

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Eliza-
beth Diane Keese,
Sylvester Keese, Arthur B.
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall
Keese, *pro se*

Appellants

REPRODUCED RECORD OF APPELLANT

RECEIVED
MAY 04 2020
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
Docket No. 2019-CP-04-_____

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese
and Marshall Keese,

Defendants.

SUMMONS

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at her office at PO Box 987, Anderson, South Carolina, 29622, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the said relief demanded in the Complaint.

s/Carolyn G. Baird
CAROLYN G. BAIRD, SC Bar #480
JONES LAW FIRM, PA
PO Box 987
Anderson, SC 29622
(864) 224-3474
Carolyn@jonesfirm.com

Anderson, SC
February 15, 2019

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

Docket No. 2019-CP-04-_____

COUNTY OF ANDERSON)

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary
K. Taylor,

Plaintiffs,

vs.

COMPLAINT

Florence Keese, Marcy Keese, Margo Keese
and Marshall Keese,

Defendants.

The Plaintiffs would allege as follows:

1. The Plaintiffs, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese are citizens and residents of Anderson County, South Carolina. The Plaintiff Frances K. Chestnut is a citizen and resident of Philadelphia, Pennsylvania. The Plaintiff Mary K. Taylor is a citizen and resident of Woolwich Twp., New Jersey.
2. The Defendants Florence Keese, Marcy Keese and Margo Keese are all citizens and residents of West Chester, Pennsylvania and the Defendant Marshall Keese is from Philadelphia, Pennsylvania.
3. The subject of this Complaint is the title to real estate situate in Anderson County, South Carolina. Therefore, this Court has jurisdiction over the subject matter herein. A description of the real estate is as follows:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44) acres, more or less, situate in School District No. 28, called Bishop's Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emmie Newton, on the South by the land known as the Old Bolt Land, and on the West by now or formerly of George Link and of Joe Berry Link.

4. The Plaintiffs are informed and believe that the Defendants make their claim against the property pursuant to a Deed from Minnie Keese dated September 21, 1992, and recorded September 22, 1992, in the Office of the Register of Deeds for Anderson County, South Carolina, in Book 1465 at Page 38. TMS No.: 062-00-02-006 (a copy is attached as Exhibit A.)(1992 Deed). Among the grantees is "Marshall Keese (deceased)" (sic). Marshall Keese was the predeceased son of Minnie Keese who died on or about May of 1989. The

Plaintiffs are informed and believe that the Defendants base their claim as the heirs at law of Marshall Keese, being his widow and children.

- 5. The Plaintiffs with the exception of Elizabeth Diane Keese were also Grantees under the 1992 Deed. In addition to the Plaintiffs, the Deed names James Keese, Jr. who died in April of 1995 and whose interest was conveyed to Elizabeth Diane Keese as described hereinbelow.**
- 6. The Plaintiff Elizabeth Diane Keese (Diane) is the widow of James Keese, Jr. (James), who died intestate in April of 1995 in Anderson County, South Carolina. His death is of record in Anderson County Probate Case Number 970400040. James died survived by his widow, Diane and his children, Richard Keese, Randall Keese, Roxanne Keese, Ronnie Keese and Rory Keese as his sole heirs at law. Subsequent to his death, his son, Rory, died intestate on July 16, 2013 leaving his sole heirs, his widow, Vanessa Keese, and his children, Alexis Keese and Albany Keese. His estate was probated as a small estate in Anderson County Probate Court Case Number 20140401290.**
- 7. The interest of James Keese, Jr. was thus owned by Elizabeth Diane Keese and Richard Keese, Randall Keese, Roxanne Keese, Ronnie Keese, Vanessa Keese, Alexis Keese and Albany Keese who then granted their interest to Elizabeth Diane Keese by Deed dated October 13, 2017 and recorded on November 21, 2017 in the Anderson County Register of Deeds Office in Book 13129 at Page 205 attached hereto as Exhibit B.**
- 8. At the time of the filing of this action, Elizabeth Diane Keese is the sole owner of the interest of James Keese, Jr. and a Plaintiff in this action.**
- 9. The Plaintiffs claim that the 1992 Deed was null and void as to the transfer to Marshall Keese who being deceased at the time could not take title to real estate.**
- 10. The Plaintiffs are informed and believe that the Deed of September 22, 1992 constitutes a cloud on their title and asks this Court to rule that with regard to Marshall Keese the Deed is null and void.**
- 11. Therefore, title to the real estate described in paragraph 3 herein above shall be quieted in the names of the Plaintiffs.**

