



Laws of South Carolina, 1976, as amended, for the purpose of obtaining a determination from this Court that the Plaintiff is the rightful owner of the Property, further, pursuant to §15-67-10, Code of Laws of South Carolina, 1976, as amended, to determine adverse claims, if any, to the Subject Property and to quiet title thereto in the name of the Plaintiff. This matter was commenced by the filing of the Lis Pendens, Summons, Notice, Complaint and Exhibits 1 through 6 by the Plaintiff on March 3, 2021. This matter was referred to me by that Order of Reference dated August 19, 2021.

The Plaintiff in this action, Pamela Anne Mills, Personal Representative of the Estate of Daniel Nathaniel Infinger, III A.K.A. Dan N. Infinger A.K.A. Danny N. Infinger was duly appointed by the Berkeley County Probate Court. His Estate is being probated in Berkeley County bearing Case Number 2020ES08-346. Certified Copies of his Estate have been filed in the Charleston County Probate Court bearing Case Number 2021ES1000264.

The Plaintiff has named in this action Avery W. Gardner, Sr., deceased, Marian Alviar, Tina Colson, Cynthia Gardner, Jesse Gardner, Kristian G. Gardner, Nathan A. Gardner, Tanya Gardner, Trinity L. Gardner, Thomas A. Henry, Sr., Jayne H. Schurlknight, Delecta H. Stokes, Patsy Gardner, deceased, Avery W. Gardner, III, deceased, and John Doe and Jane Doe, as fictitious names representing unknown heirs, distributees, devisees, personal representatives, successors and assigns of Avery W. Gardner, Sr., Patsy Gardner, Avery W. Gardner, III, deceased, and all other defendants who may be deceased, and all other persons unknown claiming any right, title, interest, estate or lien upon the real estate described in this Complaint; and Richard Roe and Mary Roe as fictitious names representing incompetents, minors, persons in military service to the United States of America, and persons under any other legal disability whose true names are unknown. Attorney Kelley Y. Woody was appointed as Guardian *ad*

*Litem* for unknown parties by that Order dated March 11, 2021. She filed an Affidavit in this matter on September 20, 2021. The information in her affidavit provides additional information for known Defendants but does not identify any additional defendants or parties with an interest in this matter.

Defendant Marian Alviar a.k.a. Marian Henry filed a response in this action dated March 23, 2021 in which she affirms that she has no right, title, interest, estate or lien upon the real property described in the Complaint. Defendant Tina Colson was served with the Summons and Complaint by Certified Mail, Restricted Delivery, Return Receipt Requested on March 26, 2021. Defendant Cynthia Gardner was served with the Summons and Complaint by Certified Mail, Restricted Delivery, Return Receipt Requested on March 17, 2021. Defendant Jesse Gardner executed an Acceptance of Service and Consent to Reference on April 12, 2021. Defendant Kristian G. Gardner was substitute served with the Summons and Complaint at her residence on April 20, 2021. Defendant Nathan A. Gardner was substitute served with the Summons and Complaint at his residence on April 28, 2021. Defendant Tanya Gardner was served by Publication pursuant to that Order for Publication filed June 24, 2021. Defendant Trinity L. Gardner was personally served with the Summons and Complaint on April 20, 2021. Defendant Thomas A. Henry, Sr. executed an Acceptance of Service and Consent to Reference on April 11, 2021. Defendant Jayne H. Schurknight n.k.a. Jayne H. Turner was served with the Summons and Complaint by Certified Mail, Restricted Delivery, Return Receipt Requested on April 6, 2021. Defendant Delecta Stokes was personally served with the Summons and Complaint on April 13, 2021.

Defendants John Doe and Jane Doe, as fictitious names representing unknown heirs, distributees, devisees, personal representatives, successors and assigns of Avery W. Gardner,

Sr., Patsy Gardner, and Avery W. Gardner, III, deceased, and all other defendants who may be deceased, and all other persons unknown claiming any right, title, interest, estate or lien upon the real estate described in this Complaint; and Richard Roe and Mary Roe as fictitious names representing incompetents, minors, persons in military service to the United States of America, and persons under any other legal disability whose true names are unknown were served with the pleadings pursuant to that Order for Service by Publication in the Moultrie News on June 23, 2021, June 30, 2021 and July 7, 2021. The Affidavit of Publication was filed on July 15, 2021. Defendants Tina Colson, Cynthia Gardner, Kristian G. Gardner, Nathan A. Gardner, Tanya Gardner, Trinity L. Gardner, and Jayne H. Schurlknight n.k.a. Jayne H. Turner are in default.

