 391 S.E.2d 538, 543 (1989). The credibility determination by the trial court in this case was crucial, because the testimony of the Appellant and Mr. Adams was contradictory on significant points relevant to the litigation, as discussed below. The record of this case supports the conclusion that the trial court did not abuse its discretion in finding that the Appellant was unjustly enriched, and ordering appropriate relief in favor of Mr. Adams. Therefore, the final order should be affirmed.

The Appellant correctly asserts that the theory of recovery in favor of the Respondent was based on unjust enrichment. "Unjust enrichment" is an equitable doctrine, which permits recovery of the amount that the defendant has been unjustly enriched at the expense of the plaintiff. The elements to recover for unjust enrichment based on quantum meruit, quasi-contract, or implied by law contract, which are equivalent terms for equitable relief, are: (1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it

inequitable for him to retain it without paying its value. *Regions Bank v. Wingard Props., Inc.*, 394 S.C. 241, 256-57, 715 S.E.2d 348, 356 (Ct. App. 2011)(*emphasis added.*) Therefore, contrary to the assertion of the Appellant, the law requires a “benefit” to the Defendant, and not specifically testimony regarding an increase in the value of the property owned by the Appellant. The trial testimony supports the conclusion that the Appellant received a benefit due to the efforts and expenditures of Mr. Adams, that she realized that Mr. Adams was making significant improvements to the property, and she retained ownership of the improved property such that it would be inequitable for her to retain without paying the value of the improvements to Mr. Adams. As discussed below, Mr. Adams retained detailed receipts and documentation of the work that he performed on the subject property, which constituted the added value or “benefit” to the property of the Appellant, which her knowledge and consent.

The characterization of Mr. Adams’ choice to improve the mobile home as a “foolish decision” by the Appellant is misplaced and contrary to the record of this case. As an initial matter, it does not appear to be in dispute by the Appellant that her clear intent was to give the mobile home to Mr. Adams. (R. p. 21, lines 19-25; p. 26, lines 16-17.) Further, Mr. Adams made improvements to the mobile home with the full knowledge and consent of the Appellant, as the trial judge found in her order. (R. p. 25, lines 20-25; p. 26, lines 1-17; p. 95, lines 14-18.) In fact, the Appellant testified that she could see Mr. Adams’ mobile home from her door, and that she had knowledge that the improvements were done in 2011. (R. p. 67, lines 12-14; p. 93, lines 7-10.) The trial court found that in 2008, the Appellant gave to Mr. Adams the mobile home located on the land, but did not convey the title to him. (R. p. 65, lines 9-12.) Mr. Adams testified that the Appellant said, “You can have the property – I want you to have it. You can do anything you want with it – live there, rent it, tear it down....” (R. p. 21, lines 19-25.) Mr.

Adams further testified that he told the Appellant his plans for the property – that he was going to fix the roof, and build a bedroom, add vinyl siding and “open up” the trailer. (R. p. 22, lines 1-14.) Mr. Adams testified that it took approximately two years to complete the work on the property – all the while, the Appellant was living approximately fifty (50) yards away from the improved property. (R. p. 22, lines 7-8.)

Between 2008 and 2010, the trial court found that Mr. Adams spent \$44,850.64 in improvements to the property, predominantly to the mobile home. (Plaintiff’s Exhibit “1” – Composite; R. p. 33, lines 8-25; p. 34, lines 1-25; p. 35, lines 1-10.) At trial, Mr. Adams produced receipts evidencing the work that he had done to the mobile home – including a new roof, air conditioning and heating systems, updated windows, an additional room and bathroom with a walk-in closet, gables and beams, updated plumbing, vinyl siding, a front and back porch with concrete bases, concrete brick foundation, and laminated floors. (R. p. 23, lines 3-25; p. 24, lines 1-25; p. 25, lines 1-25.) The trial court further found that Mr. Adams also repaired the existing septic tank and maintained the well located on the property. (R. p. 23, lines 19-22.) Further improvements were the installation of columns that annexed the roof of the mobile home to the front and back porch. Mr. Adams moved into the mobile home in 2010, and has paid the taxes on the mobile home since 2012. (R. p. 22, lines 8-9; p. 27, lines 12-19; p. 36, lines 7-20.) Additionally, the trial court found that Mr. Adams has paid the taxes on the land where the mobile home is situated since 2014 – a total of \$1,032.48. (R. p. 27, lines 12-19.)

