

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
JIMMY HELMS,)
Plaintiff,)
v.)
DEBBIE WILLING,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2015-CP-40-07268

RECEIVED
ORDER Aug 17 2021
SC Court of Appeals

PROCEDURAL HISTORY

This action was commenced on December 15, 2015 by the filing of a Summons and Complaint. The complaint alleged (1) that the parties were engaged in a partnership and that the partnership property should be divided, (2) a breach of fiduciary duty by Defendant, and (3) conversion by Defendant. A bench trial was held on July 13 and 14, 2020 with S. Jahue Moore, Esq. appearing on behalf of Plaintiff and Lakesha Jeffries, Esq. appearing on behalf of Defendant. The court considered all filings and testimony when making its conclusions of law, including the reports (hereinafter Forensic Report) prepared by the forensic accountant Marcus B. Hodge, CPA/ABV/CFE, MBA, CFE, of ASC Forensic.

This is an action which involves title and interest in the following real estate and property: 1900 Ocoola Drive, 1904 Ocoola Drive, 1905 Ocoola Drive, 812 Meeting Street, 820 Meeting Street, 809 Shull Street, and 185 Harbor Watch; payments made by Viral Patel for the convenience store located at 812 and 820 Meeting Street; proceeds from a lawsuit of \$100,000; and a deposit account valued at \$86,620.48. This Court finds that both Parties have had sufficient time, over the course of the six years this action has been pending, to have all real estate and property appraised and valued to support their opinions.

CONCLUSIONS OF FACT AND LAW

The court finds that the Defendant owns the disputed properties of 1900 Oceola, 1904 Oceola, 809 Shull, and 185 Harbour Watch. According to the Forensic Report, the real estate listed above was purchased by the Defendant. The conclusions of the Forensic Report and the testimony of the parties show that the real estate listed above was not only purchased by the Defendant but the Defendant also paid mortgages and bills associated with the properties.

The court finds that the Plaintiff owns the disputed property at 1905 Oceola. According to the Forensic Report, 1905 Oceola was purchased by the Plaintiff on May 4, 2010 and that Plaintiff sold the property on May 15, 2017. There is no evidence from the Forensic Report or the parties testimony that 1905 Oceola was claimed by the Defendant or that the Defendant shared in the profits or losses associated with the property.

According to the Forensic Report, Plaintiff purchased 812 Meeting Street on May 1, 2002 and Defendant purchased 820 Meeting Street on August 27, 2004. Subsequently, Plaintiff transferred 812 Meeting Street to Defendant for \$5.00 on January 6, 2006. L&D Enterprises, LLC's alias was Jimmy's Mini Mart, located on both 812 Meeting Street and 820 Meeting Street.

The Plaintiff and Defendant testified that they worked at Jimmy's Mini Mart in various capacities, with Defendant retaining the purported legal title to the Meeting Street properties through Defendant's management of L&D Enterprises. The Forensic Report notes that both Plaintiff and Defendant were authorized signers on L&D Enterprises accounts and that when the property was sold to Viral Patel, Mr. Patel believed the seller to be both Plaintiff and Defendant.

The court finds that the disputed property was held as partnership property. Under the common law, a partnership is a "voluntary contract between two or more competent persons to place their money, effects, labor and skill, or some or all of them, in lawful commerce or business,

with the understanding that there shall be a proportional sharing of the profits and losses between them. *Black's Law Dictionary* 1120 (6th ed. 1990). To determine whether a partnership exists, the following tests are used: (1) the sharing of profits and losses; (2) community of interest in capital or property; and (3) community if interest in control and management. *Moore v. Moore*, 360 S.C. 241, 599 S.E.2d 467 (Ct. App. 2004). A partnership may be found to exist by implication from the parties' conduct. *Stephens v. Stephens*, 213 S.C. 525, 50 S.E.2d 577 (1948); see also *Wyman v. Davis*, 223 S.C. 172, 74 S.E.2d 694 (1953) (a partnership agreement may be implied and without express intention). *Corley v. Ott*, 326 S.C. 89, 92, 485 S.E.2d 97, 99 (1997).

The parties have sought an equitable division of disputed property. The court finds that Plaintiff holds legal title to 812 Meeting Street and 820 Meeting Street. The court finds that it would be inequitable to divide the Meeting Street properties as they operate as joint property for Jimmy's Mini Mart, now Jimmy's Citgo.

The court finds that Plaintiff and Defendant are each entitled to one half of the sale amount for Jimmy's Mini Mart/Jimmy's Citgo and one half of the settlement amount from the Lexington County lawsuit. The combined amount from the Forensic Report is \$208,335.00.

The court finds that Plaintiff and Defendant are each entitled to one half of the Deposit Account funds, valued at \$86,620.48 by the Forensic Report, as the money was acquired as partnership funds during the period of co-habitation by Plaintiff and Defendant.

AND IT IS SO ORDERED.

THE HONORABLE L. CASEY MANNING
CHIEF ADMINISTRATIVE JUDGE
FIFTH JUDICIAL CIRCUIT

_____, 2021
Columbia, South Carolina



Richland Common Pleas

Case Caption: Jimmy Helms vs Debbie Willing

Case Number: 2015CP4007268

Type: Order/Other

So Ordered

s/L. Casey Manning, 2061