

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

MIKEL R. SCARBOROUGH, Master in Equity

Appellate Case No. 2019-001289

RECEIVED
JUN 15 2020
SC Court of Appeals

Raven's Run Homeowners Association, Inc., Appellant-Respondent,

v.

Crown Point Association, Inc., Lois K. Novak as Trustee of the Lois K. Novak Living Trust dated 10/14/2013; Laurie T. Herron and Mark D. Herron; James B. Kubu and Melissa F. Kubu; Leila June Johnson; Danny Ta and Anita McCauley; Robert E. Luby, Jr., and Barbara Luby; Joshua D. Coonce; Lucius Roy Junevicius; Katherine Kinlaw; Thomas K. Kuyk and Melissa Ward; Roland Franklin Wooten, III, and Teresa Key Wooten; Michael P. Horvath; Timothy E. Moylan and Karen G. Moylan; Carl A. Counasse and Maureen Counasse; David A. Frielinghaus and Holly C. Frielinghaus; Christopher S. Finley and Holly M. Finley; Shirley D. Springer a/k/a Shirly Deanna Springer; Deirdre C. Knight; Robert Shane Johnson; Eric R. Sigman; Lamar R. Graves, Jr. and Terry W. Graves; Mary Elizabeth Gladdedn; Philip Wallace and Naomi Grad; Thomas Edwin Davis and Luis Miguel Gonzalez Melchor; John R. Funkhouser and Jennifer L. Funkhouser; Gregory S. Cooper and Jane B. Cooper; Frank C. Jones, Jr. and Elise Ubele Jones; William P. Topping and Kris B. Topping; LaRhonda S. Ptichko; Kenneth L. Tully and Anna J. Tully, Defendants,

Of Whom James B. Kubu and Melissa F. Kubu and Leila June Johnson are the Respondents.

And Katherine Kinlaw is the Respondent-Appellant.

APPELLANT'S INITIAL REPLY BRIEF OF RESPONDENT-APPELLANT

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ARGUMENT

I. KINLAW HAS STANDING TO ASSERT RAVEN'S RUN DOES NOT OWN THE LAKE

Kinlaw has property that abuts the disputed lakes and strips of land. Kinlaw is a member of Crown Pointe Subdivision with voting rights in that property owners association. Kinlaw has no voting rights in Raven's Run. Raven's Run seeks to exclude Kinlaw from the lake. Crown Pointe does not. Raven's Run seeks to deny Kinlaw a personal or property right: the use of the lake. Raven's Run brought this lawsuit to exclude Kinlaw from using the lake. Kinlaw has standing. Beaufort Realty Co. v. Beaufort County, 346 S.C. 298, 301, 551 S.E.2d 588, 589 (Ct.App. 2001).

II. KINLAW PRESERVED THE ISSUE FOR APPEAL

The master ruled "Raven's Run owns the lake." Kinlaw appeals this specific finding. The master based his ruling stating water was shown on a certain plat (Order of July 9, 2019, pp. 3-5). Kinlaw had argued the water next to Kinlaw's lot was not. (Transcript of Hearing of January 8, 2019, p. 45, line 22 - p. 49, line 14; Poster Blow Up retained by counsel). Kinlaw also extensively argued this point at the August 28, 2018 hearing (Transcript of Hearing of August 28, 2018).

This issue was raised and ruled on by the trial court. Hence, a new Rule 59(e), SCRCP, motion is not necessary. Staubes v. City of Folly Beach, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000).

III. RAVEN'S RUN DOES NOT OWN THE LAKE

As set forth in Appellant's Initial Brief of Respondent-Appellant, Raven's run does not own the lake adjacent to Kinlaw's land. That argument is reincorporated here.

CONCLUSION

This Court should reverse the finding that Raven's Run owns the lake adjacent to Kinlaw's lot.

Respectfully submitted,



June 11, 2020

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Of Whom James B. Kubu and Melissa F. Kubu and Leila June Johnson are the Respondents.

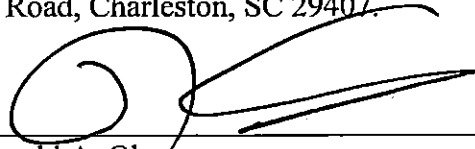
And Katherine Kinlaw is the Respondent-Appellant.

PROOF OF DELIVERY

I certify that I have served the Appellant's Initial Reply Brief of Respondent-Appellant, Katherine Kinlaw, by depositing one copy of it in the United States Mail, postage prepaid, on June 11, 2020, addressed to Appellant-Respondent's attorneys of record, William W. Wilkins and Kirsten Elena Smalls, Nexsen Pruet, LLC, 55 E. Camperdown Way, Greenville, SC 29601 and Geoge Hamlin O'Kelley, III, Buist, Byars & Taylor, LLC, 652 Coleman Boulevard, Suite 200, Mt. Pleasant,

SC 29464 and Respondent, James B. Kubu and Melissa F. Kubu's attorney of record, Edward K. Pritchard, Jr., P. O. Box 639, Sullivan's Island, SC 29482 and Respondent, Leila June Johnson's attorney of record, Jeffrey T. Spell, 1721 Ashley River Road, Charleston, SC 29407.

June 11, 2020



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June 11, 2020

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SC Court of Appeals

Honorable V. Clair Allen
Chief Deputy Clerk
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Raven's Run Homeowners Associations, Inc. Appellant-Respondent v. Crown Point Association, Inc., et al.; Of Which Crown Pointe Association, Inc. Is the Respondent and Katherine Kinlaw is the Respondent-Appellant
Case No. 2017-CP-10-00473
Appellant Case No. 2019-001289

Dear Ms. Allen:

I enclose the original and one (1) copy of the Appellant's Initial Reply Brief of Respondent-Appellant and Designation of Matter To Be Included in the Record on Appeal, along with the Proofs of Service and Certificate of Counsel, with regard to the above-captioned matter.

Upon filing, please return a clocked-in copy of each to our office in the enclosed self-addressed, stamped envelope.

With warmest personal regards, I remain

Yours very truly,



Harold A. Oberman

HAO/shb
Enclosures

cc: George Hamlin O'Kelley, III, Esquire (w/enclosures)
Anna Louise Strandberg, Esquire (w/enclosures)
Maria Kiehling Brees, Esquire (w/enclosures)
Justin M. McGee, Esquire (w/enclosures)
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