

Code of Laws of South Carolina, 1962, Section 45-251 (Supplement, 1975). (Emphasis by Court)

The underlined portion of such Code section makes it clear that a mechanic's lien may be filed only pursuant to an agreement with or by the consent of the owner, or any person having authority from him. There was no evidence presented at the hearing that either Mrs. Dill or her son Herman or anyone else on her behalf agreed to or consented to Arkon's contract with Covil and Covil's subsequent installation of the equipment.

It is further clear that Arkon solely occupied the status of tenant to Mrs. Dill and that it had no authority, nor did it ever hold itself out to have authority, to bind Mrs. Dill. In short, Mrs. Dill was a stranger to the transaction and was the innocent victim of a mechanic's lien wrongfully filed on her property.

In Sea Pines Company v. Klawah Island Company, Inc., the South Carolina Supreme Court stated that:

"The authority to vacate a mechanic's lien may be somewhat likened to the judge's authority to grant a summary judgment if there is no genuine issue of material fact to be determined, or his authority to direct a verdict when the evidence is susceptible of only one reasonable inference . . .

"We hold that the judge had the authority to entertain the motion [to vacate a mechanic's lien] and the authority to grant relief upon a proper showing."

Sea Pines Co. v. Klawah Island Co., Inc., 232 SE2d 501, 502 (SC, 1977).

In the instant case, the fact is undisputed that neither the property owner, Mrs. Dill, nor anyone on her behalf agreed to or consented to the installation of the equipment on her property. Under the express terms of Code Section 45-251, plaintiff had absolutely no legal right to file a mechanic's lien on Mrs. Dill's property and such lien may be properly vacated by this Court pursuant to Sea Pines.

RECORD

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