The trial court found that the Appellant would visit Mr. Adams at the mobile home, and thus was aware of at least some of the improvements that he was making to the property. (R. p. 26, lines 1-8; p. 53, lines 12-19.) In fact, the trial testimony was that Mr. Adams lived with the Appellant and her brother for approximately twenty-eight (28) years, and maintained a close

relationship. (R. p. 21, lines 1-10.) The Appellant lived right beside Mr. Adams as of the date of the trial, and the houses were approximately fifty (50) yards apart, as stated above. (R. p. 21, lines 11-17.) In 2013, the trial court found that the Appellant and Mr. Adams exchanged text messages regarding moving the mobile home from the land – however, no effort was made by the Appellant to effect title to the mobile home to Mr. Adams so that he could move it. (R. p. 69, lines 10-12.) Mr. Adams also testified that he bought a parcel of land adjacent to the land in question because the Appellant agreed to exchange the land he purchased for an acre of the land. (R. p. 54, lines 15-25; p. 54, lines 1-20; p. 62, lines 1-5.) At trial, the Appellant testified to her willingness to assist Mr. Adams in obtaining title to the mobile home; however, her testimony seems contrary to the initial reason why Mr. Adams filed suit in the first place -- to counter the eviction action filed against him by the Appellant in magistrate's court. In 2014, despite the Appellant's promise to deed the mobile home to Mr. Adams, she asked him to move the mobile home off the land and did not assist in transferring the deed to Mr. Adams. (R. p. 27, lines 2-5; p. 29, lines 7-10.) Mr. Adams refused to move the mobile home, and refused to sign a lease agreement to pay the Appellant rent for the property. (R. p. 59, lines 5-25; p. 60, lines 1-6.) This action was filed in May, 2015, and the litigation ensued.

At trial, the Appellant testified that if Mr. Adams moves the mobile home from the land, the land will be damaged because she will have to remove the concrete driveway, patio, shed, and concrete slab on which the shed sits – supporting the trial court's position that the improvements to the mobile home, in addition to the home itself are "fixtures" affixed and part of the land where they sit. (R. p. 54, lines 7-11.) In fact, the Appellant does not argue with the trial court's conclusion that the mobile home and improvements thereto, are "fixtures" and one with the land.

There is also no question from the record of this case that the Appellant has received a "benefit" contemplated by the law of unjust enrichment. In fact, the Appellant testified that she would "probably" be able to rent the improved mobile home for approximately five-hundred-dollars (\$500.00) per month. (R. p. 91, lines 20-25.) As the trial court correctly found, the mobile home and the improvements cannot be legally separated from the land. Mr. Adams made substantial improvements to the mobile home, and the Appellant did not contribute to the improvements whatsoever. The fact that the Appellant stopped paying the taxes on the mobile home and the land where the mobile home sits evinces a clear intent not to retain ownership of either property. The trial court correctly found that the Appellant saw the improvements being made by Mr. Adams, and did not request that he move the mobile home until approximately six (6) years after Mr. Adams first started the improvements to property. Mr. Adams paid the property taxes and taxes on the mobile home – which the Appellant was content for him to pay, as the trial court correctly found. There is no question that the Appellant received a significant "benefit" with the improvements made by Mr. Adams, and she did not contribute to the improvements.

The case of *Stringer Oil v. Bobo*, 465 S.E.2d 366 is not controlling authority for this case, nor is it relevant to the determination of the trial court. In the Order Amending Judgment, the trial court in this case found that *Stringer* is not applicable to the facts of this case. In *Stringer*, the court had competing evidence on damages to assess, whereas in this case Mr. Adams provided receipts evidencing the work he performed on the mobile home and real property. (Order Amending Judgment.) The case at bar supports the finding of the trial court that the Appellant was unjustly enriched in this matter, for which Mr. Adams was entitled to the relief ordered. Therefore, the trial court's order should not be disturbed on appeal.

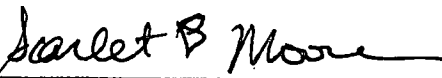
II. The trial court did not err in giving an alternative to Nadine Adams in permitting her to deed a portion of her property to Sonny Adams in lieu of satisfying the judgment against her of \$45,883.12.

The argument of the Appellant that the trial court erred in giving an alternative to her (in lieu of satisfying a judgement against her of \$45,883.12) lacks merit, and should be dismissed by this Honorable Court. The allegation by the Appellant in her motion to alter or amend judgement was that the provision permitting her to deed a portion of the property in lieu of satisfying the debt is vague and ambiguous because it did not provide enough specifics in order for the Appellant to comply with the ruling of the court. As an initial matter, the argument of Appellant is solely that the provision requiring her to deed a part of the property to Mr. Adams is vague – not that the trial court erred in ordering her to deed the property to Mr. Adams as a general matter. Nevertheless, the “deed” provision as amended by the trial court in the Order Amending Judgment clearly sets forth a standard by which the Appellant can understand and follow, namely that the McCormick County Planning Department requires a deed of one acre of real property in order to be approved for a plat. (Order Amending Judgment.) The hypothetical questions raised by the Appellant in brief to support her position have no bearing on the order of the court. Therefore, the argument of the Appellant lacks merits, and the appeal should be dismissed, with prejudice.

CONCLUSION

The Respondent, Sonny Adams, respectfully prays that this Honorable Appellate Court will affirm the Order of Honorable Judge Alison Renee Lee presiding, and dismiss this appeal, with prejudice.

Respectfully Submitted,



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