NO. COA14-287

NORTH CAROLINA COURT OF APPEALS

Filed: 31 December 2014

LE OCEANFRONT, INC.; RICHARD W. WILLIAMS; NORA J. WILLIAMS; KAREN W. JOHNSON; HORACE M. JOHNSON,
Plaintiffs

v. Carteret County
No. 11 CVS 1192

LANDS END OF EMERALD ISLE ASSOCIATION, INC.,
Defendant

Appeal by Plaintiffs from judgment entered on 2 October 2013 by Judge Phyllis Gorham in Carteret County Superior Court.

Heard in the Court of Appeals 27 August 2014.

Ragsdale Liggett PLLC, by Amie C. Sivon, for Plaintiffs-appellants.[1]

Ward and Smith, P.A., by Ryal W. Tayloe, Alexander C. Dale, and Christopher M. Hinnant, for Defendant-appellee.

DILLON, Judge.

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[1] Originally, James L. Conner, II, was also counsel of record for Plaintiffs-appellants for this appeal and presented oral argument before this Court. However, this Court granted Plaintiffs-appellants' motion for substitution of counsel and notice of appearance which stated that Mr. Conner had changed firm affiliations and was no longer representing Plaintiffs-appellants.

Corporate Plaintiff Le Oceanfront, Inc. and individual Plaintiffs Karen W. Johnson, and Horace M. Johnson[2] appeal from a trial court's ruling granting summary judgment in favor of Defendant Lands End of Emerald Isle Association, Inc. ("the HOA"), declaring the HOA to be the fee simple owner of a certain strip of land adjacent to the Atlantic Ocean's mean high water mark in Emerald Isle. For the following reasons, we vacate the trial court's judgment and remand for further proceedings consistent with this opinion.

I. Background

A. Summary

The Defendant HOA is a homeowners association for the Lands End residential subdivision (the "Subdivision") in Emerald Isle and owns all of the Subdivision's common areas. The individual Plaintiffs are owners of beachfront lots in the Subdivision. The corporate Plaintiff is an entity set up by the individual Plaintiffs.

The subject matter of this action is a strip of land, consisting of over 14 acres, which lies between the Subdivision and the Atlantic Ocean. (This strip of land is hereinafter

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[2] Plaintiffs Richard W. Williams and Nora J. Williams, parties to the original complaint, did not appeal from the trial court's judgment.

referred to as "the Oceanfront Strip.") The HOA claims that the Oceanfront Strip is actually *part of* the Subdivision's common area, which it acquired by deeds from developers of the Subdivision (hereinafter "the Developer[3]") in 1988 (hereinafter "the 1988 deeds") or, in the alternative, that the HOA has an easement to use the strip. Plaintiffs, however, claim that the 1988 deeds did *not* include the Oceanfront Strip and that the corporate Plaintiff became the owner of the Oceanfront Strip through three quitclaim deeds from the Developer delivered, one in 2011 and two in 2013 (hereinafter "the quitclaim deeds").

We hold that the 1988 deeds conveying land to the HOA did *not* include a conveyance of the Oceanfront Strip. We hold that the quitclaim deeds conveyed all interest the Developer had in the Oceanfront Strip to the corporate Plaintiff. We make no determination as to the nature of rights or interests the HOA has or may have with respect to the Oceanfront Strip or any portion thereof based on other theories, *e.g.*, adverse possession, prescriptive easement, etc. Accordingly, we vacate the trial court's grant of summary judgment in favor of the HOA

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[3] The Subdivision was developed by a series of entities over two decades. The property which makes up the Subdivision proper and the Oceanfront Strip, or portions thereof, were transferred on a number of occasions between different developer entities during this time. As used herein, "Developer" refers to any one or all of these entities.

and remand this matter to the trial court for further proceedings consistent with this opinion.

B. Subdivision History

In 1973, the Developer acquired adjacent tracts of land which would encompass the Subdivision proper and the Oceanfront Strip. This acreage is located on Bogue Banks, a narrow barrier island which extends east to west, with the Atlantic Ocean to its south.

The acreage is bounded on the north by Coast Guard Road.

The southern boundary of this acreage is the mean high water mark of the Atlantic Ocean. *See* N.C. Gen. Stat. § 77-20(a) (2011) (defining the seaward boundary of all property in North Carolina as "the mean high water mark").

The acreage is bounded on the east and west by what is now other residential subdivisions.