Notice of the entry of default and of today's hearing was sent via U.S. mail to all Defendants on September 16, 2021 and was published on August 16, 2021. Appearing at the hearing was the Plaintiff, Pamela Anne Mills, Personal Representative, along with her Attorney Abby M. Robertson, Esq. At the outset of the hearing, Exhibits 1 through 6 were admitted into evidence upon motion of the Plaintiff's attorney without objection.

**FINDINGS OF FACT**

1. All parties to this action were properly served with process and timely notified of the hearing.
2. The real property which is the subject of this action (hereinafter "subject property") is located in Charleston County, South Carolina, and consists of six lots commonly known as 4171 S. Rhett Avenue and 4177 S. Rhett Avenue which are more fully described as follows:

All those six lots, pieces or parcels of land, with the buildings and improvements thereon, situate, lying and being in Charleston County, State aforesaid, known and designated as Lots 9, 10, 17, 18, 19 and 20, Block 43, North Charleston, as shown on a General Map of Resubdivision of North Charleston, made February, 1925, by James O'Hear, C.E., and recorded in section in the R.M.C. Office for Charleston County in Plat Book E, pages 239 and 242, inclusive, the said lots

being found on section #1 of said map, recorded at page 239, and have such location, shape, metes and bounds as are shown on the said map, to which reference is hereby made for a fuller description.

TMS # 470-12-00-040 & 470-12-00-041

3. Because the Property is located in Charleston County, jurisdiction for this matter is properly set in Charleston County.
4. The Plaintiff brings this claim against the above-named Defendants pursuant to the provisions of the "Uniform Declaratory Judgment Act" of §15-53-10, Code of Laws of South Carolina, 1976, as amended, for the purpose of obtaining a determination from this Court that the Plaintiff is the rightful owner of the Property.
5. The Plaintiff further brings this claim against the above-named Defendants pursuant to §15-67-10, Code of Laws of South Carolina, 1976, as amended, to determine adverse claims, if any, to the Property and to quiet title thereto in the name of the Plaintiff.
6. The subject property was devised to Avery W. Gardner by his wife, Annie K. Gardner, who died Testate on September 12, 1974. Her Estate was probated in Charleston County bearing Probate Case Number 77-365. A copy of her Will and the Devise & Descent of Real Property are filed as Exhibit 1.
7. The subject property was subsequently sold to Daniel N. Infinger, III, subject to that "Contract of Sale" of Avery W. Gardner dated June 26, 1979 and recorded on June 29, 1979 in Deed Book P119 at Page 372. A copy of the Contract is filed as Exhibit 2.
8. The Contract of Sale provided that the sales price was \$27,500.00 and that payments were made beginning August 1, 1979 for a period of 72 months, until approximately August 1, 1985.
9. Daniel N. Infinger, III made a deposit of \$4,000.00 on the signing of the

agreement and continued to make monthly payments of \$325.00.

- 10. That the purchase price for the property has been paid in full.
- 11. That no actions to foreclosure have been filed by Avery W. Gardner, Sr., nor his heirs.
- 12. That no Deed of conveyance has been recorded to convey the property to Daniel N. Infinger.
- 13. That the Charleston County Tax Assessor records provide "Daniel N. Infinger, III" as owner of the property as of 1984. That a copy of the old real property card is filed as Exhibit 3. That the Plaintiff as been solely responsible for the property taxes since that time.
- 14. That Pamela Anne Mills was married to Daniel N. Infinger, III at the time of the purchase. Pursuant to her testimony, Mr. Infinger occupied the building located on the lot as of the date of his purchase in 1979 and operating a business thereon.
- 15. That Hurricane Hugo destroyed the building on the subject property in September of 1989 and that the property has been vacant ever since.
- 16. That the Plaintiff continually monitored the property and that no persons have entered upon it for the purpose of possessing or improving it.
- 17. That the Plaintiff was seized and possessed of the Property openly, notoriously, continuously, actually, exclusively, and hostilely in excess of forty (40) years.
- 18. That no parties have challenged the ownership or possession of the Property by Daniel N. Infinger or his Estate.
- 19. That the Plaintiff is entitled to an Order confirming legal and equitable title to the subject property in the Estate of Daniel Nathaniel Infinger, III A.K.A. Dan N. Infinger A.K.A. Danny N. Infinger having fully paid the purchase price over thirty (30) years ago.

As to Avery W. Gardner, Sr.

