

Highway has been mortgaged to the Defendant Greer Federal Savings & Loan Association for Thirty Thousand and No/100ths (\$30,000.00) Dollars as shown in Mortgage Book 1346 at page 700 in the RMC Office for Greenville County.

This action was instituted pursuant to the Statute of Elizabeth as set forth in Section 27-23-10 of the South Carolina Code (1976). Pursuant to that statute, conveyances which are made to either defraud or to hinder creditors will be set aside as void and of no effect. Conveyances may be set aside under two (2) conditions:

1. Where the transfer is made by the grantor with the actual intent of defrauding his creditors where that intent is imputable to the grantee even though there is valuable consideration;

2. Where the transfer is made without actual intent to defraud the grantor's creditors, but without consideration.

Gardner v. Kirven, 184 S.C. 37, 191 S.E. 814 (1937).

As a general rule, a conveyance by one spouse to the other on a fictitious or nominal consideration is constructively fraudulent to the grantor's creditors and no actual fraud on the part of the grantor need be proven, even though the grantee did not participate in any fraudulent intent. 37 C.J.S., Fraudulent Conveyances, §169. Moreover, where transfers to members of the family are attacked on either the ground of actual fraud or on account of their voluntary

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