WHEREFORE, the Plaintiffs demand judgment against the Defendants as follows:

- 1. Declaring the transfer to Marshall Keese under the Deed of September 22, 1992 to be null and void;**
- 2. That Elizabeth Diane Keese be confirmed in her title to an undivided one-fifth (1/5) interest in the subject property;**

3. Quieting the title to said property in the names of the Plaintiffs and against the Defendants and all persons claiming title under them;
4. For such other and further relief as this Court shall deem just and proper.

s/Carolyn G. Baird
CAROLYN G. BAIRD, SC Bar #480
JONES LAW FIRM, PA
PO Box 987
Anderson, SC 29622
(864) 224-3474
Carolyn@jonesfirm.com

Anderson, SC
February 15, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese, Margo Keese and Marshall Keese, *pro se*

Appellants

REPRODUCED RECORD NUMBER 2 OF APPELLANT

TRANSFER SLIP No. 7 - THIS IS THE COPY
PLEASE RETURN TO JAMES KEENE
TRANSFER FURNISHING CO. COLUMBIA, S. C.

STATE OF SOUTH CAROLINA,
COUNTY OF ANDERSON

Know all Men by these Presents,

I, Minnie Keese

of the State of South Carolina, County of Anderson, for and in consideration of the
sum of Five And .00/100 (\$5.00) DOLLARS

to me paid by my children, Frances K. Chestnut, James Keese, Jr., Sylvester
Keese, Marshall B. Keese, (deceased), Arthur B. Keese And Mary K. Taylor.

in the State of South Carolina, (except where it hereby appears) by me and I

have granted, bargained, sold and released; and by these presents do grant, bargain, sell and release with the said
Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B.
Keese, (deceased) Arthur B. Keese, And Mary K. Taylor, their heirs
and assigns forever all of my right title and interest to the below described
property, with the exception, that I reserve unto myself "Life Estate" in
the herein described property:

All that certain tract of land containing Eighty Seven and Forty
four One Hundredths (87.44) acres more or less, situate in School
District No. 28, called Bishop's Branch, in Garvin Township, in
Anderson County in the State of South Carolina, bounded on the
North and East by land now or formerly of Emie Newton, on the
South by the land known as the Old Bolt Land, and on the West by
now or formerly of George Link And of Joe Berry Link and being
the same land conveyed to E. G. Evans of C. W. Martin by deed
dated October 18, 1935, and recorded in the Office of the Clerk
of Court for Anderson County, South Carolina, in Deed Book N-5,
at Page 700.

THIS is the same property conveyed unto Minnie Keese by deed of
James Keese, Sr., dated June 22, 1992 and of record in the said
Clerk's Office in Deed Book 1415, at Page 305.

ADDRESS OF GRANTEE:

1703 DANENKOWER ROAD
PENDLETON, SOUTH CAROLINA
29670

(DEED PREPARATION ONLY)

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased), Arthur B. Keese And Mary K. Taylor, their

Heirs and Assigns forever.

And I do hereby bind myself and I Heirs and Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said:

Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased) Arthur B. Keese And Mary K. Taylor, their

Heirs and Assigns against
us and my Heirs, and all persons whatsoever that may
henceforth come forward

lawfully claiming, or to claim the same or any part thereof.

Witness the execution hereof by grantor this 21st day of September

in the year of our Lord one thousand nine hundred and ninety two

and in the two hundred sixteenth year

of the Sovereignty and Independence of the United States of America.

Minnie Keese (L. S.)
MINNIE KEESE

_____ (L. S.)

_____ (L. S.)

_____ (L. S.)

_____ (L. S.)

Signed, Sealed and Delivered
in the Presence of

Pauline M. Edwards
Oster C. Edwards

STATE OF SOUTH CAROLINA,

COUNTY OF ANDERSON

PERSONALLY appeared before me, Pauline G. Edwards
and made with me the now the writhe named MARRIA FORD

DO Wm. Earl and co HSE All and Good deliver the writhe written Dand; and that Go with
Otis C. Edwards witnessed the aforesaid Writhe.