After acquiring the acreage, the Developer proceeded with the development of the Subdivision. In 1974, the Developer filed eight maps ("the 1974 maps"), each depicting a different section of the to-be-developed Subdivision, which laid out the location of the proposed lots, streets, common areas, open spaces, and other features within that section. Two of these eight maps depict the sections of the Subdivision that are

adjacent to the Oceanfront Strip. The other six maps depict sections that are inland and, therefore, are not relevant to this appeal. At this time, the Developer also recorded a Declaration of Covenants and Easements ("the 1974 Declaration"), which referenced the 1974 maps.

In the 1980's, the Developer filed four maps ("the 1980's correction maps"), correcting certain aspects of four of the original eight 1974 maps. Two of these maps correct the two 1974 maps which depict the sections of the Subdivision adjacent to the Oceanfront Strip.

The aforementioned maps represented that the Subdivision would contain approximately 300 individual home lots, forty-five of which were to be "beachfront," bounded on the south by the Oceanfront Strip. Other parcels within the Subdivision were also depicted to be bounded on the south by the Oceanfront Strip, including a lot for the proposed Subdivision clubhouse (which was completed in 1981) and areas of open space and strips of common area land leading from a Subdivision street to the northern border of the Oceanfront Strip.

In 1986, the HOA was formed. During this time, the Developer sold lots to individual homeowners.

In 1988, the Developer[4] executed the 1988 deeds, essentially conveying the open spaces and common areas depicted on the recorded maps to the HOA.

In 2004, the individual Plaintiffs purchased two of the Subdivision's beachfront lots. In their Complaint, the individual Plaintiffs allege that they believed the lots they were buying extended through the Oceanfront Strip all the way to the Atlantic Ocean's mean high water line. There is evidence that over the course of time, the individual Plaintiffs installed sand fences; planted sea oats; built decks, walkways and gazebos; paid beach nourishment assessments to the Town of Emerald Isle as oceanfront owners; and gave the Town easements for beach nourishment projects with respect to land within the Oceanfront Strip in front of their residence.

In 2005, the HOA, in response to inquiries regarding the installation of structures by homeowners encroaching on the Oceanfront Strip, sent letters to all beachfront lot owners claiming ownership of the Oceanfront Strip. Further, in 2010, the individual Plaintiffs observed that the HOA had pumped excess storm water into the Oceanfront Strip in front of their

[4] At this time in 1988, there were three Developer entities who owned some interest in the Subdivision common areas and the Oceanfront Strip.

residence. The HOA presented evidence that it had, in fact, been pumping excess storm water into the Oceanfront Strip from time-to-time since the 1990's.

In 2011, the individual Plaintiffs formed the corporate Plaintiff and contacted the Developer – who had not been involved in any Subdivision matters in over a decade – to acquire legal title to the Oceanfront Strip. The three Developer entities, who executed the 1988 deeds, delivered the quitclaim deeds in 2011 and 2013, quitclaiming whatever interest these Developer entities had in the Oceanfront Strip.

C. Procedural History

In 2011, Plaintiffs filed suit against the HOA, raising claims (1) to quiet title (based on the quitclaim deeds); (2) for slander of title (claiming ownership); (3) for equitable estoppel (based on alleged conduct by the HOA when selling the beachfront lots in acting in a manner to lead purchasers to believe that those lots extended all the way to the ocean's mean high water mark); (4) for nuisance (based on the storm water pumped into the Oceanfront Strip); and (5) for trespass; and requesting *inter alia* "[t]he Court declare that [the corporate Plaintiff] is the owner of the Oceanfront Strip[.]" The HOA filed its answer including counterclaims for declaratory

judgment that it was the owner of the Oceanfront Strip, a claim to quiet title, and, in the alternative, for an easement over the Oceanfront Strip.

In 2013, the HOA filed a motion for summary judgment on all claims and counterclaims. After a hearing on the motion, the trial court granted the HOA's motion for summary judgment. The judgment declared that the Developer deeded the Oceanfront Strip to the HOA in fee simple in 1988 and that the Oceanfront Strip is part of the "common area" of the Subdivision; and dismissed all other claims and counterclaims with prejudice, except Plaintiffs' claims for nuisance based on the storm water pooling in front of their residences. Plaintiffs took a voluntary dismissal of their nuisance claims and, subsequently, filed their notice of appeal from the trial court's judgment.

