2010 CA 02108 KT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

ARGUMENT[1]

The Appellees (hereinafter referred to as "the Sonny White heirs"), assert numerous times in their Brief that the Appellants (hereinafter referred to as "the Bee White heirs") took no action to show that they did not agree with the terms of the order previously entered in this matter, which divested them of their interest in their familial lands. This assertion is simply incorrect and is not supported by the evidence presented in this matter.

Specifically, as is fully explained in the Brief of the Appellees, the Bee White heirs, upon their receipt of a copy of the Agreed Order, handwrote the words "REJECTED BY ALL 6 INHEIRTANCES (SIC) OF BEE WHITE" across the entirety of the same and sent the document back to their attorney.[2] The Bee White heirs had previously retained the services of the Honorable Ottis Crocker, Esq. to represent their interests in the matter at bar. The Bee White heirs had full confidence that Mr. Crocker would adequately protect their interests pursuant to the terms of his engagement, as most clients expect of their attorneys. As a result of his engagement, Mr. Crocker was the Bee White heirs' only direct link to the Calhoun County Chancery Court. As is the case with represented parties, it was always by and through Mr. Crocker's actions that the Bee White heirs appeared before the Calhoun County Chancery Court.

The Bee White heirs promptly and expeditiously remitted to their attorney evidence that they did not agree to the terms of the order. To use layman's terms, they expected Mr. Crocker to take care of the matter. A client has a reasonable and rightful expectation that his or her attorney will abide by their wishes (within the confines of the law, of course) and will act to zealously protect their interests. The Bee White heirs understandably placed this same

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[1] In an effort at conciseness, the Bee White heirs will omit an additional discussion of the authorities previously cited to in their Brief. The Bee White heirs re-urge this Honorable Court to consider those authorities previously cited.

[2] See R.E. 3 at ix.

confidence in Mr. Crocker. As it came to pass, however, Mr. Crocker did not hold up his end of the bargain. He did not protect the interests of and pursue the wishes of his clients.

The Sonny White heirs make much ado about their argument that the Bee White heirs did not correctly show they disagreed with the terms of the order. Certainly laypersons cannot be held to the same standard of knowledge as seasoned legal professionals when legal matters are concerned. They cannot be held to know the directions given in the Mississippi Rules of Civil Procedure, nor can it be seriously advocated that they should know the legal intricacies inherent in chancery court practice. To put the matter simply, the Bee White heirs did not know any better than to believe wholeheartedly that they had taken all necessary steps to show the lower court that they did not agreed with the Order that had erroneously been entered. Their attorney was unquestionably informed of their opinion as to the order. They expected him to obtain their desired results. He appears to have simply failed them in this matter.

If a represented party's attorney fails to abide by their wishes, guidance, or direct instructions, such an issue may not be proper before this Honorable Court as an appellate matter. However, this case presents unique and irrevocable end circumstances. The fee simple owners (the Bee White heirs) of a one-of-a-kind parcel of land owned previously by their long deceased parents, have been and will continue to be wrongfully divested of their interest in the same. No amount of monetary compensation can replace the unique land that, through no fault of their own, no longer belongs to the Bee White heirs. This Honorable Court is, quite frankly, the only entity that can now truly right the wrong that has occurred in this matter, thus fulfilling the mandate set forth to the chancery court system--that is to ensure that equity is done to those who come within its jurisdiction. If the wrongful divestiture of a fee simple interest in a unique parcel of land is not inequitable, nothing is. Land is absolutely irreplaceable. Equity surely requires that, when something truly irreplaceable is in issue and is taken, that exact thing which is lost

must be regained. As it concerns the matter at bar, equity requires that the Bee White heirs not be divested of the property in issue before a full, fair, and complete hearing on the merits, considering the arguments of both sides, can be had. These parties have been denied their fee simple interest in the subject property. They cannot also now be denied the opportunity to be heard on the merits of this matter. As was previously stated by the Bee White heirs in their Brief, the ultimate goal of courts of equity is that they follow the principles of "fairness and justice, esp. the common fairness that follows the spirit rather than the letter of justice."[3] The spirit of justice here requires that the order with which the Bee White heirs expressly did not agree not be allowed to divest them of their fee simple interest in their family's land forevermore.

The Sonny White heirs themselves point out that relief is to be granted after the expiration of the six-month period pronounced in Mississippi Rule of Civil Procedure 60(b) only in "exceptional circumstances".[4] If exceptional circumstances are not present when a group of elderly siblings, ranging in age from 78 to 94, are to be divested of the land their family has owned for numerous years, it strains logic to see how any situation would provide such "exceptional circumstances".