Now to before me this 2nd
day of September A. D. 1922

Otis C. Edwards (C. S.)
Notary Public for South Carolina

Pauline G. Edwards
PAULINE G. EDWARDS

My Commisary expires 5/1/1928



ELECTRONICALLY FILED - 2019 Feb 20 12:38 PM - ANDERSON - COMMON PLEAS - CASE#2019CP04

RETURN TO: OTIS C. EDWARDS

1465 PAGE 041

Garvin Township
STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

FILED
SEP 27 1 05 PM '32

MINNIE BERRY

TO (Address)
JAMES KEESE, JR., ET AL.,
1703 GARDENWATER ROAD
SPENGLTON, S.C. 29570

TITLE TO REAL ESTATE
(Points included in Schedule)

I hereby certify that the within deed has been this
22 day of Sept A. D.
1932 Recorded in Book 1465 of
deeds, Page 138 of 135 of Book P
of Anderson County
Clk of Court of Anderson County

I hereby certify that the within deed has been this
day of A. D. 1932
Transferred on Auditor's Book Page
Auditor of Anderson County

W. H. HARRIS
Notary Public
Anderson, S. C.

10.00

1465 PAGE 041

ELECTRONICALLY FILED - 2019 Feb 20 12:38 PM - ANDERSON - COMMON PLEAS - CASE#2018CP0400337

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall Keese, *pro se*

Appellants

REPRODUCED RECORD NUMBER 3 OF APPELLANT

ELECTRONICALLY FILED - 2019 Jul 01 9:48 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337



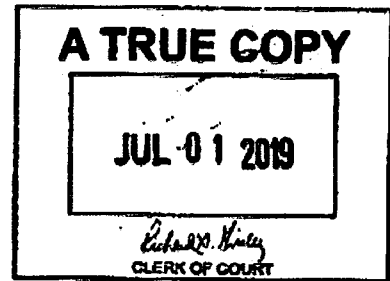
Anderson Common Pleas

Case Caption: Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al
Case Number: 2019CP0400337
Type: Order/Judgment by Default and Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2019-07-01 09:35:03 page 3 of 3



1900155402 7/02/2019 11:54:46 AM
FILED, RECORDED, INDEXED
By: 13982 Ps: 00117 Fees: 100.00
Doc. Fee: \$0.00 St. Fee: \$0.00
REGISTER OF DEEDS, ANDERSON CO, OH
Wanda Kappel

ELECTRONICALLY FILED - 2019 JUL 01 9:48 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
Docket No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese
and Marshall Keese,

Defendants.

ORDER OF DEFAULT AND JUDGMENT

A TRUE COPY

JUL 01 2019

On Motion for Judgment and by sworn Affidavit, Carolyn G. Baird, being duly sworn and deposed, states that she is the attorney for the Plaintiffs in the above captioned matter that the Summons and Complaint were duly served on the Defendants as shown by the Affidavits of Service filed in the Court record; that she is familiar with the provisions of 50 App. Section 520, Civil Relief Act of 1940, as amended, and that at the time of the commencement of this action, upon information and belief based, none of the above named Defendants are in the Military Service of the United States as defined in Article 1 of the "Soldiers and Sailors" Civil Relief Act and therefore, none of the Defendants are entitled to the protection of said Act; that more than thirty (30) days have elapsed since the service of said Summons and Complaint and that none of the Defendants have served an Answer, Notice of Appearance, Motion or other pleadings in this matter and that the matter is now in default and the Plaintiffs are entitled to Judgment as set forth in the prayer for relief.

NOW, THEREFORE, pursuant to Rule 55 (b)(1) of the South Carolina Rules of Civil Procedure, and upon motion of the Attorney for the Plaintiffs, the Defendants herein are hereby declared to be in default.

UPON FURTHER MOTION of Plaintiffs' attorney, it is hereby adjudged that the Plaintiffs herein are entitled to judgment as follows:

1. That the transfer to Marshall Keese under the Deed of September 22, 1992 is hereby null and void;
2. That said property is hereby quieted in the names of the Plaintiffs.
3. That each of the Plaintiffs is confirmed in their title to an undivided one-fifth (1/5) interest in the subject property.

