

RECEIVED
JUN 11 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Circuit Court

The Honorable Robert E. Hood
Circuit Court Judge

Case No.: 2019-001929

In the Matter of:
Almeter B. Robinson
(Decedent)

Laverne Robinson..... Appellant,

v.

Martha Ann Robinson Aiken Martha Ann Robinson Aiken as Trustee,
Ronnie Randolph Robinson, Almeter Robinson Harrison and
Mary Alice Robinson Green Respondents,

APPELLANT'S FINAL REPLY BRIEF

Other Counsel of Record:

Leonard R. Jordan, Jr., Esquire
Jordan Law Firm
211 Veterans Road, Ste. D
Columbia, SC 29209

Moultrie B. Burns, Esquire
Savage, Royall & Sheheen, LLP
P. O. Drawer 10
Camden, SC 29021

Attorney for Appellant:

G. Robin Alley, Esquire
ISAACS & ALLEY.
P. O. Box 8596
Columbia, SC 29202-8596

TABLE OF CONTENTS

TABLE OF AUTHORITIES iii

ARGUMENT 1-3

CONCLUSION 3-4

TABLE OF AUTHORITIES

	Page:
Cases:	
Estate of Mims v S.C. Dept. of Disabilities & Special Needs 422 S.C. 388, 811 S.E.2 nd 807 (Ct. App. 2017).....	1
<i>Hipps v Hipps</i> , 288 S.C. 564, 343 S.E.2 nd 669 (S.C. App. 1986)	3
<i>Hovard v Beverly</i> , 167 S.C. 476, 155 S.E.2 nd 740 (1941).....	2
<i>Janasick v Faraway Oaks Villas Horizontal Property Regime</i> 307 S.C. 339, 415 S.D.2 nd 384 (1992)	2
<i>Sothern Dev. Land and Goth Company v S.C. Pub. Serv. Auth.</i> , 311 S.C. 29, 426 S.E.2 nd 748 (1993)	2

OTHER AUTHORITIES

31 CJS Estoppel § at 295 (1964).....	3
--------------------------------------	---

APPELLANT'S REPLY ARGUMENT

1. Appellant replying to Respondents' argument that the Appellant did not preserve his arguments for appeal. The Respondents' not once responded in their brief to the Appellant's brief that set forth facts in their pre-trial brief sufficiently to nullify the Respondents' allegations. The Appellant clearly preserved this argument before the Probate Court as set forth in his brief filed in opposition to Respondents' summary judgment. See Estate of Mims v S.C. Dept. of Disabilities & Special Needs, 422 S.C. 388, 811 S.E.2nd 807 (Ct. App. 2017). The Appellant would show that based on the record from the Probate Court that was before the Circuit Court clearly outlined what was before the Probate Court at the summary judgment motion by what was pled and the defenses of the Appellant. The Appellant in filing his brief before the Probate Court and his argument of the issues that were set out in Respondents' motion for summary judgment that clearly the Appellant preserved the issues for appeal.

2. The affidavits presented by the Respondents did not contradict facts set forth in Appellant's Complaint. (R. pp 57-64) The Appellant would show that the Respondents' affidavits did not challenge the dates of recording of deeds or the parties as grantees or grantors that were set forth in Appellant's Complaint. The Respondents seem to be of the opinion that if they just submitted affidavits that there is no genuine issue of fact in dispute, which is clearly in error. Based on the Respondents' affidavits, they set forth no contradictory facts that were alleged in Appellant's Complaint. The facts set forth in Respondents' affidavits were not material facts nor did they support the Respondents' motion for summary judgment. The Respondents' motion for summary

judgment was based on the grounds that the Appellant was estopped (barred by estoppel, including equitable estoppel and estoppel by deed) to challenge the validity of the deeds described Appellant's Complaint. To prevail in the motion for summary judgment, the Respondents would have to show that the Appellant would be estopped in challenging the validity of the deeds stated in his Complaint by his actions. The doctrine of estoppel applies if a person, by his actions, conduct, words or silence, which amounts to representation, or concealment of material facts, causes another to alter his position to his prejudice or injury. Hovard v Beverly, 167 S.C. 476, 15S.S.E.2nd 740 (1941). Prejudice to the other party is an essential element of equitable estoppel. Janasick v Faraway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2nd 384 (1992), with regard to the party estopped, the elements are:

(1) Conduct amounting to a false representation or concealment of material facts, or, at least, which is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert.

(2) The intention of or expectation that such conduct is acted upon by the other party; and

(3) Actual or constructive knowledge of the real facts. Southern Dev. Land and Goth Company v S. C. Pub. Serv. Auth., 311 S.C. 29, 426 S.E.2nd 748 (1993). The affidavits submitted by the Respondents in support of their motion for summary judgment did not show any deceptive act by the Appellant that caused the Respondents to change their position to their detriment. The affidavits did not show conduct the Appellant did to induce or deceive any of the Respondents in receiving the deed to Lot 3 from Respondent Ronnie Robinson. The Respondent alleges no act by the Appellant to induce or persuade

the Respondent Ronnie Robinson to execute that deed. Nothing in the Respondents' affidavits indicate that the Appellant caused the deed to be executed or recorded. The Respondents failed to show the essential elements of equitable estoppel. The Appellant would also show that the Respondents claim of estoppel by deed also fails. Estoppel by deed is a bar which precludes a party to a deed and his privies from asserting as against the other and his privies in his right or title in derogation of the deed, or from denying the truth of any material facts asserted in it. Hipps v Hipps, 288 S.C.564, 343 S.E.2nd 669 (S.C. App. 1986). The 31CJS Estoppel §10 at 295 (1964) All the deeds Appellant challenges the validity to in this action show the Appellant is not a party in any of the challenged deeds. He is neither Grantor nor Grantee in any of the challenged deeds. Therefore, the doctrine of estoppel by deed cannot apply to this case. Therefore, the summary judgment should not have been granted and the Respondents' argument fails on that point.

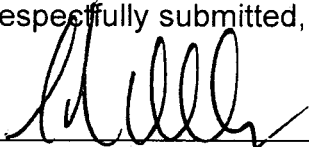
3. The Appellant replying to the Respondents' argument that the Appellant is estopped from complaining about the partitioning about of the Trust assets more than twelve (12) years after he accepted his share of the Trust is in error. The Appellant would crave reference to his above-referenced arguments before the Court on estoppel, equitable estoppel and estoppel by deed and also set forth in his Initial Brief. Appellant would also show this Court that the Respondents offered no response to any of the Appellant's arguments or contradictions set out in his Brief.

CONCLUSION

For reasons heretofore set forth, Appellant respectfully requests this Court to find facts in accordance with his own view of the preponderance of evidence and in

accordance with the facts as set forth in Appellant's Brief or, in the alternative, remand this action for a new trial on the issues to be presented by the Appellant.

Respectfully submitted,

By:  _____

G. Robin Alley, Esquire

ISAACS & ALLEY

P. O. Box 8596

Columbia, SC 29202-8596

(803) 252-6323 (Telephone)

(803) 252-3612 (Facsimile)

Attorney for Appellant

June 10, 2021