II. Analysis

On appeal, Plaintiffs contend that the trial court erred in granting summary judgment in favor of the HOA. A motion for summary judgment is appropriately granted where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." N.C. Gen. Stat. §

1A-1, Rule 56(c) (2011). We review the trial court's summary judgment order *de novo*. *Foster v. Crandell*, 181 N.C. App. 152, 164, 638 S.E.2d 526, 535 (2007).

An action to quiet title "may be brought by any person against another who claims an estate or interest in real property adverse to him for the purpose of determining such adverse claims[.]" N.C. Gen. Stat. § 41-10 (2011); *Heath v. Turner*, 309 N.C. 483, 488, 308 S.E.2d 244, 247 (1983) (stating that "[t]he beneficial purpose of this section is to free the land of the cloud resting upon it and make its title clear and indisputable, so that it may enter the channels of commerce and trade unfettered and without the handicap of suspicion"). As ownership of the Oceanfront Strip by the operation of the 1988 deeds conveying land from the Developer to the HOA would preclude any claim by the corporate Plaintiff based on the 2011 and 2013 quitclaim deeds, we first turn to address the parties' arguments regarding the 1988 deeds.

A. The 1988 Deeds to the HOA

The HOA claims that it acquired fee simple title in the Oceanfront Strip through the 1988 deeds. We disagree.

The 1988 deeds do not explicitly reference the Oceanfront Strip, and there are no metes and bounds description for the

Oceanfront Strip. Rather, the 1988 deeds reference three other recorded documents. Specifically, the 1988 deeds convey to the HOA "[a]ll streets and other common areas as described" in (1) the 1974 Declaration; (2) an amendment to the 1974 Declaration; and (3) relevant to this appeal, the two 1980's correction maps depicting the sections of the Subdivision adjacent to the Oceanfront Strip.

"When courts are called upon to interpret deeds or other writings, they seek to ascertain the intent of the parties, and, when ascertained, that intent becomes the deed . . . ." *Franklin v. Faulkner*, 248 N.C. 656, 659, 104 S.E.2d 841, 843 (1958). "The language of the deed being clear and unequivocal, it must be given effect according to its terms, and we may not speculate that the grantor intended otherwise." *County of Moore v. Humane Soc'y of Moore County, Inc.*, 157 N.C. App. 293, 298, 578 S.E.2d 682, 685 (2003). "The grantor's intent must be understood as that expressed in the language of the deed[.]" *Id.*

In this case, we must examine these other documents[5] referenced in the 1988 deeds to determine whether the Developer conveyed the Oceanfront Strip to the HOA.

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[5] The description in the 1988 deeds separate each document

1. The 1974 Declaration

First, the 1988 deeds convey all the "common areas" as described in the 1974 Declaration. The 1974 Declaration defines "common area" as being: "[a]ll of that area *dedicated* to the private use of the lot owners of 'Lands End of Emerald Isle' and that portion *referred* to as 'open spaces' on [the 1974 maps]." (Emphasis added.) Additionally, the 1974 Declaration "more particularly describe[s]" the term "common area" as "all the lands contained in the [1974 maps] [except for] the platted [individual] lots." The HOA describes this definition of "common area" in its brief as "all the lands contained in the eight [1974] plats, except for the lots."

We have held that "a map or plat, referred to in a deed, becomes a part of the deed as if it were written therein[,]" *Collins v. Land Co.*, 128 N.C. 563, 565, 39 S.E. 21, 22 (1901), becoming "part of the description and is subject to the same kind of construction as to errors [as the deed]." *Parrish v. Hayworth*, 138 N.C. App. 637, 640, 532 S.E.2d 202, 205 (2000),

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with the word "and." Plaintiffs argue, therefore, that the 1988 deeds only convey those "streets" and "common areas" which are depicted in *all three* described documents. The HOA argues that we must only find the Oceanfront Strip described in any one of the three documents. However, we do not have to reach this issue, as we do not believe that *any* of the three documents referenced in the 1988 deeds adequately demonstrate that the Developer intended to convey the Oceanfront Strip.

disc. review denied, 353 N.C. 379, 547 S.E.2d 15 (2001). Here, we conclude, however, that the 1974 maps do not contain anything to indicate that any of these maps – most notably the two maps depicting the beachfront sections of the Subdivision - were intended to affect any right or interest of the Developer in the Oceanfront Strip. In other words, there is nothing in any of the 1974 maps to indicate that the Oceanfront Strip were to be considered part of the section of the Subdivision that any of the said maps was intended to include. In fact, we conclude these maps show a contrary intent.