AND IT IS SO ORDERED

JUDGE, TENTH JUDICIAL CIRCUIT

Anderson, South Carolina
_____, 2019

ELECTRONICALLY FILED - 2019 Jul 01 8:48 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall Keese, *pro se*

Appellants

REPRODUCED RECORD NUMBER 4 OF APPELLANT

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON

) C. A. No. 2019-CP-04-00337

)
)
) Frances K. Chestnut, Elizabeth Diane Keese,
) Sylvester Keese, Arthur B. Keese and Mary
) K. Taylor,

)
)
) Plaintiffs,

)
)
) v.

)
)
) **MOTION TO SET ASIDE DEFAULT
) JUDGMENT**

)
)
) Florence Keese, Marcy Keese, Margo Keese
) and Marshall Keese,

)
)
) Defendants.

TO: CAROLYN G. BAIRD, ESQ., ATTORNEY FOR PLAINTIFFS

YOU WILL HEREBY TAKE NOTICE that Defendants, by and through their undersigned counsel, will move before the presiding judge of the Court of Common Pleas of Anderson County, as soon as this matter may be heard, for an Order setting aside the default judgment entered in the above-referenced action.

This motion is made pursuant to S.C.R.C.P. 60(b) and is supported by the South Carolina Rules of Civil Procedure and such legal memoranda and arguments as Defendants' counsel may present to the Court at or prior to the hearing on this motion.

Respectfully submitted this 2nd day of August, 2019.

HOLDER, PADGETT, LITTLEJOHN + PRICKETT, LLC

s/ M. Stokely Holder

M. Stokely Holder (SC Bar #73892)
Anna L. Bullington (SC Bar # 102503)
P.O. Box 1804
Greenville, SC 29602
(864) 335-8808

sholder@hplplaw.com
abullington@hplplaw.com

*Attorneys for Defendants Florence Keese, Marcy Keese,
Margo Keese and Marshall Keese*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Eliza-
beth Diane Keese,
Sylvester Keese, Arthur B.
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall
Keese, *pro se*

Appellants

REPRODUCED RECORD NUMBER 5 OF APPELLANT

1 State of South Carolina
2 County of Anderson

In the Court of Common Pleas

3

4 Frances K. Chestnut,)
5 Elizabeth Diane Keese,)
6 Sylvester Keese,)
7 Arthur B. Keese and)
8 Mary K. Taylor,)

Plaintiffs,

2019-CP-04-00337

8 -vs-

December 12, 2019

9 Florence Keese,)
10 Marcy Keese, Marshall)
11 Keese and Margo Keese,)

Defendants.

Transcript of Record

12

13

14

B E F O R E:

15

The Honorable R. Scott Sprouse, Judge

16

A P P E A R A N C E S:

17

18 Carolyn G. Baird, Esquire
19 James S. Eakes, Esquire
20 Attorneys for Plaintiffs

21 Anna L. Bullington, Esquire
22 Attorney for Defendants

23

24

25

Diane L. Marcengill, RPR, CRR, CRC
Circuit Court Reporter

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 11:26 a.m.)

4 THE CLERK: Frances K. Chestnut versus Florence
5 Keese, defendant, et al.

6 THE COURT: Okay. This appears to be a motion --
7 is this a motion to set aside default?

8 THE COURT: All right.

9 Ms. Bullington.

10 MS. BULLINGTON: Good morning, your Honor. This
11 is a motion to set aside. This is -- the order was
12 actually entered on July 1st. This was a quiet title
13 action that was filed concerning a family property here
14 in Anderson, and we represent the defendants in the
15 quiet title action, Florence, Margot, Marcy, and
16 Marshall Keese.

17 Your Honor, my clients are out of town. They're
18 in Pennsylvania. And my understanding -- and we have
19 filed affidavits to this effect -- is that Ms. Baird
20 contacted my clients in March of last year regarding
21 dividing the property, and my clients didn't have any
22 interest in that and told her that. And she,
23 ultimately, filed this quiet title action, I believe,
24 let's see, in February of this year.

25 And my clients contacted an attorney in

1 Pennsylvania, who has also filed an affidavit about the
2 grounds for Ms. Baird's action, the quiet title action,
3 trying to extinguish my clients' interest in the
4 property.

