

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG)	FOR THE FIRST JUDICIAL CIRCUIT
)	
Rufus Rivers and Merle Rivers,)	C/A No.: 2018-CP-38-01339
)	
Appellants,)	
)	
v.)	ORDER ON APPEAL
)	
James Smith, Jr.,)	
)	
Respondent.)	
_____)	

This appeal came before the court on October 18, 2019, for a hearing on Rufus and Merle Rivers’ appeal from an Eviction Order of the Orangeburg County Magistrate’s Court. Present at the hearing were Kathleen McDaniel, Esq., counsel for Respondent, and Appellant Rufus Rivers. This case concerns an eviction from the property located at 1429 LeGrand Smoak Street in the County of Orangeburg, South Carolina. For the reasons set forth below, I affirm the decision of the Magistrate’s Court.

STATEMENT OF THE CASE

On July 2, 2018, James Smith, Jr. wrote to Rufus and Merle Rivers giving them 30 days to vacate the real property located at 1429 LeGrand Smoak Street, Cordova, South Carolina (the “Property”).

On August 6, 2018, the Rivers initiated a separate civil action by filing a Complaint in the Orangeburg County Court of Common Pleas, challenging Smith’s ownership of the Property and alleging causes of action for constructive fraud, negligence, conversion, unjust enrichment, and invalid owner.

On August 8, 2018, Smith filed a Rule to Vacate or Show Cause for Eviction in Orangeburg County Central Region Magistrate’s Court.

On August 17, 2018, the Rivers filed an Amended Complaint in the Court of Common Pleas, alleging that Smith used an invalid Power of Attorney to convey the Property from his mother Jessie Mae Smith, the previous owner of the Property, to himself. The Rivers also alleged in the Amended Complaint that Ms. Smith, at some point during her life, had orally given or promised the Property to the Rivers. The case was referred to the Master in Equity.

At the eviction hearing on September 18, 2018, the Magistrate's Court ruled that Smith is the current and lawful owner of the Property and that the Rivers were unlawfully occupying the premises. The Rivers objected to this ruling by way of a Motion for Reconsideration filed on October 1, 2018. Following a hearing on October 16, 2018, the Magistrate's Court denied the Rivers' Motion for Reconsideration and authorized the issuance of a Writ of Ejectment.

On October 17, 2018, the Rivers filed a Notice of Intent to Appeal and a Corrected Notice of Appeal on October 18, 2018.

On November 2, 2018, a hearing was held in the Magistrate's Court on the issue of rental payments required to be paid by the Rivers during the pendency of this appeal. The Magistrate's Court determined appropriate rent to be \$700.00, to be paid into the Court each month as bond.

The Rivers appealed the imposition of rental payments, and on April 8, 2019, a hearing was held in this Court on the issue of whether the monthly rent amount to be paid by the Rivers into court was proper. This Court issued its ruling on April 18, 2019, affirming the amount of bond set by the Magistrate's Court.

On May 20, 2019, a hearing was held on the appealed Magistrate's Court eviction action. The Rivers contended that title to the property was still in question because of their pending lawsuit. On May 21, 2019, Judge Gibbons issued an Order continuing the hearing on this appeal until such time as the Master in Equity could rule on the issues raised in the Rivers' Amended Complaint.

On August 28, 2019, following a hearing, Judge James B. Jackson, Jr., Master in Equity for Orangeburg County, dismissed the Rivers' Amended Complaint for failure to state a cause of action upon which relief could be granted. The Rivers did not appeal that decision.

On October 14, 2019, this Court took up again the Rivers' appeal from the Magistrate's Court's eviction decision.

STANDARD OF REVIEW

The standard of review to be applied by a Circuit Court in an appeal of a magistrate's judgment is that "[u]pon hearing the appeal the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits." S.C. Code Ann. § 18-7-170. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact. *Hadfield v. Gilchrist*, 343 S.C. 88, 92, 538 S.E.2d 268, 270 (Ct. App. 2000).

DISCUSSION

The Rivers state three grounds for this appeal:

1. That the Rivers had filed an Amended Complaint in Circuit Court regarding ownership of the property.

2. That the Rivers provided a written reply to Rule to Show Cause that was not entered into the record as evidence.
3. That there was no landlord-tenant relationship between the parties.

I. Pending Circuit Court Case

The Rivers contended in their Corrected Notice of Appeal that this appeal should not proceed while there was pending before the Master in Equity a case that the Rivers claimed brought into doubt the ownership of the Property. On August 28, 2019, the Master in Equity dismissed the Rivers' Amended Complaint pending before him for the Rivers' failure to state a claim. The Rivers did not appeal that decision. Thus, that matter is no longer pending before the Master in Equity or any other court.

II. Reply to Rule to Show Cause

The Rivers contend in their Corrected Notice of Appeal that they provided a written reply to the Rule to Show Cause that was not "entered into the record as evidence." The Rivers provided no explanation to this Court how this fact, if true, would show that the Magistrate's Court erred in its ruling on the issues in this case. Therefore, I find no error on the part of the Magistrate's Court in regard to this ground for appeal.

III. Landlord-Tenant Relationship

The Rivers contend in their Corrected Notice of Appeal that there was no landlord-tenant relationship between them and Respondent Smith. Under South Carolina law, a "landlord" is defined as "the owner, lessor, or sublessor of the premises." S.C. Code Ann. § 27-40-210(6). An "owner" is defined as "one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises." S.C. Code Ann. § 27-0-210(8). A "tenant" is defined as "a person entitled under a rental agreement to

occupy a dwelling unit to the exclusion of others.” S.C. Code Ann. § 27-40-210(15). A “rental agreement” is defined as “all agreements, written or oral, and valid rules and regulations adopted under § 27-40-520 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.” S.C. Code Ann. § 27-40-210(12). Absent a rental agreement which fixes a definite term, a tenancy is month to month. S.C. Code § 27-40-310(d). All that is required to terminate a month-to-month tenancy is written notice to the tenant thirty days before the termination date in the notice. S.C. Code § 27-40-770(b).

Smith owns the Property at issue here. Smith holds recorded title to the Property, proof of which he presented to the Magistrate and which is included in the Magistrate’s Court Return for Appeal. Although the Rivers attempted to challenge Smith’s title to the Property, this challenge was dismissed by the Master in Equity for failure to state a claim upon which relief could be granted. There is no evidence in the record that would indicate that Smith is not the owner of the Property.

Until July 2, 2018, Smith permitted the Rivers to occupy the Property without a written lease, to the exclusion of others, without a definite term. Thus, the Rivers are the tenants of Smith. The Magistrate’s Court properly determined there was a landlord-tenant relationship between the parties.

THEREFORE, IT IS HEREBY ORDERED, that the decision of the Magistrate’s Court is hereby affirmed, and the Writ of Ejectment should be issued. I further order the rental payments currently held in the Orangeburg County Magistrate’s Court’s registry be disbursed to Smith James Smith, Jr. at the earliest possible date.

IT IS SO ORDERED.

The Honorable Edgar W. Dickson.
Presiding Judge

_____, South Carolina
December ____, 2019



Orangeburg Common Pleas

Case Caption: Rufus Rivers , plaintiff, et al VS James Smith Jr.

Case Number: 2018CP3801339

Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153