First, each of the 1974 maps contains a small "location map[6]," which unambiguously shows that the Oceanfront Strip was outside the intended scope of the area being surveyed. Specifically, each of the two 1974 maps depicting the beachfront sections of the Subdivision - namely the maps recorded in Book of Maps 11, Pages 77 and 78 - contains a "location map." Each of these "location maps" depicts the entire Subdivision divided into eight sections, numbered 1-8, with one of the sections shaded in; Coast Guard Road to the north of the Subdivision; the

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[6] In addition to the actual survey, a survey map typically contains other items such as a map legend, notes of the surveyor, and a small "location map." To better describe what is meant by "location map," a large survey map of Central Park might contain a small map – the "location map" - in the corner depicting all of Manhattan with Central Park shaded in.

Oceanfront Strip and the Atlantic Ocean to the south of the Subdivision; and parts of the adjacent tracts located to the east and west of the Subdivision. The location maps on each of the eight 1974 maps has a different section of the Subdivision shaded in, depending on which section said map was surveying. Each location map contained the words "This Sheet[,]" with an arrow pointing from those words to the shaded area of the location map, which we believe expressed an intention of what area was to be affected by the map. Therefore, we conclude that these location maps are clear and unambiguous in depicting that the rights and interests of the Developer in the Oceanfront Strip were not intended to be affected by any of the 1974 maps. Specifically, none of the location maps have the Oceanfront Strip or any portion thereof shaded in to indicate that the strip was intended to be part of any of the 1974 maps. Accordingly, the location maps which are a part of the 1974 maps themselves unambiguously show that the Oceanfront Strip was not intended to be part "of the lands contained in [the maps referenced in the 1974 Declaration]."

Further, there is nothing else on the 1974 maps to overcome this clear lack of intent to include the Oceanfront Strip as part of the area affected thereby. For example, even though the

mean high water mark is a recognized, although shifting, boundary, *see Carolina Beach Fishing Pier, Inc. v. Carolina Beach*, 277 N.C. 297, 303-04, 177 S.E.2d 513, 516-17 (1970), the maps omit much of this boundary. Additionally, while all of the 1974 maps depict different areas as streets, "open space[s]" or "common area[s]," there is no such designation on any portion of the Oceanfront Strip depicted on these 1974 surveys. *See Harry v. Crescent Resources*, 136 N.C. App. 71, 523 S.E.2d 118 (1999) (holding that because the free use of property is favored in this State, the depiction of remnant parcels on the plat was insufficient to show a clear intent by the developer to grant an easement setting them aside as open space).

2. Amendment to the 1974 Declaration

The 1988 deeds refer to the amendments to the Covenants "by instrument recorded in Book 564 at Page 273[.]" However, none of the parties make reference to this document in their briefs. Therefore, we do not consider it.

3. The Correction Maps

Finally, the 1988 deeds refer to eight maps. Of importance among here are the two 1980's correction maps - Book of Maps 24, Page 135 and Book of Maps 19, Page 7 - correcting the two 1974 maps depicting the sections of the Subdivision adjacent to the

Oceanfront Strip. However, like the 1974 maps, we believe that these 1980's correction maps are unambiguous in demonstrating an intent by the Developer not to include the Oceanfront Strip as part of the area affected by those maps.

First, these 1980's correction maps contain "notes" to show that they intend to "correct" certain aspects of the two 1974 maps; however, there is nothing in these notes which indicate that one of the corrections was to enlarge the scope of the 1974 maps to include the Oceanfront Strip.

Further, while the 1980's correction maps depict various portions of the Oceanfront Strip, much of this strip is covered by the survey's seal and notary signature. Further, these correction maps fail to depict the Oceanfront Strip's eastern boundary. Rather, the maps depict the eastern boundary *of the Subdivision* running from Coast Guard Road to the northern boundary of the Oceanfront Strip, but this boundary line does not extend to the mean high water mark of the Atlantic Ocean. This failure to depict the entire southern boundary of the Oceanfront Strip or *any* of its eastern boundary provides additional indication that the Developer did not intend to include the Oceanfront Strip in the conveyance.

Also, though there are many areas on the 1980's correction maps which are designated as "commons [sic] area" and as "open space," there is no such designation on any portion of the Oceanfront Strip. Finally, while each correction map contains a statement of dedication, neither refers to any dedication of the Oceanfront Strip.