5 So at some point my clients basically told -- I
6 mean, I'm sorry, the attorney in Philadelphia, I
7 believe, told my clients that he needed to help them
8 find an attorney in South Carolina because he's not
9 licensed in South Carolina. And this attorney says
10 that there was some type of miscommunication between
11 him and our clients about filing an answer to the quiet
12 title action, so they did not know that any entry of
13 default was made, they didn't know that they were
14 seeking default, and so when they came to our office in
15 July, that was the first they had heard about any kind
16 of default being entered or anything along those lines.

17 So we are seeking to set aside the order of
18 default based on good cause, and I think my clients
19 need an opportunity to be able to at least argue the
20 issue of extinguishing their interest in the property,
21 and we request that you would allow them to do that.

22 THE COURT: Okay. Thank you, Ms. Bullington.
23 Ms. Baird.

24 MS. BAIRD: If it please the Court, the default
25 cannot be set aside without good cause. And I did have

1 communication, e-mail, I believe, from an attorney
2 in -- out of state, and so these parties had consulted
3 an attorney, had advice of an attorney, and certainly
4 knew there was a specific period of time in which to
5 answer.

6 I don't think good cause exists because, even if
7 they could not find an attorney, another attorney in
8 South Carolina, which is what the affidavits they have
9 filed with the court basically say, they had trouble
10 finding an attorney in South Carolina to represent
11 them, then they could have answered. They were charged
12 with answering in this case, your Honor. They allowed
13 it to go into default. None of the time frames in the
14 file indicate that I acted in a really preemptory way
15 at all. I mean, time was allowed and no communications
16 were received until, finally, Mr. Holder and
17 Ms. Bullington's law firm filed this motion to set
18 aside the default.

19 Moreover, your Honor, to set aside the default, I
20 think they need to show a meritorious defense in this
21 case. And this case is pretty simple. It's about a
22 deed to a dead person, and the dead person was one of a
23 sibling group, and the siblings who were alive at the
24 time the deed was done are the ones that Mr. Eakes and
25 I now represent. So a dead person is not a person, and

1 being it's not a valid deed, and I simply contacted
2 them to see if they would sign a quitclaim deed, which
3 they refused to do, and, hence, I filed the quiet title
4 action just to take that stigma, I guess you'd say, off
5 the record. But we very strenuously argue that the
6 deed to Marshall Keese, which is to Marshall Keese,
7 paren, deceased, closed paren, so it was known to all
8 that he was dead at the time, is simply not a valid
9 transfer to him, and that there's no reason therefore
10 to set aside the default.

11 THE COURT: Looks like you filed your complaint in
12 February; is that correct?

13 MS. BAIRD: Yes, your Honor.

14 THE COURT: And then it was served April the 24th?

15 MS. BAIRD: Yes.

16 THE COURT: Okay. And looks like I signed the
17 order July the 1st?

18 MS. BAIRD: Correct, your Honor.

19 THE COURT: Ms. Bullington, did your clients
20 actually retain this lawyer in Pennsylvania?

21 MS. BULLINGTON: This attorney, from my
22 understanding, was assisting them in a separate matter
23 in Pennsylvania, so, no, they did not actually retain
24 him for this matter. And I believe there were
25 conversations between him and my clients about trying

1 to get a South Carolina attorney. My clients
2 understood that he was assisting with that, and there
3 was apparently a miscommunication in that regard.

4 THE COURT: And this was -- okay. I see his
5 affidavit in here. This is Mr. Richard Margolis.

6 MS. BULLINGTON: Yes, your Honor.

7 THE COURT: Okay. Let me look at his affidavit
8 real quick.

9 (Pause in proceedings.)

10 THE COURT: Anything further for the record?

11 MS. BULLINGTON: No, your Honor.

12 THE COURT: Ms. Baird, anything further for the
13 record?

14 MR. EAKES: I represent one of the people,
15 Sylvester Keese. Carolyn, of course, is handling this
16 quiet title action, but as she indicated, it arose out
17 of a deed to Marshall B. Keese, who was deceased at the
18 time. That's not controverted.

19 These are his wife and children who are named as
20 defendants. There's no issue that they were properly
21 served. They hired the attorney in their home state.
22 There's no issue but that they passed the 30 days and
23 have not answered. I have not heard anything that
24 would indicate there was good cause for not answering.

