

IN THE SUPREME COURT OF MISSISSIPPI

ROSA ROBINSON & WILLIE WASHINGTON

APPELLANTS

VS.

CAUSE NO. 2008-CP-01776

IVEY BURTON & HILDA BURTON

APPELLEES

BRIEF OF APPELLEES

Appeal from the Chancery Court of Attala County, Mississippi

Oral Argument Not Requested

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualification or recusal.

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TABLE OF AUTHORITIES

Cases:

<u>Consolidated Pipe & Supply Co. v. Colter</u> , 735 So.2d 958, 961 (Miss.1999)	2
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Statutes:

Miss. Code Ann. §11-21-3 (1972) as amended	2
Miss. Code Ann. §11-21-5 (1972) as amended	2
Miss. Code Ann. §11-21-11 (1972) as amended	2
Miss. Code Ann. §11-21-35 (1972) as amended	2

SUMMARY OF THE ARGUMENT

1. The trial court was correct in its determination of the ownership of the lands subject to partition, and was correct in ordering partition and sale of the subject lands.

ARGUMENT

Procedural History

This case arises out of a Petition for Partition of Lands filed in the Chancery Court of Attala County, Mississippi in March 26, 2007, filed by Appellees herein (hereinafter referred to as “The Burtons”). A Final Judgment was rendered on October 9, 2008, adjudicating the ownership of the subject lands and ordering the partition and sale of the subject lands. The land was sold and a Judgment Confirming Sale was rendered on January 20, 2009. Appellant herein, Rosa Robinson (hereinafter referred to as “Robinson”), appealed from the decision of the Chancery Court of Attala County.

Issues (and explanation)

Although no assignments of error are delineated in the “Informal Brief of Appellant,” and although a Motion to Strike Brief of Appellant filed on December 15, 2009, is currently pending (with Appellant Robinson CLEARLY admitting in her response to the Motion to Strike Brief that she did intend to disrespect and have contempt for trial Judge Kilpatrick in her “Informal Brief of Appellant” as prohibited by M.R.A.P. 28(k) - see page 2 paragraph 1 of Appellant’s Response and Objection to Appellees Motion to Strike Brief), counsel for Appellees is nonetheless out of an abundance of caution, filing this Brief of Appellees and will attempt to address any alluded to assignments of error found in the “Informal Brief of Appellant”. The vast majority of the content of the “Informal Brief of Appellant” is of no legal significance, and therefore has not been addressed herein by Appellees.

I. THE TRIAL COURT DID NOT ERR IN ITS ADJUDICATION OF THE OWNERSHIP OF THE SUBJECT LANDS AND DID NOT ERR IN ORDERING PARTITION AND SALE OF THE SUBJECT LANDS.

Standard of Review

On appeal, we will not disturb a chancellor's findings of fact unless those findings are manifestly wrong or clearly erroneous. Consolidated Pipe & Supply Co. v. Colter, 735 So.2d 958, 961 (Miss.1999) (citing Denson v. George, 642 So.2d 909, 913 (Miss.1994)). However, regarding questions of law, we apply the de novo standard of review. Rawls v. Parker, 602 So.2d 1164, 1167-68 (Miss.1992) (citing Planters Bank & Trust Co. v. Sklar, 555 So.2d 1024, 1028 (Miss.1990)).

Law, Facts and Analysis

Miss. Code Ann. §11-21-3 (1972) as amended, provides for partition of land, and the Burtons were entitled to institute partition proceedings of the subject land pursuant to Miss. Code Ann. §11-21-5 (1972) as amended. Sale of the subject land was proper pursuant to Miss. Code Ann. §11-21-11 (1972) as amended. The final judgment of the Attala County Chancery Court properly settled the rights of all parties to the partition as provided for in Miss. Code Ann. §11-21-35 (1972) as amended.

There was no evidence before the trial court to dispute the ownership of the lands as alleged and proven at trial by the Burtons. Robinson cites to no evidence before the trial court that disputes the alleged and proven ownership of the subject lands. Robinson did not cite even one legal authority in her entire "Informal Brief of Appellant," and thus certainly did not cite any legal authority supporting any alleged error related to the adjudication of the ownership of the subject lands.

There was no evidence before the trial court to dispute that partition and sale of the subject lands were proper. Robinson cites to no evidence before the trial court that disputes that partition and sale of the subject lands were proper. Robinson did not cite any legal authority in her “Informal Brief of Appellant,” and thus certainly did not cite any legal authority supporting any alleged error related to the partition and sale of the subject lands.

Conclusion

Thus, the trial court did not err in its determination of the ownership of the subject lands, and did not err in ordering partition and sale of the subject lands.

CONCLUSION

The trial court did not err in its determination of the ownership of the subject lands, and did not err in ordering partition and sale of the subject lands.

Based on the foregoing, if this matter is not disposed of via the pending *Motion to Strike Brief* (“*Informal Appellant Brief*”) Pursuant to M.R.A.P. 28(k); *Motion to Dismiss Brief for Failure to File Brief as Required by M.R.A.P. 31*, and *Motion for Damages for Frivolous Appeal Pursuant to M.R.A.P. 38*, this judgment of the Chancery Court of Attala County, Mississippi should be affirmed.

CERTIFICATE OF SERVICE

I, Beth Windsor Burton, Attorney for Appellees, do hereby certify that I have this day served by U.S. mail, postage prepaid, a true and correct copy of the above and foregoing Brief of Appellees to:

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This the 5th day of February 2010.


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