

For Registration Register of Deeds

William Britton

Moore County, NC

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Instrument# 2023001731

STATE OF NORTH CAROLINA

COUNTY OF MOORE

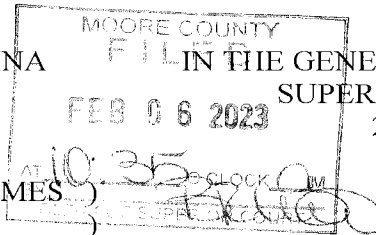
JUNIPER CREEK TOWNHOMES ASSOCIATION,

Plaintiff,

v.

PINEHURST ENTERPRISES, INC. f//k/a PINEHURST, INC.

Defendant.



ORDER GRANTING SUMMARY JUDGMENT AND FINAL ORDER CONVEYING COMMON AREAS

THIS CAUSE came on to be heard at the February 6, 2023 session of Moore County Superior Court before the undersigned Moore County Superior Court Judge presiding, upon the Plaintiff's Motion for Summary Judgment or in the alternative for Default Judgment pursuant to N.C.G.S. §1A-1, Rules 56 and/or 55. The Plaintiff, Juniper Creek Townhomes Association ("Plaintiff"), was represented by H. Weldon Jones, III, Esq. of the firm of Jordan Price Wall Gray Jones & Carlton, PLLC in Raleigh, North Carolina. The Defendant, Pinehurst Enterprises, Inc., f/k/a Pinchurst, Inc. ("Defendant") was unrepresented and did not plead or appear in the above-entitled action. Having considered the Court record, the arguments of counsel for Plaintiff, the Entry of Default, and pertinent authorities, the undersigned makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

- 1. Plaintiff commenced this action on December 22, 2021, by filing a Verified

Complaint.

submitted electronically by "Jordan Price Wall Gray Jones & Carlton" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Moore County Register of Deeds.

2. On December 31, 2021, Plaintiff properly served Defendant with a Summons and Amended Complaint by service pursuant to N.C.G.S. §1A-1, Rule 4(j)(6)(b). Plaintiff's Affidavit of Service was filed with the Court on January 6, 2022.

3. On or around September 9, 2022, Entry of Default was entered against Defendant.

4. On or around July 22, 1994, Defendant, in its capacity as Declarant, caused to be recorded that Declaration of Covenants, Conditions, Easements, and Restrictions for Juniper Creek Village, in Book 534, Page 781 of the Moore County Registry ("Declaration").

5. Article I, Section 2 of the Declaration provides that "'Common Area' shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners."

6. Based on public records, the Defendant failed to transfer title as required by the Declaration. All of the land described on **Exhibit A** attached hereto and incorporated herein by reference ("the Common Area") is still vested in the name of Defendant.

CONCLUSIONS OF LAW:

7. The Plaintiff is entitled to bring this claim under, inter alia, the Declaration, N.C.G.S. §55A-14-09, N.C.G.S. §41-10 and N.C.G.S. §1-253.

8. All of the land described on **Exhibit A** is vested in the name of Defendant but should in fact, be in the name of the Plaintiff pursuant to the terms of the Declaration.

9. Plaintiff currently maintains the Common Area, insures the Common Area, and is the rightful Owner of the Common Area pursuant to the Declaration.

10. This Court is entitled to declare rights, status, and other legal relations, between the Plaintiff and the Defendant pursuant to N.C.G.S. §1-253.

11. There is no issue of material fact and Plaintiff is entitled to judgment in its favor as a matter of law.

NOW THEREFORE, IT IS ORDERED ADJUDGED AND DECREED, that the Plaintiff's Motion for Summary Judgment and/or Default Judgment pursuant to N.C.G.S. §1A-1, Rules 56 and 55 is GRANTED with respect to its Claims for Relief.

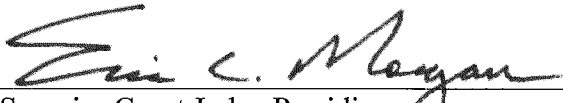
(1) The Court hereby declares that pursuant to N.C. Gen. Stat. §§ 41-10 and 1-253 *et seq.*, title is hereby quieted in the name of the Plaintiff as to the Common Area described in the Complaint and more precisely set forth in **Exhibit A**, which Exhibit is attached hereto and incorporated herein by reference.

(2) The Court hereby declares that henceforth the Common Area is and shall be legally and equitably owned and vested in the name of the Plaintiff as Common Area as described and contemplated in the Declaration and **Exhibit A** in fee simple free and clear of encumbrances, save and except the Declaration and applicable amendments thereto and easements and restrictions of record.

(3) The Court hereby declares that this Order shall be recorded in the public land records of Moore County, North Carolina in order to provide record notice of these proceedings in the chain of title to the Common Area. This Court retains jurisdiction over this matter to the extent necessary to adopt any further Orders necessary to accomplish the conveyance of the Common Area to the Plaintiff as set forth herein;

(4) The Moore County Register of Deeds is hereby directed to record and index this Judgment in the name of all parties, under both grantor and grantee indexes.

So ordered this the 6th day of February, 2023, at 10:33 (~~APM~~)



Superior Court Judge Presiding

EXHIBIT A

That certain property as depicted in that map titled "Detail Development Plan Juniper Creek Village Phase 2 and Phase 3, Page 2" recorded as instrument no. 100709 of the Moore County Registry, and as is more particularly described therein as that 13.40 acres of Common Area, which is all that "area not covered by homesite Lots 62 thru 97." Such property is more specifically known as that property bearing Moore County Real Estate ID 00024770 and PIN 856320821024.

The aforementioned map depicting the Common Area is incorporated herein by reference and is included below.