25 I have one case, case of Williams vs. Van

1 Valkenburgh. It's where the failure to answer a
2 complaint where the owners are chargeable -- the case,
3 basically, indicated that the defendants were
4 chargeable with their attorney's failure to answer the
5 complaint, whether it was their fault or through his
6 negligence, and I think that's similar to the case
7 we're dealing with.

8 On the issue of meritorious defense, I've got a
9 similar action in Pickens County, and I have some case
10 law. I don't know if the Court is interested in
11 looking at it, but it's basically a property is deeded
12 to a person or an entity that's not in existence. It's
13 void ab initio. So I requested whether they really
14 would have a meritorious defense even if the Court let
15 them out of the default.

16 THE COURT: Ms. Bullington, how do you respond to
17 the meritorious defense argument?

18 MS. BULLINGTON: Well, your Honor, we obviously
19 disagree with their assertion that -- and I think,
20 basically, they're saying that -- that they're not
21 words of conveyance in some sense. I'm not aware of
22 any South Carolina case law that supports their
23 assertion as far as this being an invalid transfer. I
24 have not heard any. I have not seen any, so, you
25 know --

1 THE COURT: As I understand their argument,
2 they're saying that your two clients are asserting an
3 interest based on a deed to their ancestor, who was
4 deceased at the time the deed was issued, that they
5 would have inherited from the person who was deceased
6 at the time the deed was issued.

7 Is that wrong as far as the facts of the case go?

8 MS. BULLINGTON: As far as the facts of the case
9 go, that is not incorrect, your Honor.

10 THE COURT: Okay. So tell me about can --
11 Mr. Eakes and Ms. Baird have stated that South Carolina
12 law, and I haven't delved into the cases. I'm just
13 dealing from a surface-level understanding of the law.
14 I do want to read the cases, but what is your argument
15 that that deed is void ab initio? That's what they're
16 saying.

17 MS. BULLINGTON: And that's something that we
18 would like the opportunity to address more fully.

19 THE COURT: Well, I'm giving you that. I want you
20 to tell me, is there case law that I need to look at on
21 that. Meritorious defense is something the Court has
22 to consider in this matter.

23 MS. BULLINGTON: We would respectfully request the
24 opportunity to submit that case law in support.

25 THE COURT: Well, I'll do this. I'll take this

1 under advisement, and I'll give each side ten days to
2 get me any case law that you would like me to review on
3 it, and I'll have my law clerk e-mail you my decision.

4 MR. EAKES: May it please the Court. These cases
5 that I have deal with trust, but it's the same
6 proposition and the dicta applies, and I'm willing to
7 give opposing counsel copies of the cases I'm fixing to
8 pass up to the Court so, in her research, she can
9 address whether I'm right in my contingent or not.

10 May I approach?

11 THE COURT: Yes, sir.

12 MR. EAKES: Like I said, this dealt with a trust,
13 but it's the same proposition. You can't deed property
14 to someone who's not in existence at the time or an
15 entity that's not in existence.

16 THE COURT: Well, I will review these. Again, I
17 want -- each side would have ten days.

18 Ms. Bullington, if you find something you want me
19 to look at, you can e-mail it to me.

20 MS. BULLINGTON: Thank you, your Honor.

21 THE COURT: Close the record.

22 (WHEREUPON, proceedings concluded at 11:44 a.m.)

23 ***END OF REQUESTED TRANSCRIPT OF RECORD***

24

25

1
2
3 Certificate of Reporter

4 I, Diane L. Marcengill, Official Court Reporter
5 for the Tenth Judicial Circuit of the State of South
6 Carolina, do hereby certify that the foregoing is a
7 true, accurate, and complete transcript of record of a
8 portion of the proceedings had and evidence introduced
9 in the trial of the captioned case, relative to appeal,
10 in the Circuit Court for Anderson County, South
11 Carolina, on the 12th day of December 2019.

12 This transcript may contain quoted material. Such
13 material is reproduced as read by the speaker.

14 I do further certify that I am neither of kin, counsel,
15 nor interest to any party hereto.

16 April 5, 2020

17 *Diane L. Marcengill*

18 Diane L. Marcengill, RPR, CRR, CRC
19 Circuit Court Reporter
20
21
22
23
24
25

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor.