20. Avery W. Gardner a.k.a. Avery W. Gardner, Sr. died intestate in August 24, 2001, leaving as his heirs his spouse, Patsy Gardner, and his two children, Avery W. Gardner, Jr. and Avery W. Gardner, III.

21. Patsy Gardner died intestate on April 10, 2006. She left as her heirs her children, Thomas A. Henry, Sr., Avery W. Gardner, III, Marian Alviar, Delecta H. Stokes and Jayne H. Schurlknight. A copy of her obituary is filed as Exhibit 4. The Property was not included in the Deed of Distribution.

22. Avery W. Gardner, III died intestate on June 28, 2016 leaving as his heirs his children, Nathan A. Gardner, Kristian G. Gardner, and Trinity L. Gardner. His Estate was probated in Colleton County bearing Case Number 2017ES1500121. A copy of the Application for Appointment is filed as Exhibit 5.

23. Avery W. Gardner, Jr. died intestate on February 15, 2018 leaving as his heirs his wife, Cynthia Gardner, and his children, Tanya Gardner, Tina Colson, and Jesse Gardner. A copy of his obituary is filed as Exhibit 6.

24. There has never been a Probate Administration or Determination of Heirs for Avery W. Gardner, Sr., Patsy Gardner, or Avery W. Gardner, Jr.

25. That the heirs of Avery W. Gardner, Sr., are Patsy Gardner, Avery W. Gardner, Jr., and Avery W. Gardner, III.

26. That the heirs of Patsy Gardner are Thomas A. Henry, Sr., Marian Alviar, Delecta H. Stokes, and Jayne H. Schurlknight.

27. That the heirs of Avery W. Gardner, Jr. are Cynthia Gardner, Tanya Gardner, Tina Colson, and Jesse Gardner.

**CONCLUSIONS OF LAW**

Based upon the Findings of Fact, the evidence presented, and the testimony at the hearing, I therefore conclude as follows:

1. Any finding of fact stated above that is also a conclusion of law is incorporated herein by reference.
2. This Court has jurisdiction over the parties and the real property which is the subject of this action.
3. All Defendants, known and unknown, received proper notice of the matter and of the hearing.
4. That the Plaintiff is entitled to an Order quieting title to the subject property.

**DECREE**

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED  
ADJUDGED AND DECREED:

A. That judgment is hereby entered in favor of the Plaintiff against those named herein, terminating any and all interest Defendants, their spouse, heirs, devisees, successors, assigns and anyone or anything in the whole world claiming under them, irrespective of the nature of such claim, has in and to the real property described herein below, and barring any claims Defendants, their spouse, heirs devisees, successors, assigns and anyone or anything in the whole world claiming under them, irrespective of the nature of such claim, have in and to the following described real property, as described herein.

B. That a copy of this Order shall be recorded in the Office of the Register of Mesne Conveyance for Charleston County, South Carolina, and shall be properly indexed in the chain of title to the herein described real property under the names of Avery W. Gardner, Sr., Marian

Alviar n.k.a. Marian Henry, Tina Colson, Cynthia Gardner, Jesse Gardner, Kristian G. Gardner, Nathan A. Gardner, Tanya Gardner, Trinity L. Gardner, Thomas A. Henry, Sr., Jayne H. Schurlknight n.k.a. Jayne Turner, Delecta H. Stokes, Patsy Gardner, Avery W. Gardner, III, as grantor, and Pamela Anne Mills, Personal Representative of the Estate of Daniel Nathaniel Infinger, III a.k.a. Dan N. Infinger a.k.a. Danny N. Infinger, as grantee, in the same manner as other deeds are recorded.

C. That upon request from Plaintiff, the Sheriff of Charleston County, South Carolina, is hereby ordered and directed to eject and remove from the premises any other occupant(s) of the herein described property, together with all personal property located therein, and put Pamela Anne Mills, Personal Representative of the Estate of Daniel Nathaniel Infinger, III A.K.A. Dan N. Infinger A.K.A. Danny N. Infinger, and its agents, employees and representatives or assigns in full, quiet and peaceable possession of the herein described property without delay, and its agents, employees and representatives or assigns in such full, quiet and peaceable possession.

AND IT IS SO ORDERED!

[SIGNATURE OF THE COURT TO FOLLOW]



Charleston Common Pleas

**Case Caption:** Pamela Anne Mills , plaintiff, et al VS Avery W Gardner Sr ,  
defendant, et al  
**Case Number:** 2021CP1001038  
**Type:** Master/Order/Quiet Title and Form 4

So Ordered

s/Mikell R. Scarborough 3062

Electronically signed on 2021-09-30 11:56:36 page 10 of 10