Rule 60(b) of the Mississippi Rules of Civil Procedure provides that motions brought pursuant to its language should be brought within a "reasonable time".[5] Upon discovery by the Bee White heirs that their previous attorney had indeed failed them, they immediately and urgently took action to correct the wrongful divesture of their family's property.[6] This goes against the assertion made by the Sonny White heirs that the Bee White heirs took no action at

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[3] See Appellant's Brief at Page 10 (citing The New Lexicon Webster's Dictionary of the English Language, Encyclopedic Edition 319 (Lexicon Publications 1987)).
[4] See Appellees' Brief at Page 23.
[5] Specifically, subsections (4) through (6) of Rule 60(b) must be brought within a reasonable time.
[6] Indeed, the Bee White heirs notified their attorney of their disagreement less than one month after the entry of the order and immediately upon their receipt of a copy of the same.

all for the interim period between the entry of the disputed order and the time in which they brought their motion for relief. The Bee White heirs did nothing of the sort. As has previously been stated, they did what they thought was required--they informed their attorney of their disagreement and reasonably, though erroneously, believed he would remedy the situation.

The Sonny White heirs, in their Brief, seem to suggest that the Bee White heirs' driving forces in pursuing this action are greed and the blatant desire to make a monetary gain. This sort of allegation is, quite frankly, irrational and borders on comical. The Bee White heirs are a group of elderly siblings. They are not career criminals jaded by money and its influence. They are concerned about the land owned by their parents being taken from them without a full and fair opportunity to be heard.

The Sonny White heirs state several times that the Bee White heirs "caused" the Agreed Order in issue to be entered.[7] The use of the word "caused" distorts the truth of the matter at hand and brings forth unfair connotations. The Bee White heirs most certainly did not cause any order to be entered. They were not present the day the order was entered. They were not consulted. They did not sign the order. They took no actions that could remotely be construed as acquiescence to the terms of the order. Their attorney, Mr. Crocker, caused the order to be entered, in direct contradiction to the wishes and direction of his clients. Mere representation does not equate to complete acquiescence.

Additionally, the Sonny White heirs, in their Brief to this Court, state that the Bee White heirs "abided by and represented to the world that they agreed to [the order] for more than three (3) years after the same was entered having had full knowledge of the entry and impact of the same for almost the entire time between the entry of the *Agreed Order* on April 23, 2007 until

[7] See Appellees' Brief at Pages 16 and 20 (not an exclusive listing).

the filing of their *motion* seeking relief of the same on August 2, 2010."[8] There is no citation whatsoever to any authority that would support this unfair assertion. To impute knowledge of the intricacies inherent in the legal system upon the elderly Bee White heirs, who are unquestionably not educated in the laws of the State of Mississippi, is an unfair characterization and should be seen for what it is--a misstatement of the facts.

There is no need to belabor the facts of this case; they are quite simple indeed. The Bee White heirs hired Mr. Crocker to represent and protect their interests in the underlying action. An order was wrongfully entered, to which the Bee White heirs expressly voiced their disagreement to their only link to the Chancery Court of Calhoun County--Mr. Crocker, their attorney. They had no reason to doubt that Mr. Crocker would remedy the situation on their behalf. When it came to light that he had not rectified the situation, the Bee White heirs promptly engaged the services of their current counsel in an effort to preserve their interests in their family land, of which they were wrongfully divested as a result of the underlying action.

[8] Appellees' Brief at Page 19.

CONCLUSION

The request of the Bee White heirs is simple--that this Honorable Court reverse the decision of the Chancery Court of Calhoun County and remand the matter for a hearing on the merits of the original motion brought by the Bee White heirs to clarify the underlying Warranty Deed with Reservations. They want only an opportunity to be heard. The order in the underlying action did not allow them this opportunity. They took the action that a reasonable person uneducated in the letter of the law would have taken when they were presented with a document to which they did not agree. They reasonably expected that their attorney would rectify the situation. As soon as they determined that their attorney had not done so, they immediately took steps to do the same by hiring their current counsel and filing the underlying motion in this action. The equitable result in this matter is that the Bee White heirs be given an opportunity to present their case. They respectfully request that this Honorable Court allow them that right.

Respectfully submitted, this the 14th day of September, 2011.

JULIA WHITE, ET AL
APPELLANTS

BY: _____
DAVID E. ROZIER, JR. (MSB [redacted])
JENESSA CARTER HICKS (MSB [redacted])

OF COUNSEL:
Rozier Hayes, PLLC
2091 Old Taylor Road, Ste. 102
PO Box 2388
Oxford, MS 38655
Telephone: 662.234.0065
Facsimile: 662.234.3007
Email: drozier@rohalaw.com
jhicks@rohalaw.com

CERTIFICATE OF SERVICE

I, the undersigned, one of the attorneys of record in this matter, do hereby certify that I have this day mailed four copies of the *Reply Brief of Appellant, Julia White* to the Mississippi Supreme Court Clerk at PO Box 249, Jackson, Mississippi 39205-0249. I certify that I deposited said documents for delivery with the United States Postal Service on September 14, 2011. I certify that I have also mailed a true and correct copy of the above *Reply Brief of Appellant, Quarter Development* to the following:

Honorable Edwin H. Roberts
Calhoun County Court Chancellor
PO Box 47
Oxford, MS 38655

Ray Garrett, Esq.
1205 Office Park Drive, Suite B
Oxford, MS 38655

This the 14th day of September.