

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on* Friday *the* 10th *day of* October, 2014.

Richard Wayne Brockwell, Jr., et al., Appellants,

against Record No. 132031
Circuit Court No. CL13-33

Brenda B. Brockwell, Individually and as
Personal Representative of the Estate
of Richard Wayne Brockwell, Deceased, Appellee.

Upon an appeal from a
judgment rendered by the Circuit
Court of Brunswick County.

Upon consideration of the record, briefs, and argument of
counsel, the Court is of opinion that there is error in the judgment
of the circuit court.

Richard Wayne Brockwell, Jr., Paul Heath Brockwell, and Kent
Jennings Brockwell (collectively, the "Children"), filed a complaint
alleging that their father, Richard Wayne Brockwell, Sr., violated a
property settlement agreement ("PSA") by conveying real property
known as the Lake Gaston home to his second wife, Brenda Brockwell
("Brenda"). In their complaint, the Children asserted they are the
rightful owners of the Lake Gaston home. The Children sought to
have the deed of gift declared null and void and to have the Lake
Gaston home conveyed to them, as contemplated by the PSA.

Brenda filed a demurrer to the complaint, arguing that the
Children failed to state a cause of action upon which relief could
be granted. After a hearing on the matter, the trial court
sustained the demurrer. The trial court determined that its

authority to set aside a conveyance or transfer was limited to Code §§ 55-80 and -81, and that the complaint lacked sufficient factual allegations to support a cause of action under either statute.

Contrary to the trial court's ruling, the authority to set aside a conveyance is not limited to Code §§ 55-80 and -81. "'The jurisdiction of courts of equity to entertain suits to quiet possession and remove clouds from a title to real estate is firmly established in this State.'" Benoit v. Baxter, 196 Va. 360, 366, 83 S.E.2d 442, 445 (1954) (quoting Steinman v. Vicars, 99 Va. 595, 598, 39 S.E. 227, 228 (1901)); see also Watson v. Mose, 165 Va. 661, 183 S.E. 428 (1936) (recognizing that a trial court has the authority to set aside a conveyance on equitable grounds). Similarly, this Court has recognized that a court of equity has jurisdiction to determine the existence of a constructive trust. See Sweeny v. Patton, 134 Va. 117, 122-23, 113 S.E. 715, 716 (1922).

For these reasons, we reverse the judgment of the circuit court and remand for further proceedings.

This order shall be certified to the said circuit court.

Chief Justice Kinser concurs in the result.

A Copy,

Teste:

Pat L Hamister

Clerk