

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
CASE NO. 2015-CP-18-2381

Ronald Tucker, Jr. and Kenneth W. Tucker)
a/k/a Kenneth Tucker, Individually and as)
Co-Personal Representatives of the Estate of)
Mary H. Tucker, and Michael Allen,)

Plaintiffs,)

v.)

Lutricia Tucker Blakey, Gwendolyn)
Garretson, Priscilla Gray, Florie T. Hamilton,)
Jamika Tucker Jackson, Doris Tucker Jenkins,)
Alice C. Johnson, Pamela D. Tucker McKnight,)
Charlene Tucker Smalls, Abraham Tucker,)
Ashaunte Tucker, Bradley Tucker, Calvin)
Tucker, Clifford Tucker, Craig Tucker, Cynthia)
Marie Tucker, Cynthia Tucker, Dorothy Tucker,)
Dorothy Kitt Tucker, Frank T. Tucker, Gary C.)
Tucker, Hazel Tucker, Herman Tucker,)
Kenneth J. Tucker, Kenneth Tucker, Larry)
Tucker, Lillian A. Gregg Tucker, Mary Tucker,)
Maurice Tucker, Michael Anthony Tucker,)
Reubin Tucker, III, Ryan Tucker, Sadie)
Hutchinson Tucker, Shawn Tucker, Sheldon)
Tucker, Shontique Tucker, Sophronia Tucker,)
Spencer Tucker, Victor Leroy Tucker, Victoria)
Lorene Tucker, Deborah Tucker White,)
John Doe, a fictitious name used herein to)
designate the estates and unknown heirs at)
law, distributees, devisees, issue, personal)
representative, successors and/or assigns of)
Lawrence Herman Cuttino, Lula Tucker Cuttino)
Jerry Cuttino, Drayton W. Gray, Jr., Marion)
Tucker Gray, Alonza Tucker, Bernice Harrison)
Tucker, Carsedra Yvette Tucker, Charles)
Tucker, Donald Vaughn Quentin Tucker, Eliza)
Gallashaw Tucker, Emmie Richardson Tucker,)
Geraldine Tucker, Harry Tucker, Israel Tucker,)
Sr., James Tucker, Lucille Tucker, Lucius J.)
Tucker, Mary Ella Tucker, Nathaniel Tucker,)
Regimen Gerthrod Tucker, Reubin Tucker,)
Reubin Tucker, Jr., Ronald Tucker, Teselene)
Rivers Tucker, Theron Antonio Tucker, William)

**ORDER AS TO ATTORNEY
FEES AND COSTS AND
PARTITION**

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SC Court of Appeals

313 (1991), the South Carolina Supreme Court listed the following factors for determining a reasonable attorney's fee: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the beneficial results obtained; and (6) the fee customarily charged for similar legal services. After consideration of these factors, along with the Court file, and hearing no objection, this Court finds that the fees and costs as stated in this Affidavit are reasonable and hereby approves the fees and costs up through April 30, 2019 of \$58,345.27. Counsel for the Plaintiffs may present to the Court additional Affidavits for fees for work performed and costs incurred after April 30, 2019. This Court, however, shall continue to hold in abeyance the apportionment of these fees and costs amongst the parties.

AS TO PARTITION IN KIND

The Defendant, Lutricia Tucker Blakey, requested the Court to partition in kind the 28.22 acre parcel also designated as TMS # 135-00-00-056.000. At the hearing on November 8, 2018, she represented to the Court that she had hired a surveyor and would present additional information to the Court as to this request. As of today, the Court has not received sufficient information to grant this request. The Court did receive an email from Ms. Blakey's counsel almost two months after the time allowed by this Court to provide such information, but this information did not provide any plats showing the proposed partition in kind or any information as to the values of the proposed partitioned parcels. Thus, this Court does not have sufficient evidence to rule that the proposed partition allows

for equitable access or whether the partition provides a value consistent with the ownership interest of the parties. The Court notes from its prior Order filed April 24, 2019 that more than 40 individuals own an interest in this 28.22 acre parcel with some interest amounting to only 1991/89100. Accordingly, this Court finds that this 28.22 parcel cannot be partitioned in kind in a manner that would equitably protect the various interests of the owners.

AS TO RIGHT OF PURCHASE AND PARTITION BY PRIVATE SALE

A Notice of Right to Purchase pursuant to S.C. Code § 15-61-25 (1976), as amended, was filed on February 13, 2015 and served as stated in a Certificate of Service filed the same date. Further, this Notice, along with other pleadings, was published once a week for three consecutive weeks in the Summerville Journal Scene, as shown by an Affidavit of Publication filed April 7, 2016. In addition, an Amended Notice of the hearing held on November 8, 2018 contained this same notice and was served as stated in Certificates of Service filed on September 28, 2018 and October 22, 2018. This statute provides in part that “[u]pon the filing of a petition for partition of real property owned by joint tenants or tenants in common, the court shall provide for the nonpetitioning joint tenants or tenants in common who are interested in purchasing the property to notify the court of that interest no later than ten days prior to the date set for the trial of the case. The nonpetitioning joint tenants or tenants in common shall be allowed to purchase the interests in the property as provided in this section whether default has been entered against them or not.” This Court orders that

any non-petitioning joint tenants or tenants in common, even those in default, who are interested in purchasing the 28.22 parcel designated as TMS 135-00-00-056.000 should file with the Clerk's office a statement of that interest within 45 days of the filing of this Order. Based on these filings, if any, this Court may schedule additional hearings or order responsive filings as this Court believes necessary. If no filings are made, this Court shall order the sale of the 28.22 acre parcel designated as TMS # 135-00-00-056.000 as prayed for by the Plaintiffs and apportion the attorney fees and costs amongst the parties.

NOW THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

A. The Findings, Rulings and Conclusions listed above are hereby reaffirmed, adopted and made the Order, Judgment and Decree of this Court.

B. The fees and costs of \$54,345.27 as stated in the Affidavit of James E. Reeves are reasonable and hereby approved. Counsel for the Plaintiffs may present to the Court additional Affidavits for fees for work performed and costs incurred after April 30, 2019. This Court, however, shall continue to hold in abeyance the apportionment of these fees and costs amongst the parties.


C. The 28.22 parcel designated as TMS # 135-00-00-056.000 cannot be partitioned in kind in a manner that would equitably protect the various interests of the owners.

D. Pursuant to S.C. Code § 15-61-25 (1976), as amended, any non-petitioning joint tenants or tenants in common, even those in default, who are

interested in purchasing the 28.22 parcel designated as TMS 135-00-00-056.000 should file with the Clerk's office a statement of that interest within 45 days of the filing of this Order. Based on these filings, if any, this Court may schedule additional hearings or order responsive filings as this Court believes necessary. If no filings are made, this Court shall order the sale of the 28.22 acre parcel designated as TMS # 135-00-00-056.000 as prayed for by the Plaintiffs and apportion the attorney fees and costs amongst the parties.

IT IS SO ORDERED.

Date: 10-14-19
St. George, South Carolina



Russell A. DeMott
Special Referee for Dorchester County