In conclusion, the 1988 deeds and the documents referenced therein fail to refer to anything to show that the Oceanfront Strip was intended to be part of the conveyance.[7] Accordingly, any claim by the HOA in the Oceanfront Strip *by virtue of the 1988 deeds* fails.

B. The 2011 Quitclaim Deed to the Corporate Plaintiff

The HOA argues that the 2011 quitclaim deed from one of the Developer entities to the corporate Plaintiff was invalid because, at the time the deed was filed, the corporate Plaintiff was not yet a legal entity and, alternatively, the Developer entitled had been dissolved. The HOA does not argue that any such disabilities existed at the time of the 2013 quitclaim

[7] Included in the record are other deeds conveying various portions of the original acreage to and among the Developer entities and some of these deeds include the Oceanfront Strip as part of the property being conveyed. However, none of these deeds are referenced in the 1980's deeds, restrictive covenants, or plats and, therefore, cannot be considered.

deeds and, therefore, it does not challenge the validity of those deeds.

1. Developer 2011 Quitclaim Deed to Corporate Plaintiff

The HOA argues that the corporate Plaintiff's articles of incorporation were filed forty-nine minutes after the 2011 quitclaim deed from the Developer to the corporate Plaintiff was recorded and, therefore, the corporate Plaintiff as grantee was not a "legal person" as required for the conveyance. Plaintiffs contend that the transaction occurred on the same day such that the entity could be considered a *de facto* corporation, validating the conveyance.

N.C. Gen. Stat. § 55A-2-03(a) (2011) states that "[u]nless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed." We have stated that "[t]o be operative as a conveyance, a deed must designate as grantee [a living or] a legal person." *Piedmont & Western Inv. Corp. v. Carnes-Miller Gear Co.*, 96 N.C. App. 105, 107, 384 S.E.2d 687, 688 (1989), *disc. review denied*, 326 N.C. 49, 389 S.E.2d 93 (1990). The documents included in the record on appeal show that the 2011 quitclaim deed was filed before the articles of incorporation for the corporate Plaintiff were filed with the Secretary of State. The evidence in the record shows

that Plaintiffs' counsel sent the articles by courier to the Secretary of State's Office hours prior to the recordation of the deed in the Register of Deeds, but that the articles were not actually filed until later that day.

Our Supreme Court has stated that

> [i]f there has been a *bona fide* effort to comply with the law to effectuate an incorporation, and the persons affected thereby have acquiesced therein, and have exercised the functions pertaining to the corporation, it becomes a *de facto* corporation, whose corporate existence cannot be litigated in actions between private individuals nor between private individuals and the assumed corporation. And, again, if a corporation *de facto* exists, it may exercise the powers assumed, and the question of its having a right to exercise them will be deemed one that can be raised only by the State.

Wood v. Staton, 174 N.C. 245, 253, 93 S.E. 790, 794 (1917). Here, we hold that a *bona fide* effort was made to comply with the law to incorporate and that "the persons affected" - which would include the Developer and the corporate Plaintiff - acquiesced in the action. Accordingly, we hold that the corporate Plaintiff was a *de facto* corporation at the time of the conveyance.

2. The Developer's Expired Articles of Incorporation

Lastly, the HOA contends that the Developer could not convey property because it was under revenue suspension by the Secretary of State in 2011, pursuant to N.C. Gen. Stat. § 105-230(b), and otherwise administratively dissolved and that it had not been reinstated pursuant to N.C. Gen. Stat. § 105-232. Plaintiffs respond that N.C. Gen. Stat. § 105-232 is inapplicable because the Developer conveyed the Oceanfront Strip *as an act of winding up its corporate affairs* pursuant to N.C. Gen. Stat. § 55-14-05.

N.C. Gen. Stat. § 105-230(b) (2011) states that "[a]ny act performed or attempted to be performed during the period of suspension is invalid and of no effect, unless the Secretary of State reinstates the corporation . . . pursuant to G.S. 105-232." However, N.C. Gen. Stat. § 55-14-05(a) (2011) states that

> (a) A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:
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> . . . .
>
> (2) Disposing of its properties that will not be distributed in kind to its shareholders;
>
> . . . .
>
> (5) Doing every other act necessary to wind up and liquidate its business and affairs.

Therefore, even if the Developer was under revenue suspension, it could still transfer its property if done so pursuant to winding up its affairs.