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall Keese, *pro se*

Appellants

REPRODUCED RECORD NUMBER 6 OF APPELLANT



Anderson Common Pleas

Case Caption: Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al
Case Number: 2019CP0400337
Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-01-22 09:25:20 page 3 of 3

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
Docket No. 2020-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese
and Marshall Keese,

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on the Plaintiffs Summons and Complaint filed on February 20, 2019. The Summons and Complaint were served upon the Defendant Marshall Keese by personal service on April 10, 2019. The Defendants Florence Keese, Marcy Keese, Margo Keese and Marshall Keese (Jr.) were served by personal service on April 5, 2019. An Affidavit of Default as to the Defendants was filed in the Court record on May 17, 2019.

Plaintiffs brought this quiet title action asking the Court to rule that the conveyance made in the Deed of September 21, 1992 and recorded September 22, 1992, in the Office of the Register of Deeds for Anderson County, South Carolina, in Book 1465 at Page 38. TMS No.: 062-00-02-006 was null and void with regard to the conveyance to Marshall Keese (Sr.) who was deceased on the date of the conveyance. The Deed conveyed property from Minnie Keese to Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese (Sr.)(deceased), Arthur B. Keese and Mary K. Taylor. The Order of Default Judgment was signed by the Court on July 1, 2019 granting the Plaintiffs prayer for relief thereby declaring the conveyance to the deceased Marshall Keese null and void, and quieting title in the subject property in the names of the Plaintiffs.

To set aside the entry of the default judgment, the Defendants, who are the widow and children (heirs at law) of Marshall Keese (Sr.) must show there is good cause to set aside the default, and if so, there is a meritorious defense to be raised to this Complaint.

The Court finds that the Defendants consulted Attorney Richard Margolis of Philadelphia, Pennsylvania. As shown in the Affidavit the Defendants filed in their behalf, although Mr. Margolis was not licensed in South Carolina, he informed the Defendants of the necessity of answering this matter. The Defendants did not answer and had no contact was made with the Plaintiffs' attorney other than an initial contact wherein no request was

made of her.. As stated in the case, Williams v. Vanvolkenburg, 440 SE 2d 408, 409 (S.C.APP 1994), the Defendants are accountable for the actions of their attorney, and his failure to act is not an excuse for their inaction. The Defendants understood or are chargeable with the knowledge that an answer was necessary to prevent a default in this action, and no attempt was made to answer or otherwise respond to the pleadings.

Further, the Court finds that even if the Default were to establish good cause, to set aside the entry of the Default there must be a showing that meritorious defense exists to the Plaintiffs' Complaint. The Court finds that there is no meritorious defense in this case. The Default Judgment found the conveyance to Marshall Keese (Sr.) to be null and void based on the undisputed fact that he was dead at the time of conveyance, and thus not a person in being at the time of the conveyance. The Grantee in a Deed must be a person in being that is either a natural living person or a legal entity in existence at the time of the conveyance. As stated in Gifford V. Linnell, 579 S.E.2d 440, 441 (N.C. App 2003)

“At the time the plaintiff executed the Deed the... Family Trust did not exist and, therefore, the grantee of said deed was not a legal entity and the deed, therefore, could not operate to convey title to the defendants either individually or as trustees.”

No argument exists that Marshall Keese (Sr.) deceased at the time was a person in being on the date of the conveyance.

This Court, based on the finding that there is neither good cause to set aside the Default Order nor a meritorious defense to the Complaint, concludes that the Order of Default shall remain the Order of this Court and thus the relief requested in the Complaint is granted..

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

R. Scott Sprouse, Judge, Court of Common
Pleas

Anderson, SC

_____, 2020



Anderson Common Pleas

Case Caption: Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al
Case Number: 2019CP0400337
Type: Order/Electronic Form 4

s/R: Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-01-09 09:35:30 page 3 of 3

Frances K Chestnut et al
PLAINTIFF(S)

Florence Keese et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

After careful review of the submissions, arguments of counsel, and applicable case law the court finds the that the Defendant has not shown sufficient cause for the Court to set aside the default. The Court further finds the Defendant does not have a meritorious defense based on the facts and applicable law. Accordingly, the Defendant's motion to set aside default judgment is denied. The Plaintiff's attorney is directed to draft an order to this effect, including applicable case law within ten (10) days. Plaintiff's counsel is directed to share this order with the Defendant's counsel.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/09/2020 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.
