

The South Carolina Court of Appeals

H. Marshall Hoyler, Appellant,

v.

The State of South Carolina, Merry Land Properties, LLC, Sherbert Living Trust, Supan Living Trust, Elizabeth R. Levin, Edward McCray Wise Revoc. Living Trust, Carol Ann DeVries Wise Revoc. Living Trust, Amelie Cromer, Philip Cromer, Robert Chiavello, Tocharoen Living Trust, Helen M. Olesak, Lesley Anne Glick a/k/a Lesley Ann Glick, Shirley G. Lackey, Patricia Banfield, Bertrand Cooper, Jr., NHP SH South Carolina I, LLC n/k/a CCP Bayview 7176 LLC, Oyster Cove Homeowners Ass., Shirley Anne Moyer, Barry D. Malphrus, Garry D. Malphrus, Donnie Malphrus, Rita Brown, Houston Family Partnership, Joan Taylor Trustee, Michael Bull, Nancy Bull, Marny H. VonHarten, Dianne M. Donaldson, Brian R. Evans, Stephen Durbin, Valerie Durbin, Phillip Marti, Jane Marti, Michael Woodworth, Georgiana M. Cooke, Daniel B. Walsh Janet E. Walsh, Defendants,

Of whom The State of South Carolina and Merry Land Properties, LLC are the Respondents.

Appellate Case No. 2016-001277

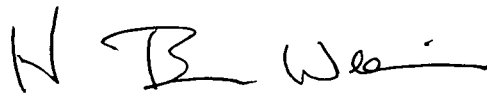
ORDER

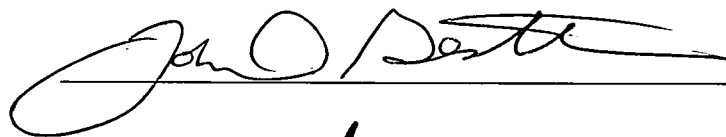
After careful consideration of the petition for rehearing, the Court has discovered no material fact or principle of law that has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied. However, we modify Opinion No. 5676 to


redistribute the citations to authority and to restate the Standard of Review section as follows:

"A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue." *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (quoting *Felts v. Richland Cty.*, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991)). "To make this determination [the appellate court] look[s] to the main purpose of the action as determined by the complaint." *Id.* (quoting *Estate of Revis v. Revis*, 326 S.C. 470, 476, 484 S.E.2d 112, 115 (Ct. App. 1997)). When the complaint's main purpose "concerns the determination of title to real property, it is an action at law." *Id.*

"In an action at law, [the appellate court] will affirm the master's factual findings if there is any evidence in the record [that] reasonably supports them." *Id.* (quoting *Lowcountry Open Land Tr. v. State*, 347 S.C. 96, 101–02, 552 S.E.2d 778, 781 (Ct. App. 2001)). Further, "[the appellate court] reviews all questions of law de novo." *Fesmire v. Digh*, 385 S.C. 296, 302, 683 S.E.2d 803, 807 (Ct. App. 2009); see also *Clardy v. Bodolosky*, 383 S.C. 418, 425, 679 S.E.2d 527, 530 (Ct. App. 2009) ("Questions of law may be decided with no particular deference to the trial court." (quoting *S.C. Dep't of Transp. v. M & T Enters. of Mt. Pleasant, LLC*, 379 S.C. 645, 654, 667 S.E.2d 7, 12 (Ct. App. 2008))).


_____ J.


_____ J.


_____ J.

FILED

Oct. 17, 2019

Columbia, South Carolina

cc:

Richard Lee Whitt, Esquire

J. Emory Smith, Jr., Esquire

Mary Duncan Shahid, Esquire

Jeff D. Griffith, III, Esquire

Stephen Peterson Groves, Sr., Esquire

Angelica M. Colwell, Esquire

Robert D. Cook, Esquire

Alan McCrory Wilson, Esquire

The Honorable Marvin H. Dukes, III