CHAPTER 23

Parol, Fraudulent, and Other Void Gifts or Conveyances

**SECTION 27-23-10. Conveyances to defraud creditors; transfers of income and property to avoid paying child support.**

 (A) Every gift, grant, alienation, bargain, transfer, and conveyance of lands, tenements, or hereditaments, goods and chattels or any of them, or of any lease, rent, commons, or other profit or charge out of the same, by writing or otherwise, and every bond, suit, judgment, and execution which may be had or made to or for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every one of them whose actions, suits, debts, accounts, damages, penalties, and forfeitures by guileful, covinous, or fraudulent devices and practices are, must, or might be in any ways disturbed, hindered, delayed, or defrauded) to be clearly and utterly void, frustrate and of no effect, any pretense, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

 (B) A showing of two or more of the following creates a rebuttable presumption that a child support debtor intended to transfer income or property to avoid payment to a child support creditor:

 (1) a close relationship between the transferor and transferee;

 (2) the debtor retained possession or control of the property transferred after the transfer;

 (3) the transfer or obligation was not disclosed or was concealed;

 (4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

 (5) the transfer was substantially all of the debtor's assets;

 (6) the debtor absconded;

 (7) the debtor removed or concealed assets;

 (8) the value of the consideration received by the debtor was not reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

 (9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

 (10) the transfer occurred shortly before or after a substantial debt was incurred; and

 (11) there was a departure from the usual method of business.

HISTORY: 1962 Code § 57-301; 1952 Code § 57-301; 1942 Code § 8696; 1932 Code § 8696; Civ. C. '22 § 5218; Civ. C. '12 § 3455; Civ. C. '02 § 2369; G. S. 1786; R. S. 1888; 1712 (2) 697; 1997 Act No. 71, § 40.

**SECTION 27-23-20. Conveyances to deceive purchasers.**

 Every conveyance, grant, charge, lease, estate, encumbrance and limitation of use or uses of, in or out of any lands, tenements or other hereditaments whatsoever which may be had or made for the intent and of purpose to defraud and deceive such person or persons, bodies politic or corporate, as shall purchase in fee simple, fee tail, for life, lives or years such lands, tenements and hereditaments, or any part and parcel thereof, or to defraud and deceive such as have or shall purchase any rent, profit or commodity in or out of the same, or any part thereof, shall be deemed and taken (only as against such person and persons, bodies politic and corporate, his and their heirs, successors, executors, administrators and assigns and against all and every other person and persons lawfully having or claiming by, from or under them, or any of them, which shall have so purchased, for money or other good consideration such lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of them) to be utterly void, frustrate and of no effect, any pretense, color, feigned consideration or expressing of any use or uses to the contrary notwithstanding.

HISTORY: 1962 Code § 57-302; 1952 Code § 57-302; 1942 Code § 8697; 1932 Code § 8697; Civ. C. '22 § 5219; Civ. C. '12 § 3456; Civ. C. '02 § 2370; G. S. 1787; R. S. 1889; 1712 (2) 499.

**SECTION 27-23-30. Punishment of parties to fraudulent conveyances.**

 All parties to such feigned, covinous and fraudulent gifts, grants, leases, charges or conveyances, or being privy to and knowing of them, or any of them, who shall wittingly or willingly put in use, avow, maintain, justify or defend them, or any of them, as true, simple and done, had or made bona fide or upon good consideration, of or to the disturbance or hindrance of the purchaser or purchasers, lessees or grantees, their heirs, successors, executors, administrators or assigns or such as have or shall lawfully claim anything by, from or under them, or any of them, shall incur the penalty and forfeiture of one year's value of such lands, tenements and hereditaments so purchased or charged, the one moiety whereof shall be for the use of the State and the other moiety to the party or parties grieved by such feigned and fraudulent gift, grant, lease, conveyance, encumbrance or limitation of use, to be recovered by action in any court of competent jurisdiction; and also, being thereof lawfully convicted, shall suffer imprisonment for one-half year.

HISTORY: 1962 Code § 57-303; 1952 Code § 57-303; 1942 Code § 8698; 1932 Code § 8698; Civ. C. '22 § 5220; Civ. C. '12 § 3457; Civ. C. '02 § 2371; G. S. 1788; R. S. 1890; 27 Eliz., c. 4; 1712 (2) 500; 13 Eliz., c. 5; 1712 (2) 497.

**SECTION 27-23-40. Conveyances upon good consideration.**

 Nothing contained in §§ 27-23-10 to 27-23-30 shall extend or be construed to impeach, defeat, make void or frustrate any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest or limitation of use or uses of, in, to or out of any lands, tenements or hereditaments at any time had or made upon or for good consideration and bona fide to any person or body politic or corporate, anything mentioned to the contrary notwithstanding.

