

STATE OF SOUTH CAROLINA)
)
 COUNTY OF COLLETON)
)
 LARRY RAHN,)
)
 Plaintiff,)
)
 v.)
)
 BARBARA SMITH,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 CIVIL ACTION NO.: 2019-CP-15-00218

RECEIVED
Apr 14 2020 ORDER
SC Court of Appeals

This matter came before the Court on a Motion for Summary Judgment filed by the Plaintiff seeking specific performance with the terms of a mediation agreement signed on November 20, 2015. A hearing was held at the Colleton County Courthouse on October 9, 2019, attorney Ronnie Crosby was present for the Plaintiff, and attorney Gregory Parker was present for the Defendant. The Court Reporter for the hearing was Rebecca Hill.

The mediation agreement concerns the division of real property bequeathed by Marvin F. Rahn to his wife, Myrtie S. Rahn, with a remainder interest to their four children, including Plaintiff and Defendant. Following Myrtie S. Rahn's passing, the four children, including Plaintiff and Defendant, attempted numerous times to come to an agreement regarding the division of the property, to no avail. Finally, on November 20, 2015, the parties signed two settlement agreements with the purpose of finalizing the division of the subject property.

The mediation was conducted by attorney Reeves McLeod who drafted the Agreements. The first agreement, "Settlement Agreement 1," memorialized the transfer of all interests in a real property known as the Glover Place tract to Loretta Harriet in exchange for the relinquishment of her interest in another tract of land known as the Home Place tract to the remaining heirs of Marvin Rahn.

In this action, Plaintiff seeks to compel Defendant to comply with the second agreement, "Settlement Agreement 2." The pertinent language of Settlement Agreement 2 is set forth below:

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In light of mediation, Loretta R. Harriett has relinquished her interest in the "Home Place Tract" property. Due to such, the current ownership of the "Home Place Tract" is 1/3 interest to Larry L. Rahn, 1/3 interest to Barbara R. Smith, 1/6 interest to Kenneth F. Rahn and 1/6 interest to Nancy R. Crosby.

1. Barbara R. Smith will deed her interest in this property to Larry L. Rahn, Kenneth F. Rahn, and Nancy R. Crosby for the sum of three hundred and twelve thousand and 00/100 (\$312,000.00) dollars. Larry L. Rahn, Kenneth F. Rahn, and Nancy R. Crosby have 24 months to deliver funds to Barbara R. Smith, in exchange for her interest in the land.

The agreement was signed by all parties on November 20, 2015.

Subsequent to the parties entering the settlement agreements, the relevant parties deeded their interest in the Glover Tract to Loretta Harriet in July of 2017. In particular, Defendant deeded her interest to Ms. Harriet on July 26, 2017. Loretta Harriet did not deed her interest in the Home Place Tract to the other parties until July 11, 2018, over two and a half years after the signing of the original settlement agreements. Thus, performance under Settlement Agreement 1 was not completed until this date. The deeds were not recorded until October 1, 2018.

To date, Defendant has refused to comply with the terms of Settlement Agreement 2. Defendant contends that she is not obligated to comply with Settlement Agreement 2, as over 24 months have passed since the two settlement agreements were entered, and she did not receive payment before the expiration of the deadline. Plaintiff contends that when reading the two settlement agreements in concert, it is clear that the 24-month deadline for payment was not intended to commence until Ms. Harriett's interest in the Home Place Tract was completely relinquished to the other parties.

In determining this matter, the Court is required to interpret the language of the settlement agreements in order to give legal effect to the parties' intentions. *McGill v. Moore*, 381 S.C. 179, 672 S.E.2d 571, 574 (2009) (citing *Schulmeyer v. State Farm Fire and Cas. Co.*, 353 S.C. 491, 495, 579 S.E.2d 132, 134 (2003)). In South Carolina, settlement agreements are viewed as contracts. *Kinghorn v. Sakakini*, 426 S.C. 147, 151, 825 S.E.2d 748, 749 (Ct. App.