Although *acquisition* of new property is not an incident to winding up, see *Piedmont & Western Inv. Corp.*, 96 N.C. App. at 108, 384 S.E.2d at 689, we hold that the disposition of property in this case is precisely what N.C. Gen. Stat. § 55-14-05(a)(2) or (5) was enacted to allow. We note that Ronald Watson, who signed all the 2011 quitclaim deed on behalf of the Developer entities, stated that it was his intention to transfer the entire Oceanfront Strip to the corporate Plaintiff as part of winding up the entities. Further, there is no indication that any of the Developer entities were still engaging in any development activities or had any intent to do so in the future. Accordingly, the HOA's arguments are overruled.

As the corporate Plaintiff was a *de facto* corporation when the deed was signed and the Developer transferred corporate property pursuant to winding up its affairs, we hold that the corporate Plaintiff acquired, through the 2011 quitclaim deed and the 2013 quitclaim deeds, whatever interest the Developer had in the Oceanfront Strip.

C. Easement Counterclaim

We clarify that our ruling does not take a position on any easement claims that the HOA has relating to the Oceanfront Strip or any portion thereof. Here, the trial court's judgments dismissed all claims and counterclaims, including the HOA's counterclaim, in the alternative, for an easement over the Oceanfront Strip.

In order to establish an easement by prescription, the claimant must meet the six criteria set out in *West v. Slick*, 313 N.C. 33, 326 S.E.2d 601 (1985):

> 1. The burden of proving the elements essential to the acquisition of a prescriptive easement is on the party claiming the easement.
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> 2. The law presumes that the use of a way over another's land is permissive or with the owner's consent unless the contrary appears.
>
> 3. The use must be adverse, hostile, or under a claim of right. . . .
>
> 4. The use must be open and notorious. . . .
>
> 5. The adverse use must be continuous and uninterrupted for a period of twenty years. . . .
>
> 6. There must be substantial identity of the easement claimed. . . .

Id. at 49-50, 326 S.E.2d at 610-11 (emphasis added) (quoting *Dickinson v. Pake*, 284 N.C. 576, 580-81, 201 S.E.2d 897, 900-01

(1974)). Additionally, we have recently stated that to establish an implied easement by necessity

> one must show that: (1) the claimed dominant parcel and the claimed servient parcel were held in a common ownership which was ended by a transfer of part of the land; and (2) as a result of the land transfer, it became 'necessary' for the claimant to have the easement." *Wiggins v. Short*, 122 N.C. App. 322, 331, 469 S.E.2d 571, 577-78 (1996)(internal quotations and citations omitted).
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> > [I]t is not necessary to show absolute necessity. It is sufficient to show such physical conditions and such use as would reasonably lead one to believe that grantor intended grantee should have the right to continue to use the [land] in the same manner and to the same extent which his grantor had used it . . . .
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> *Smith v. Moore*, 254 N.C. 186, 190, 118 S.E.2d 436, 438-39 (1961).

Barbour v. Pate, ___ N.C. App. ___, ___, 748 S.E.2d 14, 18 (2013).

These issues do not appear to be well developed in the record in this case. There appear to be issues of fact as to whether the HOA has an easement or easements over the Oceanfront Strip and as to the scope and nature of any such easements. For example, there is evidence that the HOA has been using the

Oceanfront Strip since the 1990's to pump storm water after large rain storms. There is some evidence that the HOA members have been using the Oceanfront Strip as a means of access to the Atlantic Ocean. Accordingly, we remand this matter to the trial court for further proceedings to determine the rights of the parties in the Oceanfront Strip consistent with this opinion.

We note there was evidence that other lot owners built improvements on the portion of the Oceanfront Strip in front of their residences. However, the trial court presently has no jurisdiction to determine the easement rights of the owners of individual lots as they have not been joined as parties to this action.

III. Conclusion

In conclusion, we hold that the Developer did not convey the Oceanfront Strip to the HOA by virtue of the 1988 deeds. Further, we hold that when the Developer delivered the 2011 and 2013 quitclaim deeds, the Developer conveyed all of its interest it still had in the Oceanfront Strip at those times to the corporate Plaintiff. Finally, we hold that there are issues of fact regarding the HOA's easement claims and regarding Plaintiffs' claims for slander of title and trespass.

Accordingly, we vacate the trial court's judgment, and we remand this matter for proceedings consistent herewith.

VACATED and REMANDED.

Judge HUNTER, Robert C. and Judge DAVIS concur.