

BOOK 55 PAGE 424 A Certified Copy  
*Ronald W. Price, Jr.*  
Clerk of Court, C. P. & G. S.  
Ex-Officio Clerk, County Court  
Greenville County, S. C.  
FEB 23 1978

There is no evidence that any relationship existed between the landowner and the lessee other than that of landlord and tenant. If the lease renewal options are exercised the building would be approximately seventeen years old at the expiration of the lease. The questionable value of the building at such time cannot be said to transform the relationship of landlord and tenant into one of agency.

It was argued that the issues in this case were made difficult because of Dawkins' failure to answer and appear in the action. Such failure cannot be used as a basis for shifting the burden of proof from plaintiffs to the landowner. There is nothing to indicate that either of the plaintiffs made any effort to obtain Dawkins' testimony, to use the power of subpoena, or to obtain information on the matters while Dawkins was available. To console these omissions by decreeing a sale of the land on the basis of "consent" would do "violence to the language used, and to all our experience in the dealings of men with each other". See Matz v. Critcher, 83 S. C. 396, 65 S. E. 394.

Concluding, as I do, that the plaintiffs have failed to establish a right to foreclose their respective liens against the property, I find it unnecessary to pass upon the other exceptions raised herein.

It being the opinion of this Court that the Master has erred in finding for either of the claimants against the landowner, it is

ORDERED, ADJUDGED, AND DECREED that the report of the Master be, and the same is hereby reversed, and judgment is entered for the defendant, Harvey Lee Burns, and it is

FURTHER ORDERED that the Register of Mesne Conveyance for Greenville County, after ten (10) days from the filing of this Order, cancel the Mechanics Liens heretofore filed by the plaintiffs in this action.

AND IT IS SO ORDERED.

*JAMES H. PRICE, JR.*  
JAMES H. PRICE, JR.  
RESIDENT JUDGE,  
THIRTEENTH JUDICIAL CIRCUIT

Greenville, S. C.  
May 1977, 1977

SERVICE ACCEPTED

*[Signature]*  
Attorney for Plaintiff  
Date *May 19, 1977*

*[Signature]*  
Attorney for Defendant  
Date *May 19, 1977*

Recorded Feb. 23, 1978 at 4:38 P.M.

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