2019) (quoting *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009)). “An action to construe a contract is an action at law.” *Kinghorn*, 426 S.C. at 151 (quoting *Byrd v. Livingston*, 398 S.C. 237, 241, 727 S.E.2d 620, 622 (Ct. App. 2012)).¹

“Whether a contract is ambiguous is to be determined from the entire contract and not from isolated portions of the contract.” *Bolt v. Ligon*, 144 S.C. 218, 142 S.E. 504 (1928). A contract is ambiguous only when it may fairly and reasonably be understood in more ways than one. *Carolina Ceramics, Inc. v. Carolina Pipeline Co.*, 251 S.C. 151, 161 S.E.2d 179 (1968). “Once the court decides that the language is ambiguous, evidence may be admitted to show the intent of the parties.” *Hawkins v. Greenwood Dev. Corp.*, 328 S.C. 585, 592, 493 S.E.2d 875, 878 (Ct. App. 1997). On the other hand, a contract is unambiguous when its meaning is clear and susceptible to only one reasonable interpretation. See *United Dominion Realty Trust, Inc. v. Wal-Mart Stores, Inc.*, 307 S.C. 102, 105, 413 S.E.2d 866, 868 (Ct. App. 1992). “If a contract is unambiguous, extrinsic evidence cannot be used to give the contract a meaning different from that indicated by its plain terms. *Id.* The purport of the written agreement is to be gleaned from the contents of the whole instrument. *Id.*”

Here, the language of the two settlement agreements, as reflected by the settlement documents, is clear and unambiguous. Settlement Agreement 2 obviously contemplated the completion of Settlement Agreement 1 before its terms were to become effective: “In light of mediation, Loretta R. Harriett **has relinquished** her interest in the ‘Home Place Tract’ property.” It plainly requires Defendant to deed a 1/3 interest in the Home Place Tract to Plaintiff and the other heirs of Marvin Rahn, in light of Ms. Harriett’s relinquishing of her interest in the tract. Plaintiff and the other heirs were to have 24 months to deliver funds to Defendant in exchange for her 1/3 interest in the land. Since Ms. Harriett did not relinquish her interest in the tract until

¹ A separate lawsuit was filed against Harriett seeking to compel her compliance with Agreement 1. See *Rahn v. Harriett*. This suit was settled with Harriett agreeing to comply.

July 11, 2018, it was impossible for any of the parties to successfully perform under the terms of Settlement Agreement 2 until that date.

Prior to July 11, 2018, Defendant did not possess a "current ownership" consisting of the 1/3 interest in the land that would have entitled her to the consideration offered by Plaintiff. Thus, the parties were prohibited from complying with the terms of the agreement until July 11. Under the plain and ordinary meaning of the language of Settlement Agreement 2, the 24-month deadline could not have begun to run until Defendant possessed a 1/3 interest in the tract she could exchange. The Plaintiff has alleged that he and the other heirs stand ready, willing and able to comply with the terms of Settlement Agreement 2. That they attempted to do so was confirmed by the affidavit of Barbara Smith wherein she confirmed that the Plaintiff and other heirs reached out to her in the fall of 2018 in an attempt to fulfill the Settlement Agreement 2.

The language of the settlement agreements cannot be fairly and reasonably understood under Defendant's interpretation. This would have the effect of bestowing upon Ms. Harriett the ability to effectively nullify Settlement Agreement 2, to which she was not a party. Under Defendant's interpretation of the agreements, by unilaterally refusing to relinquish her interest in the Home Place Tract until after the 24-month deadline passed, Ms. Harriett would have the power to frustrate the entire purpose and intent of the second agreement via an unlawful act. Even in a light most favorable to Defendant, interpreting the language of Settlement Agreement 2 in such a manner would be unreasonable, as the sole purpose of the second agreement was to effectuate a legal transfer of property between Plaintiff and Defendant, and not Ms. Harriett.

Based on the foregoing, it is ORDERED that the Plaintiff's Motion for Summary Judgment is granted. The Defendant is hereby ORDERED to transfer her interest in the Home Place upon payment of \$312,000.00 per the terms of the Settlement Agreement 2. The Parties are further ORDERED to fully comply with the terms of the Settlement Agreement 2 on or before

July 11, 2020 which is two years after the transfer from Harriett of her interest in the Home Place.

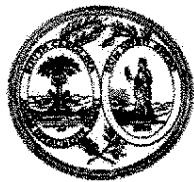
IT IS SO ORDERED.

Perry M. Buckner, III
Chief Administrative Judge

_____, 2019

_____, South Carolina

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Colleton Common Pleas

Case Caption: Larry Rahn VS Barbara Smith

Case Number: 2019CP1500218

Type: Order/Other

It is so Ordered

s/ Perry M Buckner III 2122

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