HISTORY: 1962 Code § 57-304; 1952 Code § 57-304; 1942 Code § 8699; 1932 Code § 8699; Civ. C. '22 § 5221; Civ. C. '12 § 3458; Civ. C. '02 § 2372; G. S. 1789; R. S. 1891; 1712 (2) 500; 1712 (2) 498.

**SECTION 27-23-50. Leases, estates, or interests assigned, granted or surrendered by parol.**

 No leases, estates or interests, either of freehold, term of years or uncertain interests, of, in, to or out of any lands, tenements or hereditaments shall at any time be assigned, granted or surrendered, unless it be by deed or note, in writing signed by the party so assigning, granting or surrendering them, or his agent thereunto lawfully authorized by writing or by act and operation of law.

HISTORY: 1962 Code § 57-305; 1952 Code § 57-305; 1942 Code § 7043; 1932 Code § 7043; Civ. C. '22 § 5515; Civ. C. '12 § 3736; Civ. C. '02 § 2651; G. S. 2018; R. S. 2150; 1712 (2) 545.

**SECTION 27-23-60. Force and effect of parol leases.**

 All estates, interests of freehold or terms of years, and any uncertain interests of, in, to or out of any lands, tenements or hereditaments, made or created by livery or seizin only or by parol and not put in writing and signed by the parties so making or creating them, or their agents thereunto lawfully authorized by writing, shall have the force and effect of estates at will only and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration for making any such parol lease or estate or any former law or usage to the contrary notwithstanding, except leases not exceeding the term of one year from the time of entry whereupon the rent reserved to the landlord during such term shall amount unto two-thirds parts, at least, of the full improved value of the thing demised.

HISTORY: 1962 Code § 57-306; 1952 Code § 57-306; 1942 Code § 7042; 1932 Code § 7042; Civ. C. '22 § 5514; Civ. C. '12 § 3735; Civ. C. '02 § 2650; G. S. 2017; R. S. 2149; 29 C. 2, c. 3; 1712 (2) 545.

**SECTION 27-23-70. Validity of parol gifts.**

 No parol gift of any chattel shall be valid against subsequent creditors, purchasers or mortgagees, except when the donee shall live separate and apart from the donor and actual possession shall, at the time of the gift, be delivered to and remain and continue in the donee, his executors, administrators or assigns.

HISTORY: 1962 Code § 57-307; 1952 Code § 57-307; 1942 Code § 7046; 1932 Code § 7046; Civ. C. '22 § 5518; Civ. C. '12 § 3739; Civ. C. '02 § 2654; G. S. 2021; R. S. 2153; 1833 (6) 483.

**SECTION 27-23-90. Land conveyed with condition or the like and afterwards sold, first conveyance void.**

 If any person shall make any conveyance, gift, grant, demise, charge, limitation of use or uses or assurance of, in or out of any lands, tenements or hereditaments with any clause, provision, article or condition of revocation, determination or alteration at his will or pleasure of such conveyance, assurance, grant, limitation of uses or estates of, in or out of such lands, tenements, or hereditaments or of, in or out of any part or parcel of them, contained or mentioned in writing, deed or indenture of such assurance, conveyance, grant or gift, and, after such conveyance, grant, gift, demise, charge, limitation of uses or assurance so made or had, shall bargain, sell, demise, grant, convey or charge such lands, tenements or hereditaments, or any part or parcel thereof, to any person or body politic and corporate, for money or other good consideration paid or given (such first conveyance, assurance, gift, grant, demise, charge or limitation not by him revoked, made void or altered according to the power and authority reserved or expressed unto him in or by such secret conveyance, assurance, gift or grant), then the former conveyance, assurance, gift, demise or grant, as touching such lands, tenements and hereditaments so after bargained, sold, conveyed, demised or charged, against such bargainees, vendees, lessees, grantees and every of them, their heirs, successors, executors, administrators and assigns, and against every person who shall lawfully claim anything by, from or under them or any of them, shall be deemed, taken and adjudged to be void, frustrate and of no effect; provided, that no lawful mortgage made bona fide and without fraud or covin, upon good consideration, shall be impeached or impaired by force of anything in this chapter contained.

HISTORY: 1962 Code § 57-309; 1952 Code § 57-309; 1942 Code § 8700; 1932 Code § 8700; Civ. C. '22 § 5222; Civ. C. '12 § 3459; Civ. C. '02 § 2373; G. S. 1790; R. S. 1892; 1712 (2) 500.